



Export Control Overview Training



MICHIGAN STATE UNIVERSITY

EXPORT CONTROL & TRADE SANCTIONS

What do the Export Control Regulations cover?

- Research involving military equipment, nuclear technology, and rocket systems
- Research involving Dual Use Items
- International Travel to embargoed countries or destinations covered by economic sanctions



MSU's Office of Export Control and Trade Sanctions (ECTS) assists MSU faculty, students and staff with export compliance related to export controlled research, international travel, and more...

Three main federal agencies have jurisdiction over the U.S. Export Control Regulatory framework:

- U.S. Department of State - International Traffic in Arms Regulations (ITAR)
- U.S. Department of Commerce - Export Administration Regulations (EAR)
- U.S. Department of Treasury - Worldwide sanctions and embargoes

Other agencies that issue Export Control Regulations:

- Nuclear Regulatory Commission - controls on nuclear materials, equipment, and exports
- Department of Energy - controls on nuclear technology

Let's take a closer look at a few of these regulations...

What is controlled?



1 - Defense Articles (Military)

State Department – Directorate of Defense Trade Controls (DDTC):

- International Traffic in Arms Regulations (ITAR)
- Items subject to ITAR
 - Items designated on the U.S. Munitions List (USML)
 - Items “specially designed” for one of the items on USML
 - Includes technical data and defense services (training)
- Items are controlled to all destinations
- Civil and Criminal sanctions for violations

International Traffic in Arms Regulation (ITAR)

United States Munitions List

Category I	Firearms, Close Assault Weapons and Combat Shotguns
Category II	Guns and Armament
Category III	Ammunition/Ordnance
Category IV	Launch Vehicles, Guided Missiles, Ballistic Missiles, Rockets, Torpedoes, Bombs, and Mines
Category V	Explosives and Energetic Materials, Propellants, Incendiary Agents, and Their Constituents
Category VI	Surface Vessels of War and Special Naval Equipment
Category VII	Ground Vehicles
Category VIII	Aircraft and Related Articles
Category IX	Military Training Equipment and Training
Category X	Personal Protective Equipment
Category XI	Military Electronics
Category XII	Fire Control, Range Finder, Optical and Guidance and Control Equipment
Category XIII	Materials and Miscellaneous Articles
Category XIV	Toxicological Agents, Including Chemical Agents, Biological Agents, and Associated Equipment
Category XV	Spacecraft Systems and Related Articles
Category XVI	Nuclear Weapons Related Articles
Category XVII	Classified Articles, Technical Data and Defense Services Not Otherwise Enumerated
Category XVIII	Directed Energy Weapons
Category XIX	Gas Turbine Engines and Associated Equipment
Category XX	Submersible Vessels and Related Articles
Category XXI	Articles, Technical Data and Defense Services Otherwise Not Enumerated

What is controlled?

2 - Dual Use Items Commercial goods and technology that could have military applications



Commerce Department – Bureau of Industry and Security (BIS):

- Export Administration Regulations (EAR)
- Items listed on the Commerce Control List (CCL)
 - CCL covers items not on the USML
 - Characteristics of item determines controls
 - Items are controlled only to specific countries
 - Many license exceptions available
- Civil and Criminal sanctions for violations

Export Administration Regulations (EAR) - Commerce Control List

Category 0	Nuclear Materials, Facilities and Equipment [and Miscellaneous Items]
Category 1	Special Materials and Related Equipment, Chemicals, “Microorganisms,” and “Toxins”
Category 2	Materials Processing
Category 3	Electronics
Category 4	Computers
Category 5	Telecommunications and “Information Security”
Category 6	Sensors and Lasers
Category 7	Navigation and Avionics
Category 8	Marine
Category 9	Aerospace and Propulsion

What is controlled?



3- Embargoed Countries

Treasury Department – Office of Foreign Assets Control (OFAC):

- Economic sanctions, trade restrictions and embargoes imposed against specific countries for reasons of foreign policy and national security
- Comprehensively embargoed countries currently include: Cuba, Iran, North Korea, Syria & the Crimea, Donetsk People's Republic (DNR) and Luhansk People's Republic (LNR) regions of Ukraine
- Civil and Criminal Sanctions for violations

A few regulatory definitions...

- Export
 - Physical shipments outside of the US
 - Technology and software accessed from outside the US
- Deemed Export
 - Transfer (even a release of information) to a non-US Person in the US is “deemed” to be an export to that foreign national’s country
- US Person
 - US citizen or permanent resident (i.e. green card holder)

Note: Access to export controlled items, materials, data and/or software by non-US Persons (even while in the U.S.) may be a export violation

This is why MSU’s Office of ECTS may inquire as to the citizenship of MSU project personnel on export-controlled research projects

Know the individuals/entities that MSU can do business with – Restricted Party Screening (RPS)

- All major federal agencies have lists of individuals and entities who the University is not permitted to do business with - MSU is required to run RPS for contractual relationships with outside entities
- MSU's Office of ECTS utilizes Visual Compliance - a web-based tool that screens multiple federal lists at one time
- Departments at MSU conducting RPS:
 - Office of Sponsored Programs (OSP)
 - Business Connect
 - MSU Technologies
 - Procurement & Logistics
 - FRIB
 - International Studies
 - You may contact export@msu.edu to request screening as needed



What is the Fundamental Research Exemption (FRE)?

- Commerce Department definition for export controlled projects:
 - Basic and applied research in science and engineering
 - The resulting information is “ordinarily published” and shared broadly in the scientific community
 - The results of the research are not controlled under Export Control regulations
- If you are conducting Fundamental Research, then the results of your research are not subject to the Export Control Regulations
- State Department – has a similar definition that is a little narrower in that the research needs to take place at an “accredited institution of higher learning in US”

Be careful... the use or generation of export controlled physical items or materials are not covered by the FRE and still may be export controlled.

FRE and Sponsored Research Agreements

- The loss of the FRE can occur through language in sponsored research agreements
- Contracts and grants (even NDA's or side letters) that contain the following are problematic:
 - Publication restrictions
 - Publication approval (pre-publication review is ok)
 - Restrictions on non-US Persons
 - FAR/DFAR clauses (e.g. 252.204.7000)
 - Assignment of ownership of IP to Sponsor is problematic
- These restrictions can disqualify the research as fundamental if the results are no longer able to be published and shared broadly with the scientific community

How is Export Controlled research managed at MSU?

- Sponsored Programs & Business Connect negotiate contracts/grants to remove publication and participation restrictions
- If restrictions remain, the MSU's Office of TCTS will determine if a Technology Control Plan (TCP) is needed to manage the project
- ECTS will work with researchers to develop the TCP
- If you have a non-US Person who needs to work with export-controlled technology, please contact ECTS immediately - export licenses may be needed

Licenses may be required for export-controlled activities

- Accepting export-controlled technology from a research sponsor, generating export-controlled technology here at MSU, or traveling to embargoed countries may require MSU to apply for an export license
- ECTS will assist you with the license application process and submitting on behalf of MSU
- Export licenses are not always approved, so non-US Persons cannot begin work on export-controlled projects until ECTS has approval from the federal government

What is a Technology Control Plan (TCP)?

- A TCP outlines what restrictions are included in a grant/contract including:
 - Publication restrictions
 - Participation restrictions
 - Restrictions on the physical export of controlled items, materials, data & software
- The TCP also describes how materials and/or information are controlled including:
 - Physical Security (locations, item marking, storage, disposition, etc.)
 - Information Security (conversation security, IT Security Plans, transmission protocols)

Technology Control Plans

- Training specific to your TCP will be provided by MSU's Office of Export Control and Trade Sanctions (ECTS) at the time your TCP is written
- You will be asked to sign your TCP and certify that you have read and understood the export control management of your project
- ECTS will also audit your TCP annually to confirm that it is kept up to date. Please notify ECTS of any changes to your TCP including:
 - New faculty, students or staff working with the export-controlled technology that need to be added to the TCP
 - New export-controlled items, materials, data, software that need to be added to the TCP

Deeper Dive: What is Export Controlled ‘Technology’?

- ‘Technology’ is specific data or information necessary for the ‘Development’, ‘Production’ or ‘Use’ of an item subject to the Export Administration Regulations (EAR)
- Technology can take the form of technical data (e.g. blueprints, plans, diagrams, models, formulae, tables, engineering designs and specifications, manuals and instructions written or recorded on other media or devices) and/or technical assistance (e.g. instruction, skills training, working knowledge, consulting services or the transfer of technical data)
- If you are working with International Traffic in Arms (ITAR) controlled technologies, or other export regulations, then the following definitions do not apply. Contact MSU’s Office of ECTS for more information

What are the different types of ‘Technology’?

- ‘Technology’ is specific data or information necessary for the ‘Development’, ‘Production’ or ‘Use’ of an item subject to the EAR
 - “Development” Technology is related to all stages prior to serial production, such as: design, design research, design analyses, design concepts, assembly and testing of prototypes, pilot production schemes, design data, process of transforming design data into a product, configuration design, integration design, layouts.
 - “Production” Technology means all production stages, such as: product engineering, manufacture, integration, assembly (mounting), inspection, testing, quality assurance.
 - “Use” Technology is needed for the operation, installation (including on-site installation), maintenance (checking), repair, overhaul **and** refurbishing of an item subject to the EAR.

How is 'Use' Technology managed at MSU?

- A license or other authorization is necessary for deemed exports of export controlled 'Use Technology' when:
 - All six elements of the 'Use' definition will be released,
 - The Technology is not publicly available,
 - The individual to whom it will be released is not a U.S. Person, and
 - A license would otherwise be required to export the 'Use' Technology to the individual's home country
- MSU's Office of ECTS will work with you to assess whether your situation involves a release of export-controlled Development, Production or Use Technology. There are some Export Control Classification Numbers (ECCN's) that have a lower thresholds for releases of export-controlled technology and therefore MSU faculty, students and staff should work with ECTS to make these assessments and document compliance.

Questions? We are here to help!

MSU's Office of Export Control and Trade Sanctions

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Looking for additional Export Control training?

Go to the MSU ORRS CITI login page:

<https://orrs.msu.edu/train/programs/citi.html>