Export Controls 102

Confidential Company Information

• The freely publishable results of fundamental research are in the public domain.

• However, company confidential information is not in the public domain, and is export controlled.
Export Controls 102

EAR – Proprietary Information Rule

15 C.F.R. 734.8(b)(4). “The initial transfer of information from an industry sponsor to University researchers is subject to the EAR where the parties have agreed that the sponsor may withhold from publication some or all of the information so provided.”
Example of Proprietary Information Rule

15 C.F.R. Pt. 734, Supp 1, Q/A D(2). “However, if your company and the researchers have agreed to a prohibition on publication [of company proprietary information], then you must obtain a license or qualify for a License Exception before transferring the information to the university [if a foreign national graduate student from a country requiring an export license might have access].”
Export Controls 102

Issues: How to identify?

• Don’t ask; expect companies to tell.
• Scrutinize documents.
• Ask; require companies to tell.
Export Controls 102

Issues: How to manage?

Some options:

- Don’t accept export-controlled technical information.
- Limit to PI/Co-PI.
- Require companies to get any needed licenses.
- Accept only “anti-terrorism” controlled information.