

Export Controls

Definitions:

Export – as used in export control regulations, generally includes any: 1) actual shipment of any covered goods or items; 2) the electronic or digital transmission of any covered goods, items or related goods or items; 3) any release or disclosure, including verbal disclosures or visual inspections, of any technology, software or technical data to any foreign national; or 4) actual use or application of covered technology on behalf of or for the benefit of any foreign entity or person anywhere. The OFFICIAL definition of export under the EAR and ITAR should be consulted when determining whether a specific act constitutes and export.

Deemed export – Any release of technology or source code subject to the EAR to a foreign national inside the U.S. is deemed to be an export to the home country or countries of the foreign national.

University Research Services, 212 Cordell North, 405.744.9991

Overview of EAR & ITAR

It is the policy of the Oklahoma State University System that instruction, research, and services will be accomplished openly and without prohibitions on the publication and dissemination of the results of academic and research activities.

Federal regulations promulgated and enforced by the Department of Commerce, Export Administration Regulations (EAR), and the Department of State, International Traffic in Arms Regulations (ITAR), prohibit the unlicensed export of specific technology for reasons of national security or protection of trade.

Export control regulations have the potential to harm the quality of university research, undermine publication rights, and prohibit international collaboration if the dissemination of university research is not placed in the public domain and does not qualify for the fundamental research exclusion.

If University research involves such specified technologies, the EAR and/or ITAR may require the University to obtain prior approval from State or Commerce before allowing foreign nationals to participate in the research, partnering with a foreign company and/or sharing

research -- verbally or in writing – with persons who are not U.S. citizens or permanent resident aliens.

The consequences of violating these regulations can be quite severe, ranging from loss of research contracts to monetary penalties to jail time for the individual violating these regulations.

University Research Services will assist PIs in assessing the application of regulations to their research endeavors, but primary compliance responsibility rests with the PI.

Fundamental Research

Fundamental research, as used in export control regulations, includes basic and applied research in science and/or engineering at an accredited institution of higher learning in the U.S. where the resulting information, in some cases, is ordinarily published and shared broadly in the scientific community and, in other cases, 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.

University research will not be deemed to qualify as fundamental research if 1) the university or research institution 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

provided to the researcher by the sponsor or to insure that publication will not compromise patent rights of the sponsor; or 2) the research is federally funded and specific access or dissemination controls regarding the resulting information have been accepted by the university or the researcher.

The citation for the official definition of Fundamental Research under the EAR is 15 CFR § 734.8. The ITAR citation is 22 CFR § 120.11.



Customs, Exports, & Shipper's Export Declarations

An electronic Automated Export System (AES) filing of a Shipper's Export Declaration (SED) is required by U.S. Customs & Border Protection for all shipments headed outside the U.S., except to Canada, that exceed \$2,500 in value per Schedule B number. An SED is required for most exports of merchandise valued at more than \$2,500 from the U.S., Puerto Rico, and the U.S. Virgin Islands to

foreign countries or between the U.S. Virgin Islands, Puerto Rico and the U.S. The AES filing is also required for all exports under the Bureau of Industry and Security (BIS) or State Department export license or license exception/exemption regardless of the value unless the export is temporary and hand carried or exported in your personal baggage under a "tools of the trade" license exception.

Be sure you use an experienced freight forwarded. You may also want to check with University Mailing Services.

You will need to know information about the item you are shipping such as an ECCN number. Please contact University Research Services early for assistance.

International Travel

When planning a trip abroad, OSU travelers should familiarize themselves with export controls and embargoes. You must ensure that any information that you will discuss or any items that you will take with you are either not controlled, or if controlled, proper licenses are in place. Because you, as an individual, and OSU can be held liable for improperly transferring controlled technology, it is important that you review the federal

requirements. In some cases, technology that is otherwise controlled under ITAR or EAR may be excluded from the requirement to have a license or there may be a licensing exception.

In most cases, items such as a personal computer and other "tools of the trade" do not require a license. However, "tools of the trade" must remain under the "effective control" of the employee.

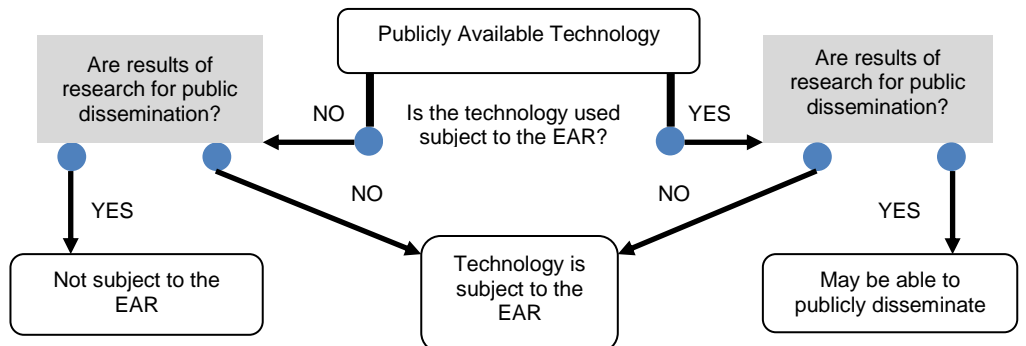
Encryption software in particular is subject to special regulations and more stringent license requirements.

Currently, the "tools of the trade" exception does not apply to controlled technology.

Please contact University Research Services for further and more specific information.



Export Decision Tool for Researchers



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