

EXPORT CONTROLS AT UW-MADISON

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WHAT ARE EXPORT CONTROLS?

- Export Controls are a series of U.S. laws and regulations that control the export of information, goods and services from the United States to foreign countries, or to the release of controlled technology to foreign persons within the U.S.
- These laws can apply to UW research activities, including activities here on campus when foreign persons are involved.
- Other related laws control financial interactions with foreign governments and persons.
- Violation of these laws and regulations can result in severe civil and criminal penalties to individuals and/or to the institution.

WHEN MIGHT EXPORT CONTROLS APPLY AT THE UW?

Typical scenarios at the UW that can involve export controls include:

- Research with pathogenic/toxic materials
- Satellite and space-related research
- Shipment of samples and equipment for overseas projects
- Proprietary industry-sponsored research
- Foreign travel

ALSO – employment-based visa applications require export control certification based on assessment of visa holder's activities.

PRIMARY EXPORT CONTROL LAWS

Parameter	ITAR	EAR	FACR
Name of Regulation	International Traffic in Arms Regulations	Export Administration Regulations	Foreign Asset Control Regulations
Agency	State	Commerce	Treasury
What Does Regulation Control?	Military equipment & information	Dual use items & information	Foreign assets (bank accounts)
Control Listing	USML (United States Munitions List)	CCL (Commerce Control List)	Specially Designated Nationals List
Comments	Treats all foreign destinations the same	Need for license depends on commodity, destination country, reason for control & exemptions	Depends on who (person or organization) you are communicating with

- ITAR primarily serves national security goals; EAR serves national security, foreign policy and economic and technological competitiveness goals.

EXCEPTION FOR FUNDAMENTAL RESEARCH

- Export controls do not apply to information arising from “fundamental research.”
- “Fundamental research” means basic and applied research in science and engineering, where the resulting information is ordinarily published and shared broadly with the scientific community.
- “Fundamental research” is distinguished from proprietary research and from industrial product development, the results of which ordinarily are restricted for proprietary reasons or specific national security reasons.
- UW policies on publication and ownership of data keep most research at the UW within the fundamental research exception.
- However, export controls can apply to fundamental research if the UW uses proprietary or sensitive information or technology supplied by third parties in some aspect of the research.

EXPORT LICENSING

- Export licenses for shipment of tangible materials overseas can be obtained relatively easily and quickly.
 - Licenses from Commerce and State typically < 2 months
- “Deemed export” licenses covering transmission of controlled information within the U.S. can be obtained, but are more complicated and will entail significant time and effort.
- License exceptions are sometimes available.

OTHER RELATED CONTROLS

Other related restrictions:

- USDA/CDC Select Agents (also covered by the EAR)
- DURC – Dual Use Research of Concern
- “Sensitive but unclassified” information
- Homeland Security “Critical Infrastructure Information” Program
- Controlled Unclassified Information (CUI) – Requires compliance with NIST standard 800-171 Protecting Controlled Unclassified Information in Nonfederal Systems and Organizations
- Trade embargoes (particularly Cuba, Iran, North Korea, Sudan, Syria)
- Department of Treasury Office of Foreign Asset Controls “specially designated nationals” list and similar lists of individuals and entities with whom financial and export transactions are restricted.

UW' S EXPORT CONTROL COMPLIANCE PROGRAM

- Master campus export control compliance plan established
 - https://kb.wisc.edu/images/group156/shared/ExportControl/ExportControlPlan_RPAC_Nov2015.pdf
- Campus plan follows a Dept. of Commerce template for compliance programs
- Website:
 - <https://research.wisc.edu/integrity-and-other-requirements/export-control/>
- Staff
 - Tom Demke - Export Control Officer
 - Bethany Nelson – Export Control Coordinator
 - Ben Griffiths – Legal Counsel

UW' S EXPORT CONTROL COMPLIANCE PROGRAM

Impact of Export Controls

Export controls could have an affect on:

- **Research** – Project selection and management
- **Staff** – Selection of international staff / students, management and work assignments
- **Information and data** – What can be published or discussed
- **Travel** – Destination and what is taken
- **Shipping** – What we ship and destination
- **Collaborators / Vendors** – Who, what organization and where
- **Services** – Type of service, who conducts the service and recipient

When do we need export licenses?

UW' S EXPORT CONTROL COMPLIANCE PROGRAM

Project & Transaction Assessment

- Visa Export Control Certification – for H-1B & O-1 applications; since Feb 2011
- WISPER Screening Tool – in place since Jun 2013
 - Project Assessment Form – available to determine when a license is needed
- Visual Compliance Restricted Party Screening Service – used for screening visas applications, project awards/interactions & purchasing transactions
- Outgoing International MTAs – reviews started in 2015 in conjunction w/ OIP (RSP)
- International Travel Notification Process – started May 2016
- Vendor screening conducted daily with assistance of Business Services –
 - Screening completed prior to payment – started Jun 2017
 - Annual screening of Pcard vendors
- J-1 Scholar Screening – started Jul 2018
 - Scholars from embargoed/restricted countries

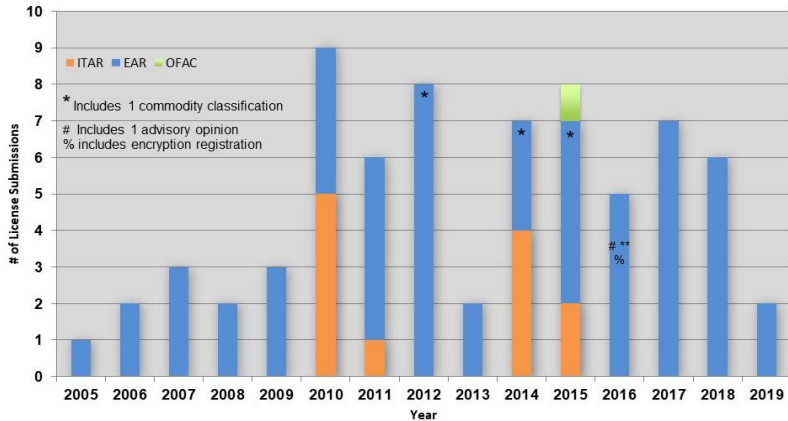
UW' S EXPORT CONTROL COMPLIANCE PROGRAM

Main Areas of Concern

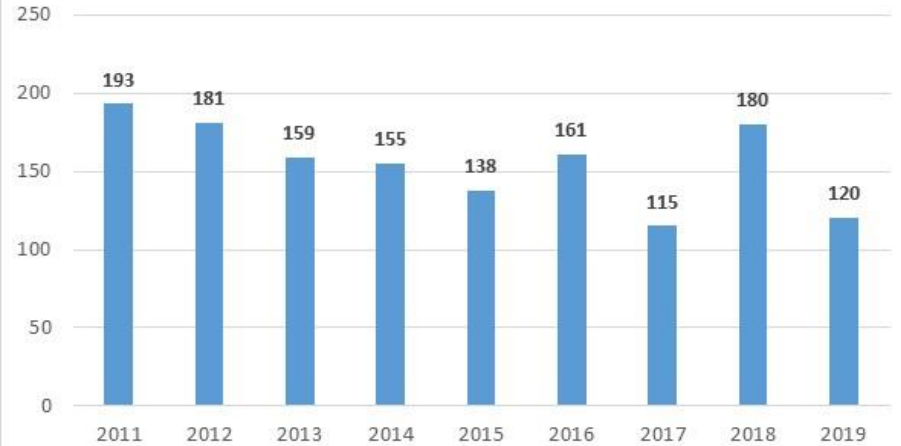
- International Shipping
 - No centralized shipping process or vendor; could partner w/ key shippers (UPS, FedEx)
 - Looked at eShipGlobal – should improve compliance, but implementation & accounting concerns
- Interactions with Restricted Parties – working on policy for interactions with restricted parties
- Pcard Purchases from Foreign Vendors – Difficult to screen for restricted parties before transaction is conducted
- Foreign Students (working in research labs) – difficult to screen prior to placement in labs
- Monitoring Research Projects for Changes in Scope & Staffing
- J-1 Visa Visiting Scholars – Not conducting a full review of all J-1 scholars

UW EXPORT CONTROL METRICS

of ITAR / EAR / OFAC Licenses



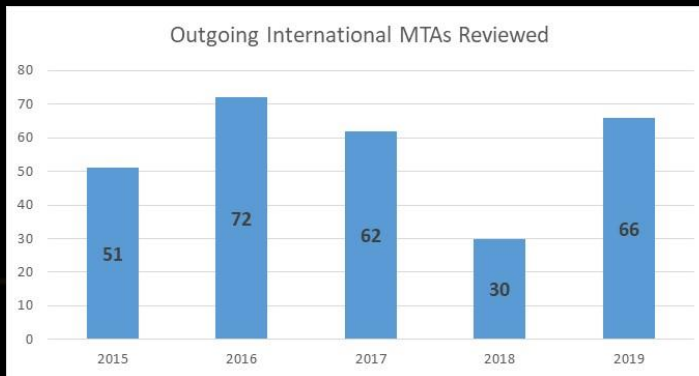
H-1b/O-1 Visa Certifications Completed



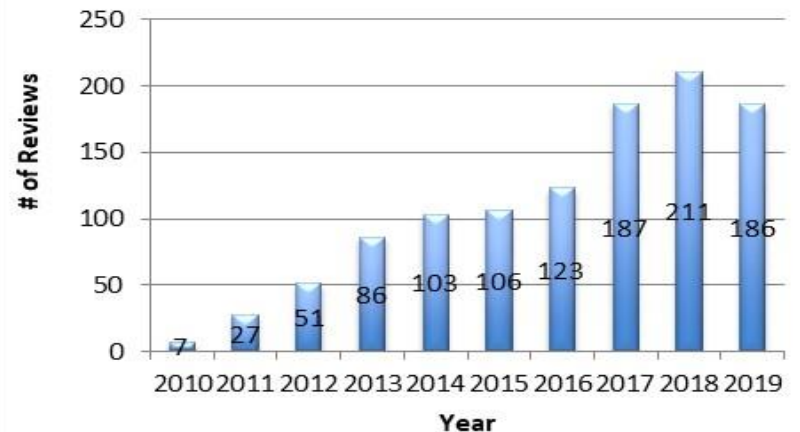
Average Approval Time:

- ITAR - 14 days
- EAR - 43 days
- OFAC - 329 days (1 license)

Outgoing International MTAs Reviewed



Export Control Reviews



UW EXPORT CONTROL METRICS

Voluntary Self-Disclosures

1. AERI import license not used for shipment (DDTC, Jul 2011)
2. Thermal imaging camera not returned from India within timeframe noted in license (BIS, Oct 2012)
3. AES filing not submitted for equipment to India (Census Bureau, Jan 2013)
4. Chemistry software uploaded to Iran (OFAC, Jan 2014)
5. Vesicular stomatitis virus shipped to India w/o a license (BIS, Mar 2015)

No penalties from these VSDs

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