

Export Control and the NASA Community



**Office on International and
Interagency Relations**

NASA Headquarters



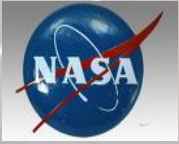
Export Control Compliance: Part of the NASA Mission

- **“It is NASA policy to ensure that exports and transfers of commodities, technical data, or software to foreign persons are carried out in accordance with United States export control laws and regulations, and Administration and NASA policy.”**

NPD 2190.1, Section 1.a.

- **“We want to maximize the benefits of our international efforts while ensuring that we comply with U.S. export control laws and regulations. This is the personal responsibility of each employee.”**

NPR 2190.1, Section P.1.



Key Export Control & Nonproliferation Principles

- **Compliance with Primary Export Control Laws and Regulations**
 - Export Administration Act & EAR
 - Arms Export Control Act & ITAR
 - 10 CFR 810 Department of Energy regulations
 - Office of Foreign Assets Control (OFAC) regulations
 - Proscribed Countries, Denied Parties, Entities List, etc.
- **U.S. Non-Proliferation and Export Control Policy**
- **U.S. Space Transportation Policy**
- **P.L. 106-391 – NASA Authorization Act of 2000**
- **P.L. 113-76 – Consolidated Appropriations Act, 2014**
- **P.L. 101-246 – Tiananmen Square Sanctions**





NASA's Export Control Program

- Formally instituted in November 1995, in close cooperation with the Departments of State and Commerce
 - NASA Policy Directive 2190.1: *"The NASA Export Control Program"*
 - NASA Procedural Requirements 2190.1: *"The NASA Export Control Program"*
- Agency export control policy is centralized in a single office at NASA Headquarters and operated Agency wide under standardized procedures
- 21 Export Control Administrators and Counsel – appointed by NASA Senior Management – in place at each NASA Center
 - NASA's experts on export control matters

NASA's Export Control Program supports responsible implementation of the Space Act and U.S. National Space Policy



Compliance is Key

- **Professor John Reece Roth**

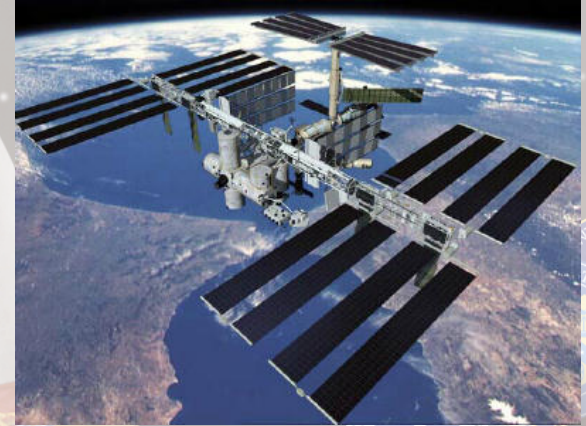
- Provided access to export-controlled information to foreign graduate students in the U.S. in a project funded by the U.S. Air Force
- Didn't believe he broke the law because research hadn't produced anything tangible and he only received about \$6,000 from the subcontract
- Had export-controlled data on his laptop when he traveled to China to give a lecture
- Had an export-controlled document e-mailed to himself via a Chinese national's e-mail account
- Sentenced to 4 years in Federal prison

Export Control compliance is important in all environments



Best Practices

- **Coordination between NASA Program/Project Managers and Contractor or University**
 - Early in program development
 - Technology Transfer Control Plan
 - Coordination with Export Administrators
 - Briefings, Publications, International Partners, Export Representative
- **NPR 2190.1 requires export plans and reporting for exports effected in support of NASA programs**
- **Mark and determine export control status of data when created**
- **NASA International Agreements contain export control clauses**
 - International Agreements do **NOT** trump export control laws
 - Contractors/universities still require TAAs
- **Documentation, Recordkeeping, & Reporting**
 - Careful use of exemptions/exceptions and licenses
- **Audit and Assess**





NASA Fundamental Research Guidelines

- Standardized process for designating a task as “fundamental research” (NFS 1852.235-73)
- “Final Scientific and Technical Reports: In all research and development contracts, . . .
 - (1) The contracting officer, after consultation with and concurrence of the program or project manager and the center Export Control Administrator, shall insert the clause with its Alternate I when the contract includes “fundamental research” as defined at 22 CFR 120.11(8) and no prior review of data, including the final report, produced during the performance of the contract is required for export control or national security purposes before the contractor may publish, release, or otherwise disseminate the data.
 - (2) The contracting officer, after consultation with and concurrence by the program or project manager and where necessary the center Export Control Administrator, shall insert the clause with its Alternate II, when prior review of all data produced during the performance of the contract is required before the contractor may publish, release, or otherwise disseminate the data. For example, when data produced during performance of the contract may be subject to export control, national security restrictions, or other restrictions designated by NASA; or, to the extent the contractor receives or is given access to data that includes restrictive markings, may include proprietary information of others.”
- For NASA purposes, “fundamental research” generally does not include designing, building, or testing of operational space-flight hardware and equipment such as sensors, instruments, cameras, ground support systems, or satellites. Resulting data collected by such hardware can be considered for fundamental research designation, however. Export-controlled or proprietary technical data used as background data for fundamental research cannot be included in the resulting publication; NASA Program Managers, grant recipients, and contractors must ensure such disclosure is not made.



Recent Grants Information Circular

- **GIC 12-01 (February 9, 2012)**
- **Provides notice of recently-enacted funding restrictions regarding China**
- **NASA may not use appropriated funds to enter into or fund any grant or cooperative agreement of any kind to participate, collaborate, or coordinate bilaterally in any way with China or any Chinese-owned company, at the prime recipient level or at any sub-recipient level, regardless of whether the bilateral involvement is funded or performed under a no-exchange of funds arrangement.**

