ITAR Current Issues

Committee on Achieving Science Goals with CubeSats
Space Studies Board
October 30, 2015

Kevin Schmadel
Vice President, Corporate Affairs and Communications
ITAR Category XV and Space Research and Education at Universities: “The Perfect Storm”

The Three Elements of the Storm

- **Cox Committee Report**—Congress’s mandate casting a broad net that “satellites and related items” be transferred from the Department of Commerce to the State Department and be covered as defense articles under ITAR.

- **Concept of deemed exports**—An export can be “deemed” to have taken place when information is conveyed to a foreign national, including through conversation or classroom teaching.

- **Significant presence of foreign nationals on university campuses**—In space research, university scientists work in teams with colleagues and students, who may be foreign nationals.
ITAR Category XV and Space Research and Education at Universities: “The Perfect Storm”

The Storm Damage—a chilling effect on space-related research and education at U.S. universities

- Professors forced to choose between excluding non-U.S. students from their courses and research projects, or “dumbing down” the curriculum for all students, so that the risk of being accused of transferring technological information is reduced

- Students and able young faculty members avoiding space-related fields, where the uncertainties and burdens of ITAR compliance and the ITAR approval process are acute

- Universities weighing the costs and risks of conducting research and teaching students in disciplines associated with space science and technology, versus opting out and placing investments in non-space related fields
The Advocacy Effort:
Reverse the Cox Mandate

The University Message to Congress

• The impact of ITAR Category XV on university research and education is exacerbating the growing problem of the U.S. having the space workforce needed to design and deploy the space systems of the future
  ➢ Current regulations are harming U.S. national security

• Provide authority to the President to remove satellites and related components from the USML, including scientific research and experimental (SRE) satellites—Reforming current law will allow sensible consideration of what space-related technology must be controlled, as opposed to the current blanket restriction
  ➢ Restore to our universities the ability to teach our students space technology and to conduct research in space in a way that will enable the U.S. to remain a leader in the future
The Advocacy Effort: Reverse the Cox Mandate

USRA, the American Association of Universities (AAU), and industry associations worked together, as single united coalition

- Advocated for broad reform, not limited to commercial satellites
- Undertook joint congressional visits
  - Foreign Relations and Foreign Affairs
  - Armed Services
- Testified before Congress
- Communication with White House agencies:
  - National Security Council
  - National Economic Council
  - Office of Science and Technology Policy
Space-Related ITAR Reform

New Law Passed

- Space-related export control reform was signed into law on January 2, 2013, as part of the NDAA.
- Reform not limited to commercial satellites—new law restores to the President authority for “Removal of Satellites and Related Items from the United States Munitions List (USML)”.
Space-Related ITAR Reform

Regulatory Implementation

- Department of State sought comment on proposed regulations in May 24, 2013 announcement in the Federal Register
  - USRA provided comments on July 8, 2013
  - USRA obtained support of industry associations to include USRA comments within their own comments
- Final regulations published May 13, 2014
  - Regulations became effective November 10, 2014—a 180-day waiting period, after publication, before they could take effect
Space-Related ITAR Reform

Helping Universities Implement New Regulations on Space-Related Export Control

• USRA currently surveying U.S. universities with CubeSat programs to assess to what extent the new regulations are providing relief
• USRA has had discussions with OSTP on a CubeSat “Policy Symposium,” possibly for Fall 2016
• USRA considering a web-based forum that would allow universities to share information on CubeSat programs, including regulatory requirements
Questions?