

Policy on Export Control

GOVERNANCE AND LEGAL

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Related Policies:

Policy on Appropriate Use of Computer and Network Resources

Policy on Openness In Research

Responsible

Office/Department:

Office of the Provost

Vice Provost for

Research and Graduate

Education

Keywords: export

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Control Plan,

biologicals, ECCN, dual

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I. Purpose and Scope

Northeastern University is committed to the principles of open scholarly exchange of ideas and academic freedom, including broad access to research data and results. As a center of higher education, many of Northeastern University's activities involve research on cutting-edge technologies. Under federal law and regulation, the export of certain goods, information, technology and services is restricted for reasons relating to U.S. national security, economic interests, and foreign policy goals. The export laws and regulations address various objectives, such as preventing the proliferation of weapons of mass destruction, advancing U.S. economic interests at home and abroad, aiding regional stability, implementing anti-terrorism and crime controls, and protecting human rights.

Northeastern University is committed to full compliance with the laws and regulations of the United States, including those controlling the export of technologies, services and products. While most of the teaching and research activities at the university are exempt from control as fundamental research, certain sponsored research may involve controlled technologies and trigger the application of U.S. export controls. Moreover, many other university activities, such as those involving information systems technologies or international shipping and travel, fall within the scope of export control regulations.

Export regulators have placed the responsibility on universities to understand and comply with export controls. While maintaining its commitment to the ideals of freedom of inquiry and open exchange of knowledge for the public good, Northeastern University recognizes that for some research, the compelling societal interests underlying export control laws may necessitate exceptions to the university's Policy on Openness in Research.

This policy applies to all members of the university community in the conduct of university business.

II. Definitions

For purposes of this policy,

Export means both (i) the physical shipment or transmittal of a controlled item such as equipment, hazardous material, or technology to persons and entities outside of the U.S., or (ii) any disclosure (whether oral, written, electronic or visual) of a controlled item such as information or software, including the transfer of “knowledge,” to a foreign person in the U.S. or abroad. Such disclosures are referred to as “Deemed Exports.”

Foreign person means (i) any foreign entity or group not incorporated or organized to do business in the U.S., or (ii) any person who is not a (a) U.S. citizen, (b) permanent resident of the U.S. (i.e., a “green card” holder), or (c) political asylee or refugee status holder.

Governing Regulations:

- **EAR** means the Export Administration Regulations written and promulgated by the Bureau of Industry and Security (BIS), Department of Commerce.
- **ITAR** means the International Traffic in Arms Regulations written and promulgated by the Directorate of Defense Trade Controls (DDTC), Department of State.
- **OFAC Regulations** means regulations promulgated by the Office of Foreign Assets Control (OFAC), Department of the Treasury.

III. Policy

It is the responsibility of university faculty, staff, administrators and students to be familiar with this policy and aware of export control laws that might apply to their activities, and to comply with those laws and university policy and procedures. Export control laws are implicated when, among other circumstances, the university will partner with a foreign company, host foreign visiting scholars for the purpose of research involving export controlled technologies, use or implement technology which contains export-controlled components, or where a foreign person will be participating in the activity. In addition, export control laws apply where equipment or hazardous

materials for research abroad will be exported, such as laptops and GPS equipment or devices with encrypted software. In any of these circumstances, or under other circumstances where there is a question whether export control laws might apply, the faculty, researcher, student, or other member of the university community engaged in research or other activity that is potentially subject to export control regulation, is responsible for consulting with the appropriate university office and determining the appropriate actions. The Office of Research Administration and Finance, Information Security, Environmental Health & Safety, General Counsel, or the Compliance Department will convene the Export Control Committee, as appropriate, when presented with questions that require review.

The university requires that:

(a) A faculty, researcher, student, or other member of the university community engaged in research or other activity of the university involving an export by or on behalf of the university to document his or her analysis of the applicability of export control laws and regulations, including the applicability of any exclusion or exemption, prior to the export; and

(b) A faculty member, researcher, student, or other member of the university community who anticipates any research or other activity involving a country, entity or person subject to the EAR, ITAR or OFAC sanctions, to document his or her analysis of the applicability of such restrictions to such research or other activity prior to traveling to such country or entering into any negotiations or agreements with such country, entity or person.

While the university, through a variety of measures including its Export Control Committee, will assist any member of the university in complying with U.S. export control laws and regulations, primary responsibility for compliance with such laws and regulations rests with the faculty, researcher or other member of the university community involved in the specific activity as that individual is both the most informed about, and the one in control of a potential export.

Failure to comply with export control laws and regulations may result in severe criminal and civil penalties (incarceration and fines) for the affected employees and students, as well as administrative sanctions (fines, loss of research funding and/or export privileges) for the university.

IV. Additional Information

The three main export control regulators are:

- i. The Department of Commerce, through BIS, for “dual-use” (i.e., used both in military or commercial applications) and commercial goods, information and technology under the EAR. Dual-use items are listed on the Commerce Control List (CCL), which can be found in the EAR: <http://www.gpo.gov/fdsys/pkg/FR-2013-04-16/pdf/2013-08352.pdf>
- ii. The Department of State, through the DDTC, for defense technologies and services under the ITAR. Defense technologies are listed on the U.S. Munitions List (USML), which can be found in the ITAR: https://www.pmdtc.state.gov/regulations_laws/itar.html
- iii. The Department of the Treasury through the Office of Foreign Assets Control (OFAC) for economic sanctions and embargoes, under Executive Orders and OFAC Regulations: <http://www.treasury.gov/resource-center/sanctions/Pages/default.aspx>

Other agencies involved in export regulation include the Bureau of Customs and Border Protection, Department of Energy, Nuclear Regulatory Commission, Department of Justice, Department of Defense, Environmental Protection Agency, and Patent and Trademark Office.

Resources:

If you have a question whether export control laws apply to your project, you may use the university’s export control Decision Tree: [Export Control License Inquiry](#). Your inquiry will go to the Export Control Committee. The Export Control Committee that will assist in the analysis required under this Policy is made up of university professionals from various backgrounds including Compliance, Office of Research Administration and Finance, Procurement, Information Security, Environmental Health and Safety, and the Office of the General Counsel, as well as representation from the faculty.

Information, training, and FAQs on export control basics are available from the relevant government websites. Training will be offered or conducted by the Office of the General Counsel, Office of Research Administration and Finance, and/or the Compliance

Department from time to time and upon request. In addition, the following resources are available to help you understand export controls:

<http://www.northeastern.edu/research/raf/research-resources/export-control/>

Environmental Health & Safety Hazardous Materials Shipping program:

http://www.ehs.neu.edu/hazardous_material/

V. Contact Information

For research-related inquiries: Office of Research Administration and Finance (617) 373-5600

For all other inquiries: Compliance Department (617) 373-5893