

EXPORT CONTROLS

A Basic, One-Sheet Primer on Information **YOU** Need to Know

What they are: Federal laws restricting the transfer of goods and technology to and the performance of services for persons and entities outside the United States. These laws are currently implemented by the U.S. Department of Commerce through its Export Administration Regulations (**EAR**), the U.S. Department of State through its International Traffic in Arms Regulations (**ITAR**), and the U.S. Department of Treasury through its Office of Foreign Assets Control (**OFAC**). The export control laws and regulations have several purposes: to restrict exports of goods and technology that could contribute to the military potential of U.S. international adversaries; to prevent proliferation of weapons of mass destruction; to advance U.S. foreign policy goals; and to protect the U.S. economy and promote trade goals.

What activities are impacted by Export Controls? (1) Transfers of controlled information, including technical data, to persons and entities outside the United States; (2) Shipment of controlled physical items, such as scientific equipment, that require export licenses from the U.S. to a foreign country; (3) Verbal, written, electronic, and/or visual disclosures of controlled scientific and technical information related to export controlled items to foreign persons in the United States; and 4) Provision of services to - or conducting financial transactions with - an embargoed or boycotted country, restricted individuals or entities.

Examples of situations that may be subject to Export Controls include, but are not limited to:

- **Shipping controlled materials, supplies, or samples to other countries**
- **Sharing information disclosed under confidentiality agreements with foreign persons, including students, staff, and faculty**
- **Carrying a university-owned laptop computer containing controlled information or encryption software on foreign travel**
- **Exchanging unpublished research results or data with foreign persons located overseas or in the US by any means, including e-mail, file transfers, etc.**
- **Training a foreign person in the design, development, use, or testing of controlled equipment**
- **Carrying controlled materials, samples, or GPS equipment in checked or carry-on luggage on foreign travel**
- **Conducting research under a grant or any contractual agreement that restricts the participation of foreign nationals or requires approval to publish results**

Who is considered a “foreign person”? 1) Any person who is not a US citizen or lawful permanent resident of the United States (green card holder); 2) Any foreign corporation or other entity or group that is not incorporated or organized to do business in the United States; and 3) Any foreign government.

What is a “Deemed Export?” The transfer of technology or source code by any method to a foreign national in the U.S. or abroad is deemed to be an export to that individual's country of citizenship. Methods of transfer include fax, telephone discussions, e-mail, computer data disclosure, face-to-face discussions, training sessions, or facility tours which involve visual inspections of controlled technology

Penalties for Violators Are SEVERE! The laws provide for criminal sentences for individuals of up to 10 years in prison and up to \$1 Million fines and civil fines of up to \$500,000.

What is covered: The **EAR** covers hundreds of “dual use” items. The EAR regulates items designed primarily for commercial purposes that may also have military applications. The EAR restricts the export of these commodities from the U.S., as well as the transfer of technical data about them to foreign persons, both in and outside the U.S. It also covers the re-export of foreign commodities incorporating controlled U.S. commodities. Examples of controlled commodities include, but are not limited to, lasers, radars, sonar systems, satellite components, computers, signal processors, cameras, centrifuges, fermenters, electron beam systems, fiber optics, GPSs, inertial navigation equipment, vacuum pumps, radiation hardened devices, semiconductors, hydrophones, telecom components. Also controlled are microorganisms such as Bacteria: Bartonella, Chlamydia, Clostridium, Rickettsia, Salmonella, Fungi: Puccinia, Viruses: African horse sickness, African swine fever, porcine herpes, avian influenza, blue tongue, and goat pox.

ITAR deals with items that the State Department has “deemed to be inherently military in character.” Those items, organized into categories, include equipment, software, algorithms, and in each category, technical data and services directly related to the items specified. Examples include, but are not limited to, satellites and spacecraft components, lasers/directed energy devices; submersible vessels; magnetic, pressure and acoustic sensors; radar systems; unmanned vehicles; nuclear weapons, toxicological agents, explosives, ranging and guidance systems, and cryptography systems. Also includes any experimental or developmental equipment specifically designed or modified for military applications or specifically designed or modified for use with a military system.

The Treasury Department Office of Foreign Assets Control (**OFAC**) administers and enforces programs based on U.S. foreign policy and national security goals that (1) Regulate the transfer of items or services to embargoed nations; (2) Impose trade sanctions and trade and travel embargoes aimed at controlling terrorism, drug trafficking, and other illegal activities; and (3) Restrict payments or providing anything of value to nationals of sanctioned countries and to specific foreign entities and individuals. The following countries/areas are currently on OFAC's sanctions list, *Balkans, Belarus, Burma, Cote d'Ivoire (Ivory Coast), Cuba, Democratic Republic of Congo, Iran, Iraq, Liberia, North Korea, Sudan, Syria, and Zimbabwe.*

Good News! Most University activities are EXEMPT. About 95% of the teaching, research, and public service activities performed at NCSU are exempt from Export Controls. EAR and ITAR regulations include exemptions for 1) Education of information concerning general scientific, mathematical or engineering principles commonly taught to all students or information that is already in the public domain; and 2) Fundamental Research which is already published and which is generally accessible or available to the public and fundamental research in science and engineering where the resulting information may be freely published and shared broadly in the scientific community. Exceptions also exist for other activities. For example, faculty who wish to take their laptops out of the country to use in a project that qualifies as fundamental research may be able to do so under the license exception for temporary export (TMP) if s/he retains control of the laptop at all times and does not travel to an embargoed country.

Learn More. All NCSU faculty and support personnel should review the Export Controls information found on the SPARCS web page at <http://www.ncsu.edu/sparcs/export/index.html>.

Get Help. Have a situation that may be subject to Export Controls? Contact Richard Best, Compliance Officer in SPARCS, at 515-0158 or Richard_Best@ncsu.edu for more information.

Important Note: The purpose of this handout is to increase awareness of federal laws and regulations, including 15 CFR Parts 730-774 and 22 CFR Parts 120-130. The information provided is not complete and should not be considered legal advice. It is the responsibility of each individual to comply with existing laws and export control regulations.
