



Notes from Photonics 4 Breakfast
May 1, 2008

ITAR, Export Regulations & The Photonics Industry

The photonics industry has a very global marketplace. Most Colorado companies do most of their business outside of the state, with a significant amount with foreign customers. This will continue to grow at the same time that national security threats will make exporting more closely watched.

Last fall Rocky Mountain Instruments Company in Lafayette, CO was raided by federal forces – the TV showed agents in SWAT gear swarming into the building. ***Expected ITAR regulation infringements were the reason, and it really wasn't anything that unique – it could happen to anyone in the photonics industry.***

ITAR is the International Traffic in Arms Regulations, governing anything that is known or could be used in a weapon. Unfortunately, the ubiquitous precision optics, lasers, components, and even some instrumentation could fall into this category.

As Trish Heller, RMI's Director of Regulatory Compliance said at the breakfast, the regulations and documentation are intentionally vague and cumbersome. Foreign customers and vendors don't necessarily understand or agree to the restrictions/delays in information flow that come with following the regulations – but it still needs to be done. The cost of a solid compliance program can be significant – but so is the risk of being found in non-compliance, both the penalties levied against a company as well as the time/effort/good will used to rectify the situation.

Trish used the analogy of the driver's license to the export license. Getting one gives us the privilege of driving, but it implies that we must always be following the laws of the road. When we do have a traffic violation, even a stop for a broken tail light, we are immediately scrutinized for all possible violations (is our insurance up to date? Are we wearing our seatbelt? Are there suspicious items in the vehicle?). We are also liable for any and all fines levied – although we

can contest the fines. The smart thing to do is to be a defensive driver – and Trish highly recommends we all be defensive exporters as well.

This means that a change in the corporate culture may be needed. ***Regulatory Compliance and business success are not mutually exclusive – they require a total team effort.*** Everyone in the company has to be a leader when it comes to compliance – this is not a top-down or bottom-up business strategy. Every person in the company also has to be an integral part of the solution. This is not someone else’s problem to complain about.

ITAR and Export Controls help ensure our national security and those of our allies. They help promote foreign policy agendas and protect human rights and intellectual property rights. The regulations are in place to help combat terrorism, inhibit the proliferation or wide-spread use of weapons, and protect US military personnel.