

Policy on Export Control Compliance

Policy Title	Policy on Export Control Compliance
Policy #	05.101.2
Policy Owner	Export Control Officer / Empowered Official
Contact Information	Questions about this policy should be directed to the University's Export Control Officer/ Empowered Official at (401) 874-5343.
Approved By	Administrative Policy Committee
Effective Date	August 2, 2022
Next Review Date	No later than September 30, 2027
Who Needs to Know About this Policy	All University employees with managerial or supervisory authority over Foreign Persons or any projects involving materials or technology subject to export controls.
Definitions	<p>Foreign Person. Any natural person who is not a U.S. Person, or; any foreign corporation, business association, partnership, trust, society, or any other entity or group that is not incorporated or organized to do business in the United States, or; international organizations, foreign governments, and any agency or subdivision of those foreign governments (e.g., diplomatic missions). Foreign Person is synonymous with "foreign national" as used in the Export Administration Regulations and "foreign person" as used in the International Traffic in Arms Regulations.</p> <p>Empowered Official: As defined in 22 CFR § 120.25 (International Traffic in Arms Regulations), a U.S. Person directly employed by a business or institution engaged in export who is delegated full and independent authority in all matters concerning global trade, export administration, compliance, and related issues and who may inquire into any aspect of a proposed export, temporary import, or other export related request to verify the legality of that transaction and accuracy of all information therein. With regards to the University of Rhode Island, the Empowered Official is authorized to act on behalf of the Vice President for Research and Economic Development to stop any export transaction or to refuse approval on any action that is not in total accordance with applicable export regulations or the University of Rhode Island policy on Export Control Compliance.</p> <p>Export. The transfer to Foreign Persons or non-U.S. locations of hardware, software, technology, or information, including physical and electronic transmissions, and the release of any of the foregoing by any means, including oral and visual disclosure, to a Foreign Person regardless of the location of that Foreign Person at the time of disclosure.</p>

	U.S. Person. A person who is a lawful permanent resident of the United States as defined by 8 USC § 1101(a)(20), or; a person who is a protected individual as defined by 8 USC § 1324b(a)(3), or; any corporation, business association, partnership, society, trust, or any other entity, organization or group that is incorporated to do business in the United States, or; any U.S. governmental (federal, state, or local) entity.
Statutes, Regulations, and Policies Governing or Necessitating This Policy	15 C.F.R. § 730 et seq. (Export Administration Regulations, or EAR) 22 CFR 20-130 (International Traffic in Arms Regulations, or ITAR] 50 USC Ch. 35 § 1701 et seq. (International Emergency Economic Powers Act)
Reason for Policy/Purpose	Research activities at the University include sharing and development of products, goods, hardware, software, other technology, information, or materials, all of which may be subject to U.S. export control laws and regulations. This policy summarizes key provisions of U.S. export control laws and regulations and provides guidelines for compliance with these requirements.
Forms Related to this Policy	<i>Export Control I-129 Deemed Export Questionnaire</i>

Policy Statement

Policy Implementation

All University of Rhode Island (also, “University”) personnel, including employees, visiting scientists, postdoctoral fellows, students, and other persons retained by or working for the University, including personnel at any University center or institute, must conduct their affairs in accordance with U.S. laws and regulations, including compliance with U.S. export control laws and regulations applicable to University operations. The laws and regulations governing exports are detailed and complex and University employees with responsibility for the University’s export control compliance program or whose duties include significant interactions with Foreign Persons are offered formal training sessions on U.S. export control laws and regulations and their applicability to the employees’ jobs. In many cases, research involving export controlled technology requires implementation of a formal technology control plan to identify export issues and controls. All University employees with managerial or supervisory authority over Foreign Persons or over projects involving information, materials, or technology subject to export controls must view export control compliance as part of their day-to-day responsibilities.

Since University personnel frequently work in tandem with researchers and collaborators from abroad, it is imperative to determine early within any international collaboration the potential requirement for export control authorization. No University personnel may transfer any items or technology contrary to U.S. export control laws and regulations or this policy. This policy and its attendant procedures include descriptions of screening steps required prior to any export of products, goods, hardware, software, other technology, information, or materials. In the event of a question or concern regarding any export-related aspect of any relationship, technology, or equipment exchange, the University’s Export Control Officer/Empowered Official must be contacted.

Federal Agencies Involved in Export Controls

The Departments of Commerce, State, and Treasury administer the primary controls on the export of goods or commodities. The Department of Commerce regulates the export of items and information that have civilian and dual-use applications (military and civilian). The Department of State regulates the export of items that have military applications or that relate to space. The Department of the Treasury enforces country-specific embargoes. In certain circumstances, these agencies may require the University to secure a license before an item or information is exported to another country or shared with a Foreign Person.

- **Department of Commerce**

The Bureau of Industry and Security (BIS) of the U.S. Department of Commerce implements and enforces U.S. export control regulations (the Export Administration Regulations or EAR, see link below) relating to the export of dual-use goods and technologies as well as exclusively civilian items. Items subject to the jurisdiction of BIS are listed on the Commerce Control List (CCL) found in the Export Administration Regulations. Whether a license is required to export or re-export an item on the CCL is determined by examining the precise classification of the item, the destination of the item, and the end user. The CCL covers topics such as chemicals, microorganisms, computers lasers, and sensors. The list can be found at the link below.

BIS also maintains the Denied Persons List and the Entity List, which identify specific persons and entities to which exports are not permitted without the prior approval of BIS. The Denied Persons and the Entity lists can be found at the links below.

- Export Administration Regulations (EAR): <https://www.bis.doc.gov/index.php/regulations/export-administration-regulations-ear>
- BIS CCL: <https://www.bis.doc.gov/index.php/regulations/commerce-control-list-ccl>
- Denied Persons List: <https://www.bis.doc.gov/index.php/policy-guidance/lists-of-parties-of-concern/denied-persons-list>
- Entity List: at <https://www.bis.doc.gov/index.php/policy-guidance/lists-of-parties-of-concern/entity-list>

- **Department of State**

The Directorate of Defense Trade Controls of the U.S. Department of State regulates the export of defense goods, technical data, and defense services. The Directorate administers the International Traffic in Arms Regulations (ITAR; see link below). Generally, a defense article is an item developed for a military application and has no predominant civilian application. Unless an exemption applies, a license must be obtained before any defense article is exported to a foreign country or a Foreign Person, including Deemed Exports (discussed below). Directorate authorization is also required for any agreement under which 1) a U.S. Person will assist Foreign Persons in the development, design, production, or use of a defense article, or 2) a U.S. Person will license to a Foreign Person the right to manufacture U.S.-origin defense articles abroad. The Directorate maintains a list of debarred persons and entities whose exporting privileges have been revoked as a consequence of violations of the ITAR. The list can be found at the link below.

- ITAR: https://www.pmddtc.state.gov/ddtc_public?id=ddtc_public_portal_homepage
- ITAR Debarred Parties: https://www.pmddtc.state.gov/ddtc_public?id=ddtc_kb_article_page&sys_id=c22d1833dbb8d300d0a370131f9619f0

- **Department of the Treasury**

The Office of Foreign Assets Control (OFAC) of the U.S. Department of Treasury administers and enforces certain country-specific controls that take the form of economic embargoes against those countries. The scope of these embargoes varies from country to country and the list changes often. OFAC has adopted regulations detailing the scope of the embargo against each country. OFAC also maintains lists of Specially Designated Terrorists and Specially Designated Nationals and Blocked Persons, which detail persons with whom U.S. Persons are prohibited from engaging in any transactions due to U.S. foreign policy and national security concerns. Transfers of items and information to individuals or entities on these lists are prohibited without the prior approval of OFAC. Further details on the sanction programs can be found at the link below.

- OFAC Sanctions Programs and Country Information: <https://www.treasury.gov/resource-center/sanctions/Programs/Pages/Programs.aspx>

Deemed Exports

In addition to regulating the export of actual goods or commodities, U.S. export controls cover the export or release of technical data or technology (including information, whether printed, electronic, or communicated orally). Under the deemed export rule, the transfer or release of technical data or information is subject to U.S. export controls to a Foreign Person, whether that transfer or release occurs in the United States or abroad, and is deemed an export from the United States to the home country of the Foreign Person. At universities, this issue arises most frequently in connection with the participation of international researchers or collaborators in projects involving export controlled technology.

Much of the export controlled technology that the University's international students and scholars can access will not require licensing because of the exceptions contained in the EAR and the ITAR for "fundamental research" or "educational information." On-campus teaching of basic and applied research that is free from restrictions on publication and that involves information not subject to access or dissemination controls generally qualifies for the "fundamental research" exemption. Such information is considered in the public domain and no license is necessary for access to this information by Foreign Persons.

Similarly, an exception exists for educational information released through instruction in courses offered in the educational institution's catalog and within associated teaching laboratories of U.S. academic institutions. A license is not necessary to share information with Foreign Persons on campus provided the information is released through instruction in the classroom or within associated teaching laboratories in the United States. For Foreign Person students physically living in the United States, some distance learning courses may also fall within this exception. In addition, the fundamental research exemption does not generally apply to work conducted by University researchers outside of the United States even if such research and informational exchanges are being conducted at an institution affiliated with the University of Rhode Island. To be eligible for the fundamental research exemption, the research must take place at an accredited institution within the physical boundaries of the United States.

Penalties for Violations

If U.S. export control law is violated, both the University and the individuals involved in the violation may be liable. The exporter and the individual employees(s) involved may be subject to administrative and civil sanctions as well as criminal penalties. For example, knowing violations of the Export Administration Regulations are punishable by a fine of up to five times the value of the exports involved or \$50,000, whichever is greater. Willful violations can result in penalties of up to \$1 million per violation, denial of export privileges, and debarment from contracting with the federal government. In addition to monetary fines, individuals may be imprisoned for intentional violations. Almost all enforcement actions are public.

Exceptions

Only those noted above under Deemed Exports.

Policy Review and Revisions

(Versions earlier than the first policy number may be paper only)

Policy #	Effective Date	Reason for Change	Changes to Policy
05.101.1	August 30, 2020	n/a	n/a
05.101.2	August 2, 2022	Scheduled Review	"Information" add to list of items subject to export control.