

# *Ten Steps Toward Understanding Export Controlled Information*

**Dave Hamrin, ORNL  
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# *What Qualifies Me to Give this Talk?*

**I've had ECI training five times:**

- **1989: At Argonne, had training to the Troy Wade letter**
- **March 1995: Trained to Interim Guidelines at a hotel in Oak Ridge**
- **October 1996: Trained in basement of the local Federal Bldg.**
- **February 1997: Took PNNL ECI training at PNNL**
- **Later in 1997: Took PNNL "Train the trainer" training at the Y-12 Plant**

## *Qualifications (con't.)*

- **Attended the Export Control Coordinators Conference (ECCO) seven times**
- **Was ECCO Recording Secretary for four years**
- **Am a Subject Matter Expert for Foreign Visits and Assignments at ORNL**
- **Chat with the ORNL Export Compliance Dept. on a daily basis**

## *Step One*

- **November 1947 is the earliest record I can locate that discusses export control in the AEC.**
- **Nevertheless, the 1947 memo clearly seems to be a precursor of the current DOE Guidelines**

## *Step Two*

- **Growing interest during the 1980s by auditors and the government in general gave rise to the report “Technology Security”**
- **Table of Contents of this document closely resembles the format and phrasing of the current DOE Guidelines**

## *Step Three*

- **Issuance of the “Troy Wade letter” is accompanied by site visits across the DOE complex**
- **These guidelines are clearly stated to be Interim in anticipation of a DOE Order on ECI**

## *Step Four*

- **Export Control makes headlines**
- **Sale of 20% of a working fuel reprocessing plant to an Idaho used-car salesman and accompanied FOIA request providing the manuals and blueprints to run the plant led to a CBS news segment by Connie Chung**
- **Provides the impetus for the next step**

## *Step Five*

- **On November 3, 1994, the document “Interim Guidelines on Export Control and Nonproliferation” are issued by DOE’s Office of Arms Control and Nonproliferation**
- **Guidelines tell how to review, mark, and handle ECI**

## *Step Six*

- **In 1997, the Interim Guidelines are replaced by the Final Guidelines**
- **Hope for a FOIA exemption for DOE ECI seems to have faded**
- **DOE Order on ECI therefore lacks statutory basis and is not issued**

## *Step Seven*

- **The relationship between “foreign visits and assignments” and “deemed exports” takes center stage**
- **Worries abound that “sensitive nuclear technology” is being transferred on a daily basis through normal scientific exchange and exposure to items that are export controlled**

## *Step Eight*

- **In July of 1999, Final Guidelines are updated to clarify “deemed export” concerns**
- **This update seems clearly to be in response to government auditors**

## *Step Nine*

- **The topic of “deemed exports” heats up OUTSIDE the Dept. of Energy**
- **Report “Deemed Export Controls May Not Stop the Transfer of Sensitive Technology to Foreign Nationals in the U.S.” is issued by the Dept. of COMMERCE Inspector General**
- **New, clearer definitions are sought**

## *Step Ten*

- **ECl guidance is being updated this fiscal year**
- **This update will be the first update to the Guidelines document in over a decade**
- **If there is something you want to see in the new ECl guidance, now is the time to speak up**

## *Reviewing for ECI*

- **Is the subject on the Sensitive Subjects list?**
- **Could uncontrolled release reasonably be expected to contribute to nuclear proliferation or harm national security?**
- **If so, mark and handle according to the Guidelines**

## *Summary*

- I've tried to provide a history of “how we got here from there”
- Lack of DOE Order on ECI has muddied the waters substantially, since requirement for ECI reviews lacks resource assessments, implementation plans, standardization across sites, and a clear audit trail

## *Questions?*

- **No answers are promised; opinions available upon request**