

## **Export Control Statement of Policy and Principles**

The University of Colorado at Colorado Springs (University) is committed to complying with all applicable United States export-control laws and regulations. It is each employee's responsibility to understand or seek guidance on any export control requirements related to his or her work and to ensure that no exports are made contrary to those requirements. The following information is provided to aid University personnel in complying with these laws and regulations.

A fundamental principle of the University is that the teaching and research environment should be open so that ideas can be exchanged freely among faculty and students. The University's research activities are conducted as an integral part of the presentations at professional meetings, student dissertations and theses. The University recognizes that instances may arise in which the University's research involves the dissemination of certain "technical data", information, materials or equipment that are subject to federal export control regulations.

In such situations, the University and its employees must be responsible exporters. This includes abiding by the export rules and regulations set forth by the various agencies of the United States Government. It also includes understanding the export implications of the research undertaken at University and obtaining the proper licenses prior to the export of any work, whether abroad or within the U.S.

### **What are the regulations?**

The United States export control regulations have generally arisen from the goals of protecting the U.S and its citizens from the proliferation of weapons and their means of delivery, and from the attempt to satisfy U.S. treaty obligations.

The main export control regulations applicable to the University are the International Traffic in Arms Regulation (ITAR), the Export Administration Regulations (EAR) and embargoes managed by the Office of Foreign Assets Control (OFAC). These apply to all U.S. citizens and U.S. entities; therefore, University, faculty, staff and students must comply with these export regulations.

- **The Export Administration Regulations (EAR)**, Title 15, sections 730-774 of the Code of Federal Regulations (CFR) are promulgated and implemented by the Department of Commerce. The EAR regulates the export of "dual use" goods and services (goods and services having both military and civilian uses) identified on the Commodity Control List (CCL).

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- The complete text of the EAR and CCL are available online at <http://www.gpoaccess.gov/cfr/index.html>.
- **The International Traffic in Arms Regulations (ITAR)**, 22 CFR §§ 120-130 are promulgated and implemented by the Department of State and regulate defense articles and services and related technical data. Regulated items are identified on the Munitions Control List (MCL), 22 CFR § 121. Complete, on-line versions of ITAR and MCL are available online at <http://www.gpoaccess.gov/cfr/index.html>.
- **The Office of Foreign Assets Control (OFAC)**. These embargoes limit shipments to, and interaction with, certain embargoed countries (e.g., Cuba , Iran , Libya , North Korea , Sudan and Syria – this list is subject to change at the determination of the U.S. Government) and certain individuals (which may include businesses and organizations). <http://www.treas.gov/offices/enforcement/ofac/>

### **Important concepts:**

- **Export:** The term **export**, as used in export control regulations, has an expansive meaning. Generally, an export includes any: a) shipment of commodity, technical data, source code or software out of the United States, or b) release of technical data or source code to a foreign national inside the United States (so-called “deemed export”).
- **Deemed Export:** It is particularly important to understand the concept “**deemed export**” because the export control regulations prohibit an unlicensed **deemed export** of “technical data”, or source code even **within the U.S.** Disclosure of technical data or information on export-controlled items to a foreign person (e.g., a graduate student) in the United States is considered a **deemed export**, and may require a license.

A “**foreign person**” is an individual who is not a U.S. citizen, a lawful permanent resident alien of the U.S., (a “Green Card” Holder), a refugee or someone in the U.S. as a protected political asylee or under amnesty. A “foreign person” also includes foreign corporations, business associations, or any other entity or group that is not incorporated to do business in the U.S., international organizations, foreign governments and any agency or subdivision of foreign governments such as consulates. A U.S. citizen or lawful permanent resident of the U.S. who works for a foreign company, government, or other entity is also considered a “foreign person.”

### **Exceptions**

There are two significant exemptions or exceptions from the export control laws that apply to the University setting. It is of utmost importance that the University

and its employees take no actions that would defeat these exclusions. These exclusions provide a limited “safe harbor” within the law.

- 1) Fundamental research**, as used in the export control regulations, includes basic or applied research in science and/or engineering at an accredited institution of higher learning in the U.S. where the resulting information either is ordinarily published and shared broadly in the scientific community or where the resulting information has been or is about to be published.

Fundamental research is distinguished from research that results in information that is restricted for proprietary reasons or pursuant to specific U.S. government access and dissemination controls.

It is important to note that University **research will NOT qualify** as fundamental research if:

The university or the researcher accepts any restrictions on the publication of the information resulting from the research (other than limited prepublication reviews by research sponsors to prevent inadvertent divulging of proprietary information or to insure that publication will not compromise patent rights of the sponsor); or

the research is extramurally funded and University or the researcher has accepted specific access or dissemination controls regarding the resulting information.

- 2) Educational exclusion** exempts from export controls the sharing of general scientific, mathematical or engineering information commonly taught in catalog-list courses at colleges and universities, up to the Ph.D. level, as well as exempting information in the public domain.

### **What activities may involve export controls?**

- Physical shipment of covered goods or items (commercial/munitions)
- Electronic or digital transmission of any covered goods, items or related goods/items
- Any release or disclosure, including verbal disclosures or visual inspection, of any technology software or technical data to a foreign national
- Actual use or application of covered technology on behalf of or for a benefit of any foreign entity or person anywhere

## What are areas that export issues may appear?

- Research
- Transfer of Materials (information OR actual goods/items)
- Programs Abroad
- Foreign Nationals at the University
- Publications
- Travel Abroad
- Purchasing

## Penalties for Non-Compliance:

Penalties for violating export control regulations can be severe. In the event of civil and criminal violations, individuals and the University may be subject to administrative sanctions (including denial of export privileges and exclusion from practice), statutory sanctions, seizure and forfeiture, cross-debarment, denial of licenses or approvals, and suspensions of the right to contract with the United States Government. Criminal sanctions also include prison terms. In addition, the University may impose personnel disciplinary action.

**Contacts:** Who may I contact with questions or for assistance with licensing and other related to export control matters?

[Exportcontrol@uccs.edu](mailto:Exportcontrol@uccs.edu)

**Resources:** Where may I get additional information?

- Department of Commerce. <http://www.commerce.gov/>
- Bureau of Industry and Security: <http://www.bis.doc.gov/index.htm>,
- Department of State: <http://www.state.gov/>
- Department of Treasury: <http://www.treas.gov/>
- Office of Foreign Assets Control (OFAC):  
<http://www.treas.gov/offices/enforcement/ofac/>
- Centers for Disease Control List of Select Agents:  
<http://www.selectagents.gov/SelectAgentsandToxinsList.html>
- Export Administration Regulations (EAR):  
<https://www.bis.doc.gov/index.php/regulations/export-administration-regulations-ear>
- International Traffic in Arms Regulations (ITAR):  
[http://www.pmdtdc.state.gov/regulations\\_laws/itar.html](http://www.pmdtdc.state.gov/regulations_laws/itar.html)