

SOUTHERN RESEARCH

Legendary Discoveries. Leading Innovation.

Export Control Compliance Awareness Training

2014

Southern Research Export Control Program

- Southern Research has a formal approach to managing Export Control.
- The Export Control Program includes:
 - A policy statement
 - One point of contact
 - An Export Control Plan
- The purpose of the Export Control Program is to:
 - Inform employees regarding policy and procedures.
 - Establish organization-wide processes to ensure we conduct technical work in a manner that is in compliance with all regulations.
 - Provide ongoing education and assistance to employees regarding compliance requirements.

Introduction to Southern Research Export Control Program

- Why do we have an Export Control Program?
 - To ensure we conduct ourselves and our research in a manner that ensures total compliance with export control regulations.
- What does our Export Control Plan (ECP) cover?
 - The ECP defines how we will comply with the following regulations:
 - International Traffic in Arms Regulations (ITAR)
 - Export Administration Regulations (EAR)
 - US Treasury Office of Foreign Assets Control (OFAC)
 - Department of Census regulations
- At the conclusion of this training you will have a basic understanding of our Export Control Program, the ECP, your responsibilities under it, and you will be required to acknowledge your training and agree to adhere to the provisions of the Export Control Plan.
- The entire ECP and related documents can be found on *SRInsider*/Export Control.

Export Control Program

Topics to be Covered in this Training

- Export Control Laws & Government Regulatory Oversight
- Export Control Policy
- Definition of U.S. Person
- Roles & Responsibilities
- Internal Linkages
- Export Control Plan
- Definition of Exports (ITAR/EAR)
- Fundamental Research
- Deemed Exports
- Visual Compliance
- International Travel
- Shipping
- Destination Control Statements
- Census Requirements
- Event Notification
- Penalties

Purpose of Export Control Laws

- Restrict export of goods and technology with military potential
- Prevent proliferation of weapons of mass destruction
- Advance U.S. foreign policy goals
- Protect economy and promote trade

Government Regulation of Exports

- The **Department of State** through the International Traffic in Arms Regulations (ITAR), (classified and unclassified defense materials and data)
- The **Department of Commerce** through the Export Administration Regulations (EAR), (unclassified dual use materials and data, and proprietary information)
- The **Department of Treasury** through the Office of Foreign Assets Control (OFAC)(flow of money)
- The **Department of Census**, (trade statistics)

Export Control Policy

Topic 135: Our Policy Statement

- It is the policy of Southern Research Institute to fully comply with all applicable federal statutes, executive orders, regulations, and contractual requirements for the safeguarding of controlled commodities or technical information in its possession. This includes full and total compliance with export control regulations.
- Under no circumstances shall employees or other persons associated with Southern Research Institute (e.g. students, visiting scientists, etc.) engage in activities in contravention of U.S. export control laws.

Policy Topic 135: Our Export Control Plan

- The organization's Export Control Plan will serve to demonstrate the appropriate level of security for controlled technologies as it pertains to export control requirements.
- Employees found to be in willful, intentional violation of these directives or the provisions of the Export Control Plan shall be subject to disciplinary actions, up to and including termination of employment.
- Such violations can also earn civil and/or criminal penalties for Southern Research Institute and/or the individual making the disclosure.

Policy Topic 135: What is a Controlled Export?

- In general, export controlled goods are:
 - activities, items, information or materials related to the design, development, engineering, manufacture, production, assembly, testing, repair, maintenance, operation, modification, demilitarization, destruction, processing, and use of items with a capacity for military application utility
 - any information relating to a contract with dissemination restrictions.

Policy Topic 135:

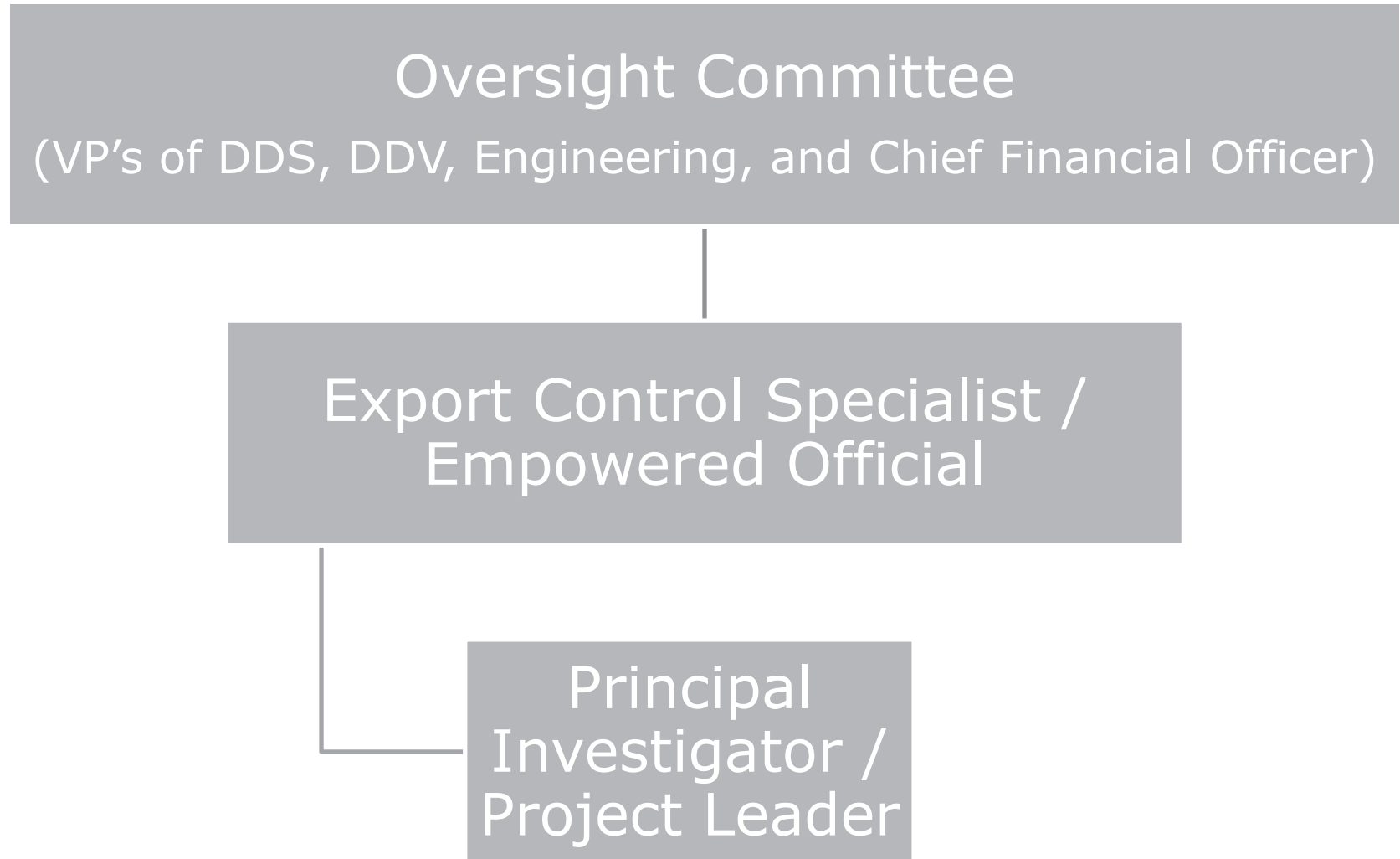
What is not Considered a Controlled Export?

- Export controlled information does not include:
 - basic marketing information on function or purpose
 - general system descriptions
 - information concerning general scientific, mathematical, or engineering principles commonly taught in schools, colleges and universities
 - information in the public domain

Policy Topic 135: Definition of U.S. Person

- It is unlawful under the export regulations to send or take export controlled information out of the U.S., or to disclose such information, orally or visually, or to transfer export controlled information to a non-U.S. person inside or outside the U.S. without proper authorization. A license may be required for non-U.S. persons to access export controlled information.
- A **U.S. person** is defined as an individual who is:
 - a **U.S. citizen** or **permanent resident alien** (green card holder);
 - a **documented refugee** residing in the U.S. as a protected political asylee or **under amnesty**.
 - a business incorporated in the United States.
- The law makes no exceptions for foreign students.

Export Control Organizational Chart



Export Control Program Roles & Responsibilities

- Oversight Committee
 - Senior staff members are responsible for overall program review and support
- Export Control Specialist (Larry Wilson)
 - Administration of Export Control Plan
 - Creation of relevant documents and forms
 - Record keeping
 - Submission of license applications
 - Training
 - Assists with classification of export controlled materials

Export Control Program Roles & Responsibilities Continued

- Principal Investigator / Project Leader
 - Proper handling of controlled material
 - Ensures all personnel involved with an export controlled project are properly instructed in the handling of controlled materials
 - Ultimately responsible for Compliance with all export control laws and regulations
 - Evaluation of projects for export control issues
- All Employees
 - Adhere to export control requirements as defined in the Export Control Plan

Export Control Program Internal Linkages

- Several plans and procedures are linked to and contribute to the overall program
 - Export Control Plan
 - Information Security Plan (network access controls, international travel; IT)
 - Physical Security Plan (physical access controls; Security)
 - Visitor Control Plan (facility access; Security / EHS)
 - Special Practices and Procedures Manual (NISPOM; Government Security)

Export Control Plan: It's Purpose

- The purpose of the Export Control Plan (ECP) is to specify how items, software and technology produced by Southern Research personnel are disseminated to non-U.S. persons either inside or outside of the United States.
- The Southern Research Export Control Plan is located on the Export Control page on *SRInsider*

What is an Export?

- Commodity, data, services, technology (items listed on the United States Munitions List and Commerce Control List)
- Items predominately military or dual-use (commercial and military application) in nature
- Items designed or modified for use in a defense article
- Technology- specific information required for the development, production, manufacturer, assembly, operation, repair, testing, maintenance or modification or use of defense or dual use articles (such as blueprints, drawings, photographs, plans, instructions or documentation)
- Proprietary Technology

EAR Categories of Materials

(Categories Applicable to Southern Research in Red)

- 0 Nuclear materials, facilities and equipment
- 1 **Materials, chemicals, micro-organisms and toxins**
- 2 Materials processing
- 3 **Electronics**
- 4 **Computers**
- 5 **Telecommunications and information security**
- 6 **Sensors and lasers**
- 7 **Navigation and avionics**
- 8 Marine
- 9 **Propulsion systems, space vehicles and related equipment**

ITAR Categories (21 groups)

Category:	Includes parts, accessories, attachments
I and II	Firearms and armaments
IV	<i>Launch vehicles, missiles, torpedoes, bombs, and mines</i>
V	Explosives, propellants and incendiary agents
VI	Vessels of war and special naval equipment
VII	Tanks and military vehicles
VIII	<i>Aircraft and related articles</i>
IX	Military training equipment
X	Protective Personnel Equipment

ITAR Categories continued

Category: Includes parts, accessories, and attachments

XI *Military electronics*

XII *Fire control, range finder, optical and guidance systems*

XIII *Auxiliary military equipment*

XIV *Toxicological, Biological, and Chemical Agents*

XV Spacecraft Systems

XVII *Classified Articles, Technical Data*

XX Submersible Vessels

XXI *Miscellaneous Articles* (articles not specifically listed in other categories but has substantial military applicability)

Exemption for Fundamental Research

- Work performed at Southern Research is exempt from export control regulations if it qualifies as fundamental research:
 - Research that is **published** or subject to publication and **generally accessible** to the public **is** considered **fundamental research**.
 - Research **restricted from publication is NOT** fundamental research (some government work and almost all commercial work)
 - Research that **restricts access to only U.S. persons is NOT** fundamental research

What is a Deemed Export?

- Export in which no physical item is transferred.
- Technology or data behind an item is transferred to a non-U.S. person:
 - Physically, Visually, or Orally
- This action is 'deemed' to be exported to that persons country of citizenship.
- Because very little of our research is actually shipped outside of our country, *deemed exports may be the greatest risk of violating the EAR or ITAR regulations.*

How Does Southern Research Prevent Deemed Exports?

- Engineering Division limits unescorted access to ERC buildings to only U.S. persons.
- Password protection of computers, iphones, ipads, etc.
- Communication to employees, by the Principal Investigator or Project Leader, of what is controlled and why.
- Controlled electronic information is NOT stored on shared drives.
- Badge or cipher lock access to labs containing export controlled material.
- Export controlled data is NOT discussed in public.
- Potential clients are vetted before disclosing any export controlled technology.

Clients, Vendors, and New Employees will be Screened for Denied Status

- Federal law requires that organizations do not engage in business with individuals or entities listed on the Specially Designated Nationals (SDN) and Blocked Persons Lists.
 - Lists include known terrorists, terrorist supporters, international narcotics traffickers and those engaged in activities related to proliferation of weapons of mass destruction.
- Lists Screened Against:
- Specially Designated Nationals and Blocked Persons List (SDN)
 - Denied Persons List (DPL)
 - Unverified List (UL)
 - Entity List (EL)
 - Debarred List (DL)
 - Embargoed or Sanctioned Country List
 - ~40 other list's from various agencies
 - U.S. citizens are included on some of these lists.

Visual Compliance

- Southern Research uses a commercial web based tool that electronically screens the various government lists for restricted parties.
- Parties screened by name only.
- Who will be screened?
 - New employees
 - Vendors
 - Employees with access to Select Agent
 - Non-U.S. person employees needing access to export controlled materials
 - Others as necessary
 - Students
 - Clients
- Export Control Specialist = Visual Compliance Administrator.

International Travel

- Any export controlled information must be pre-authorized and documented by the Principal Investigator or Project Leader for the particular destination and end-use.
- Only scrubbed Southern Research owned computers will be used for business during international travel. VPN access to Institute email and servers will be provided by IT.
- Contact IT at least two weeks in advance of departure date if a computer is needed.

Shipping: Exporting When No License is Involved

- Regulations apply even when a license is not required to export.
- All packages and invoices must be marked with the appropriate Export Control Classification Number (ECCN), or license exemption number to avoid customs clearance problems.
- Department of Census reporting rules apply.
- The recipient must be vetted through Visual Compliance.
- Contact Export Control Specialist for assistance.

Shipping: Exporting When a License is Involved

- Appropriate license must be in place
- Shipments made in support of a license will refer to the license number and the destination control statement on the commercial invoice and bill of lading accompanying those shipments.
- Shipping records must be retained for at least 5 years from the end of the project.

Shipping:

Destination Control Statements

- EAR
 - “These commodities, technology, or software were exported from the United States in accordance with the Export Administration Regulations. Diversion contrary to U.S. law is prohibited.”
- ITAR
 - “These commodities are authorized by the U.S. Government for export only to [country of ultimate destination] for use by [end user] under [license or other approval number or exemption citation]. They may not be resold, diverted, transferred, or otherwise be disposed of, to any other country or to any person other than the authorized end-user or consignee(s), either in their original form or after being incorporated into other end-items, without first obtaining approval from the U.S. Department of State or use of an applicable exemption.”

Shipping: Census Requirements for Exports

- The U.S. Bureau of Census is the source of import and export trade statistics
- Some exports require that a report be made to the Bureau of Census **before** leaving the premises; they are:
 - Items shipped under a license authorization, or
 - If the items value is over \$2500, or
 - All exports destined to the following countries regardless of value: Cuba, Iran, North Korea, Sudan and Syria.

Shipping: Census Requirements for Exports

- If reporting is required, a Schedule B number (Census categorization of items) will be assigned to the item.
- The Export Control Specialist will submit the necessary reports to the Department of Census, therefore; **prior notice, days in advance** of the proposed shipment date, is required.
- Statement for airway bill if reporting is not required:
 - **“No EEI required, no individual B number valued over \$2500.”**

Event Notification

- *Immediately* contact the Export Control Specialist or an Empowered Official for the following:
 - Any non-routine contact by a United States Government official or agency concerning exports or imports.
 - If a shipment from or to Southern Research is detained or seized by U.S. Customs.
 - Receipt of a subpoena related to U.S. export or import laws.
 - A suspected violation of export control laws or Southern Research's guidelines regarding exports.
 - Any inquiries concerning Southern Research policies regarding non-U.S. sanctioned boycotted countries (e.g. Israel).

Embargoed Countries

- The following countries are currently embargoed:
 - Cuba
 - Iran
 - North Korea
 - Sudan
 - Syria
- Many other countries have restrictions.

Penalties

- Failure to adhere to export regulations could result in criminal and civil penalties
 - ITAR
 - Up to \$1,000,000 and up to 10 years in prison for each violation
 - EAR
 - Company
 - The greater of \$5,000,000 or ten times the value of the export
 - Individual
 - Up to \$1,000,000 and up to 10 years for each violation
 - Loss of facility security clearances
 - Loss of ability to participate in defense article research
 - Loss of employment

Penalties

Case histories:

- **J. Reece Roth**, a retired professor of electrical and computer engineering at the University of Tennessee at Knoxville, was found guilty on 18 counts of conspiracy, fraud, and multiple violations of the Arms Export Control Act. Currently serving 4 years for exporting “Technical Data” to China. One of the counts involved “deemed exports” to a graduate student.
- **Lockheed Martin**. Lockheed Martin officials had thought that “because the United Arab Emirates already possessed inventory of the missiles an export license to export the associated technical data (i.e. performance specifications) must have already been in place.” They were incorrect and had to pay a civil fine of \$4 million.

Training

- All employees will be trained initially to ensure awareness of Export Control regulations.
- Principal Investigators / Project Leaders will be trained annually for determining proper classification of projects and documentation of such.

Summary

- Export Compliance is a complicated process, asking for help is expected.
- The receiver and/or end-user must be vetted with Visual Compliance for all exports.
- Export control regulations must be followed for all items subject to export control regulations (most items) before exporting.

Additional Information

- The entire Export Control Plan can be accessed on *SRInsider* on the Export Control page.
- Guidance Documents, Forms, links to Government Regulations and other information concerning export control is also available on *SRInsider/Export Control*.

Contact Information

- Export Control Specialist:
 - Larry Wilson (205) 581- 2315 office, (205) 337-9625 cell
- Empowered Officials:
 - Larry Wilson (205) 581- 2315
- Oversight Committee:
 - Michael Johns, VP Engineering (205) 581- 2520
 - Andrew Penman, VP Drug Development (205) 581- 2712
 - David Rutledge, VP and CFO (205) 581- 2622
 - Mark Suto, VP Drug Discovery (205) 581- 2522

Acknowledgement and Non-Disclosure Statement

I acknowledge and understand that any technical data or defense services related to defense articles on the U.S. Munitions List or dual use items on the Commerce Control List, to which I have access to or which is disclosed to me in the course of my employment by Southern Research Institute is subject to export control under U.S. Regulations. I hereby certify that such data or services will not be further disclosed, exported, or transferred in any manner to any non-U.S. person or to any foreign country without prior authorization of either the Office of Defense Trade Controls, U.S. Department of State, or the U.S. Department of Commerce and in accordance with applicable U.S. government security, National Industrial Security Program Operating Manual (NISPOM), and customs regulations.

Acknowledgement of Training

By completing the following test:

1. I acknowledge that I have been briefed on the Export Control Plan for Southern Research Institute.
2. Accordingly, I understand the procedures as contained in the Export Control Plan and agree to comply with all Southern Research Institute and U.S. Government regulations as those regulations pertain to export controlled information or products.
3. If there are questions as to whether or not export authorization is required for an item I will contact the Export Control Specialist for assistance.

Test