Export Management Compliance Program
Exporter Responsibilities

It is the exporter’s responsibility to be aware of and comply to, all existing and future regulations of any and all U.S. government agencies controlling exports from the U.S. Every effort to ensure that the information presented is current and accurate. I assume no liability or responsibility for the application of the information presented, or any changes, updates, additions or corrections that may exist at the time of presentation. This training is not intended as legal advice or legal guidance. You should consult with an attorney to obtain legal advice. No portion of this material may be copied or distributed without the express written permission from Mike Allocca.
Contents

- What is an EMCP
- How to get started
- Going through each element of an EMCP
- How to implement an EMCP
- Common errors to avoid
What is an EMCP

- An all encompassing, customized, written set of export procedures and guidelines.

- Tells employees what is expected of them.

- Provides management with a framework to evaluate whether or not the company/employees/products are in full compliance with EAR regulations.
Benefits of an EMCP

- Protect your company and employees against possible EAR violations
- Quickly identify potential areas of non-compliance before they become large problems
- Save time and money by clearly outlining compliance procedures and following them
Governing Agency

- **EAR - Export Administration Regulations**
  Controls the export & re-export of most commercial items.

- **BIS – Bureau of Industry and Security**
  Enforces and implements the EAR. Governs dual-use items (military & civilian end use)
  
  [www.bis.doc.gov](http://www.bis.doc.gov)
Other U.S. Gov’t Agencies governing exports

- Dept of State – Defense articles & services
  www.pmddtc.state.gov

- CBP- Customs & Border Protection - Imports & NAFTA exports
  www.cbp.gov

- Dept of Census – EEI’s & Schedule B numbers
  http://www.census.gov/foreign-trade/schedules/b/

- USDA–Wood packaging & items made with animal by products (leather)
What it must have to be effective

- Must be in writing
- Must use it on a *regular* basis
- Must be audited/updated (at least annually)
- Must do what makes sense for your business
Where to begin

- Get top management commitment
- Set-up goals/expectations/enforcement
- Create an Export Compliance Manager with back-up person
Where to begin

- Set-up compliance team that meets regularly (1x per month/1x per qtr)

- Conduct an export audit to obtain current needs/deficiencies

- Jurisdiction by Dept of Commerce only? Any other Govt agencies like Dept of State?
6 Main elements

- Management Commitment
- Compliance Policies & Operating Procedures
- Classification
- Order processing
- Screening
- Accountability
Management Commitment

- They must be on board (saving $, competitive advantage, avoid penalties, bad press, affect stock price)

- Letter from CEO

- Export Management Policy Statement

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Compliance policies & Operating procedures

• Introduction - Company profile & history

• Organizational chart of company & individuals involved in exports

• Export Contact List positions/responsibilities
Classification

- Schedule B Classification of your products

- ECCN- Export Control Classification Number

- Licenses – Do any of your products or spare parts require a US export or re-export license?
  - www.bis.doc.gov or www.pmddtc.state.gov

- NAFTA Determination
Electronic Export Information
Shippers Export Declaration

- EEI/SED – Primary export clearance document
  Suggest filing All EEI/ SED’s directly yourself electronically (for free) including routed shipments www.aesdirect.census.gov

- BIS Export license application
- Commercial invoice/packing list, certificate of origin....

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Order Processing

- Narrative of what happens from the time of quote to the time of export *within your company*

- Then add in a flow chart of *your export process*.

- Audit it for checks & balances and for vulnerable points.
Screening

- Written procedures for screening 6 denial lists & antiboycott language (Suggest automated denial screening system)

- How often, by whom

- Procedures if red flags exist

- Knowing your customer (5 questions)
Accountability
Record Keeping

- Written record keeping procedures (including disposal)

- Responsible recordkeeping administrator familiar with EAR recordkeeping requirements with back-up

- Keep for 5 years from date of export
Accountability
Continuous Improvement

- Continuous Training
- Sharing regulatory updates
- Suspected violation & VSD procedures
Accountability Audits

- At least once per year
- Internal and external audits in writing
- Corrective action procedures
- Don’t forget about your forwarders, contractors and partners
How to implement

- Each department is represented on compliance team. (Mgt/Sales/customer service/shipping/purchasing)
- Set timeline goals (3 - 6 months)
- Assign specific responsibilities
- Meet regularly to stay on track.
How to implement

- Start with company profile/ Introduction/letter from CEO
- Add screening elements (denial lists, production classification, licenses)
- Add your order processing (flow chart & narrative of what happens with an export in your co.)
- Add Administrative elements – (record keeping, audits, continuous improvement...)

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Common Errors to avoid

- Not having written procedures
- There is no responsible party or back-up
- Manual is never updated or looked at only once per year
- Having sales as head of your compliance team
Final steps

- Once completed review it as a whole program from start to finish.

- Consider having BIS review it.

- Hire a consultant to review or help you with it.
Thank You

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