

# Department of Commerce



## *Regulatory Compliance Plan*



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# Department of Commerce Regulatory Compliance Plan



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# Department of Commerce Regulatory Compliance Plan



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### Background

On January 18, 2011, President Obama issued a Memorandum for all Executive Departments and Agencies on *Regulatory Compliance*. The Memorandum requires all agencies with regulatory compliance and administrative enforcement responsibilities to develop plans to make information related to regulatory compliance and enforcement activities accessible, downloadable and searchable online.

The Department of Commerce's twelve operating units and the Office of the Secretary are all involved in the regulatory process. Three of these operating units are involved in compliance and enforcement activities: the National Marine Fisheries Service (NMFS), a Line Office within the National Oceanic and Atmospheric Administration; the Bureau of Industry and Security (BIS); and the US Patent and Trademark Office (USPTO). Commerce is committed to making its compliance and enforcement information transparent and readily available to the public.

### NMFS – Regulatory and Enforcement Activities

NMFS, <http://www.nmfs.noaa.gov/>, is dedicated to enforcing laws that conserve and protect the nation's living marine resources and their natural habitat. The NMFS Web site is searchable for a wide variety compliance and enforcement information. Within NMFS, the Office of Law Enforcement protects fish stocks from depletion and marine mammals from extinction, safeguards the livelihoods of commercial fishers, supports the activities of recreational fishers, and ensures the health of seafood consumers.

The primary geographic jurisdiction of NMFS is the waters within the U.S. Exclusive Economic Zone, which covers ocean waters between 3 and 200 miles off shore and adjacent to all U.S. states and territories. Responsibility extends to protected marine species and national marine sanctuaries regardless of their location within the United States. NMFS's Office of Law Enforcement has responsibility for enforcing more than 35 federal statutes. Most cases fall under five key legislative acts: the Magnuson-Stevens Fishery Conservation and Management Act, the Marine Mammal Protection Act of 1972, the Endangered Species Act of 1973, Lacey Act Amendments of 1981, and the National Marine Sanctuaries Act.

### NMFS – Currently Available Information

NMFS employs traditional enforcement approaches, including investigations and patrols. To ensure compliance, it makes use of technological tools, such as extensive online permitting systems. Examples include Authorization and Permits for Protected Species (APPS), <https://apps.nmfs.noaa.gov>, Vessel Monitoring Systems, and Electronic Fish Catch Logbooks. NMFS has established a Web-based "NOAA Fisheries Forms Portal" which can be found at [http://www.nmfs.noaa.gov/gpea\\_forms/forms.htm](http://www.nmfs.noaa.gov/gpea_forms/forms.htm). NMFS has outreach and education strategies



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designed to enhance voluntary compliance. NMFS makes available online compliance guides on allowable catches.

### **NMFS – Improving Accessibility of Information**

NMFS maintains a Web-based data base and records management system called the Law Enforcement Accessible Database System (LEADS). NMFS's Office of Law Enforcement (OLE) is examining the viability of developing a user interface, similar to the LEADS user interface for internal users that could be made available to the public to search for a subset of data contained in the LEADS database. LEADS contains permit sanctions that can be scanned and saved as an attachment to a person, business or vessel's name record. A photograph of a vessel may be uploaded and attached to a vessel's record or a person's photograph to a name record.

LEADS stores data for all investigations conducted by OLE whether or not an offense or violation of law is documented and eventually prosecuted by the NOAA, Office of General Counsel or the Department of Justice. LEADS also contains data and information for other OLE related activities, including patrols, training, Community Oriented Policing and Problem Solving projects, information gathering, assistance to other agencies, and other non-investigative, collateral duties and activities. The Office of Law Enforcement is currently in the process of upgrading LEADS with enhanced user interface and database features.

In order to implement the sharing of LEADS data with the public, OLE, along with the Office of General Counsel, would need to identify what information may be legally provided to the general public without the possibility of disrupting any ongoing activities that may be law enforcement sensitive. This subset of data would need to be housed in a separate, newly created database that is accessed through a Web-based user interface that allows the public to search on certain parameters. Those parameters would need to be determined after identifying what data may be or should be shared.

### **BIS – Regulatory and Enforcement Activities**

BIS is responsible for the licensing of dual use commodities and maintaining the Export Administration Regulation (EAR) for the US government. BIS Special Agents are sworn Federal law enforcement officers with authority to make arrests, execute search and arrest warrants, serve subpoenas, and detain and seize goods about to be illegally exported. BIS's Office of Export Enforcement (OEE) investigations are initiated on information and intelligence obtained from a variety of sources, and are conducted to objectively and thoroughly gather testimony and evidence of alleged or suspected violations of dual-use export control laws. OEE works closely with attorneys with the Department of Justice and the Office of Chief Counsel for Industry and Security to prosecute criminal and administrative cases.



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### **BIS – Currently Available Information**

The BIS Web site, [www.bis.doc.gov](http://www.bis.doc.gov), provides an entry portal to all the releasable electronic records and data for export administration and export enforcement. For electronic visitors interested in the EAR, the Web site maintains a link to the eCFR, an electronic Code of Federal Regulations, <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=%2Findex.tpl>, maintained by the Government Printing Office. It is generally updated within 48 hours of publication of an amendment in the Federal Register. This page also contains search tips to aid navigation.

Additional links on the BIS home page provide information that cannot be found in the eCFR, such as an index to the Commerce Control List (CCL); legal authorities for the EAR; and links to each Federal Register publication affecting the EAR since 1996. All regulations are electronically searchable.

The BIS Web site also contains a “Reading Room” link that displays public comments submitted in response to proposed rules, advance notices of proposed rules (ANPR), or notices of inquiry BIS has issued since 2003. Additionally, links to compliance programs for the Chemical Weapons Convention and the U.S. Additional Protocol, an agreement regarding nuclear fuel cycle-related activities, are maintained as part of the Bureau Web site as well as links to numerous National Security Industrial Base programs, assessments and information, including the Defense Priorities and Allocations Systems Program, the Best Manufacturing Practices Program, National Defense Stockpile Market Impact Committee, Defense Industrial Capability and Technology Assessments and the Impact of Offsets in Defense Trade Annual Reports. All publically available documents maintained on the BIS Web site are electronically searchable by key word, phrase, EAR section, or CCL item.

Specific license application and related data from exporters include sensitive business information. Such information is precluded by law from public release absent special circumstances. Information on on-going enforcement investigations are law-enforcement restricted and not available for public release. When enforcement actions are closed, copies of relevant documents, including final orders, settlement agreements and proposed or issued charging letters are made available on the BIS Web site. In addition, descriptions of the cases may be included in media press releases highlighted on the Web site's home page. All such documents are searchable. Export Enforcement's publications, including "Don't Let This Happen to You," provide searchable case-related reference material for the public.

Beyond electronic methods, BIS continues to conduct various seminars and training opportunities and outreach activities across the country. Schedules and registration for these events are available on the BIS Web site. Additionally, BIS has employed other technologies to engage and inform the public, including video conferencing and tele-presence at exporter symposia. During a recent comment period for an ANPR relating to ECR, BIS officials held weekly teleconferences with the public to answer questions; the teleconference number was published on the BIS home page.



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### **BIS – Improving Accessibility of Information**

BIS is currently in the process of establishing a new Web server which will include a more robust search engine that will allow the public to conduct more refined searches of BIS materials. Lists identifying individuals and entities that are either denied export privileges due to past violations or whose presence in a transaction can trigger a license requirement under the EAR are maintained on the BIS Web site. A new consolidated export screening list including data from the Departments of Commerce, State, and the Treasury into one spreadsheet as an aide to industry and exporters in conducting electronic searches of potential parties to regulated transactions is now available on the Export Control Reform Web site, <http://www.export.gov/ecr/index.asp>. This site also features Export Control Reform news and initiatives.

### **USPTO – Regulatory and Enforcement Activities**

The United States Patent and Trademark Office, <http://www.uspto.gov/>, is responsible for issuing patents and trademarks for the US government and promoting intellectual property rights. The USPTO's regulatory compliance and administrative enforcement activities are carried out by its Office of Enrollment and Discipline (OED), which, among other functions, takes disciplinary action against registered practitioners who have engaged in professional misconduct.

OED administers the examination by which an individual can register to practice in patent cases before the Office. It maintains a roster of registered practitioners and promulgates Rules for Professional Conduct that govern the conduct of those registered practitioners, who must comply with those Rules in order to remain in good standing and be eligible to practice in patent cases before the Office. The Office enforces the Rules for Professional Conduct by imposing discipline on registered practitioners who engage in professional misconduct in violation of the Rules.

### **USPTO – Currently Available Information**

Information related to USPTO disciplinary actions is currently published in the Official Gazette of the United States Patent and Trademark Office, which is available at [www.uspto.gov](http://www.uspto.gov). Also available on this site is a searchable database of OED's final decisions, which include disciplinary decisions. Using this searchable interface, the public can view and download documents that reflect the disciplinary actions OED has taken against registered practitioners.

The Web site also provides access to a searchable roster of registered practitioners. This roster includes enrollment information for registered practitioners, e.g., business address, date and status of enrollment, registration number, etc.

### **USPTO – Improving Accessibility of Information**

In order to implement the Presidential Memorandum concerning Regulatory Compliance, the Office plans to improve the way in which OED's enforcement decisions are made searchable and



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downloadable on the Office's Web site, <http://www.uspto.gov/ip/boards/oed/index.jsp>, so that such decisions can be easily accessed when a member of the public searches for enrollment information for registered practitioners.

Currently, access to the roster of registered practitioners is separate and distinct from the disciplinary actions information. If members of the public wish to find out the contact information for practitioners they are contemplating hiring and also want to know if those practitioners have been subject to discipline, they must use different parts of the Web site to conduct different searches. In order to improve the accessibility of this administrative enforcement information, the OED plans to revise its Web site so that the roster of registered practitioners is linked to the database of disciplinary actions. It also will provide a single search for a registered practitioner that will return both enrollment information and information about whether any disciplinary action has been taken against that practitioner. As an interim measure, within 30 days of the submission of this plan, the roster search page will be updated to advise the public that disciplinary information is separately available through the OED's Web site.

### **Summary**

Commerce is currently in compliance with the Presidential Memorandum. The Department continues to move forward, improving all aspects of public engagement in the regulatory process. The Commerce goal is to achieve greater disclosure of regulatory compliance information while fostering fair and consistent enforcement through transparent and participatory methods. The Department will assist the improvement of regulatory efforts using lifecycle management processes and infrastructure implementations that employ new tools such as social media and collaboration suites wherever possible.

### **Commerce Personnel Responsible for Implementation**

This plan will be implemented by the Commerce Chief Information Officer, Simon Szykman, [sszykman@doc.gov](mailto:sszykman@doc.gov), 202-482-4797.