

Compliance with Federal Export Control Regulations

Dorothy A Nelson PhD

WSU Research Compliance

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Overview of Export Control Regulations

- WHO: Federal Government regulates export activities of U.S. citizens
- WHAT: Restrictions on transfer of controlled technology, information, etc to certain foreign nationals, **even in the United States**
- WHEN: Since 1985, re-emphasized after 9/11
- WHERE: From U.S. to foreign person/country
- WHY: National security and economic security concerns

Export Control Facts

- Export Control Regulations come from
 - Department of **Commerce** – Bureau of Industry and Security
 - **EAR**: Export Administration Regulations;
 - Department of **State** – Directorate of Defense Trade Controls
 - **ITAR**: International Traffic in Arms Regulations;
 - Department of **Treasury** - Office of Foreign Assets Control (OFAC)
 - Sanctions/embargoes against countries or entities

Penalties for Violations

- Personal as well as organization
- Prison for individuals
- Fines/prison
 - ITAR - \$1,000,000 per violation and up to 10 yrs.
 - EAR - \$50,000 per violation and up to 20 yrs.

Do These Regulations Really Apply to University Activities?



Retired UT professor gets 4 years for sharing military data

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By [ANN KEIL](#)

KNOXVILLE (WATE) -- Retired University of Tennessee Professor Dr. John Reece Roth was sentenced Wednesday to 48 months in prison for passing secrets from a U.S. Air Force contract to two foreign research assistants.

The sentence is lower than the recommended sentencing guidelines of between 63 and 78 months in prison.

Roth, a plasma physics expert, was [convicted in September 2008 of 18 counts of conspiracy, fraud and violating the Arms Export Control Act.](#)

What is controlled?

- Exports/transfers to other countries/foreign nationals inside or outside U.S.
 - Physical items
 - Computer software
 - Technical information
 - Services
- Transactions with certain countries, especially Cuba, Iran, North Korea, Sudan, Syria
- **Deemed exports**
 - Transfers to foreign national **in U.S.**

Deemed Exports

- Transferring controlled information/ technology restricted by EAR/ITAR to certain foreign persons in the U.S.
 - Applies to foreign faculty, research assistants and students
 - May not apply to bona fide employees
- Sometimes possible to obtain a license
- Does not apply to U.S. Citizens, permanent residents and those with US asylum protection in the U.S.

Exclusions for Fundamental Research

- Basic and applied research in science and engineering, the results of which **ordinarily** are **published** and shared broadly within the scientific community, as distinguished from proprietary research and from industrial development, design, production, and product utilization, the results of which ordinarily are restricted for proprietary or national security reasons.

(National Security Decision Directive 189)

Fundamental Research Exclusion

- Nullified by:
 - Restrictions on publications beyond a reasonable period of review (90 days at WSU)
 - Review is permissible to protect proprietary information furnished by sponsor or to allow for protection of intellectual property
 - Restrictions are NOT allowed for approval of publication(s) by sponsor
 - Restrictions on participation by foreign nationals
 - “Side deals” between PI and sponsor

Licenses and Technical Assistance Agreements (TAA)

- A license from State or Commerce may be sought for a proposed activity that is export controlled--BUT they are not always granted!
- Obtaining a license can take several months and require a fee.

What Investigators Can Do

- Limit activity to “fundamental research”
- Use publicly available information
- Avoid contract restrictions on
 - Dissemination of results
 - Who can participate (e.g. foreign nationals)
- Avoid ITAR-controlled items (military): EAR is easier to work with (commercial or dual-use)
- Take precautions with laptop security when traveling outside the U.S.
- Consult with Export Control Office early and often