



University Policy 06-040

## Export Controls

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**Responsible Executive:** Vice President for Research

**Responsible Office:** Research Office

**Effective:** March 23, 2020

**Last Revised:** March 23, 2020

### 1. Policy Statement

- 1.1. Oregon State University (“university”) is committed to complying with all United States export control laws and regulations, including those implemented by the Department of Commerce through its Export Control Regulations, the Department of State through its International Traffic in Arms Regulations, the Department of Energy through its policy on Assistance to Foreign Atomic Energy Activities, as well as those imposed by the Treasury Department through its Office of Foreign Assets Controls.
- 1.2. All individuals involved in research and academic projects or the provision of services that are subject to export controls must follow export control requirements that are appropriate for the roles they serve.
- 1.3. Much of OSU’s research and other activities use publicly available items and information and may be exempt from export control regulations. However, certain research and activities do fall within these regulations and compliance with federal law and this policy is critical in these instances. All members of the university community are to be aware of and comply with all export control requirements, as well as this and other applicable university policies, standards, and procedures.

### 2. Reason for Policy

- 2.1. The land-grant mission of Oregon State University is to promote economic, social, cultural, and environmental progress for the people of Oregon, the nation, and the world. The university advances this mission through its commitment to open access of information, sharing of research, honoring academic freedom, and by engaging in global research, teaching, and outreach partnerships with faculty, universities, and private sector partners.
- 2.2. The export of certain items, technologies, software, and services is regulated by the U.S. government for reasons of national security, foreign policy, prevention of the spread of weapons of mass destruction, and competitive trade. For example, prior written authorization (an “export license”) from one or more U.S. government

agencies may be required to carry out certain sponsored research or other educational activities involving specified technologies, or in certain countries.

- 2.3. This policy codifies the university's commitment to compliance with U.S. export controls, identifies the corresponding responsibilities of university personnel, and establishes the administrative framework for the university's export controls compliance program.

### 3. Scope & Audience

- 3.1. This university policy supports compliance with federal laws and applies to anyone who engages in university activities on behalf of the university that are subject to U.S. export controls. This includes but is not limited to all university employees, faculty, visiting scholars, fellows, students, members of affiliated boards, and volunteers.

### 4. Definitions

- 4.1. **Deemed Export:** A release or transmission of information or technology subject to export controls to any foreign national in the U.S., including graduate students and training fellows. Such a release of information is considered to be an export to the foreign national's home country.
- 4.2. **Education Exemption:** As defined by 15 CFR 734.3(b)(3)(iii), access to technology or software released by instruction in a catalog course or associated teaching laboratory of an academic institution is not subject to the export control laws.
- 4.3. **Empowered Official:** The empowered official is responsible for all transactions that require a U.S. State Department license and is authorized by OSU leadership to sign and process license applications on behalf of the organization.
- 4.4. **Export:** Any item (e.g., commodity, software, technology, or equipment) or information, or data, sent from the U.S. to a foreign destination is considered an export. Examples of exports include the actual shipment of goods, as well as the transfer of written documents or information via email, phone, fax, internet, and verbal conversations. All "deemed exports" as described above are also an export.
- 4.5. **Export License:** A written authorization provided by the appropriate governing regulatory authority detailing the specific terms and conditions under which export or re-export of export controlled items is allowed.
- 4.6. **Export License Exception:** An authorization that allows the export or re-export, under specific conditions, of items that would normally require a license.
- 4.7. **Foreign National:** Anyone who is not a U.S. person, or who is not a lawful permanent resident of the U.S., or who does not have refugee or asylum status in the U.S. Any

foreign corporation, business association, partnership, trust, society, or any other foreign entity or group, as well as any international organization or foreign government, is considered a foreign national.

- 4.8. **Fundamental Research:** As defined by National Security Decision Directive 189 (“NSDD 189”), fundamental research means basic and applied research in science and engineering, the results of which ordinarily are published and shared broadly within the scientific community, as distinguished from proprietary research and from industrial development, design, production, and product utilization, the results of which ordinarily are restricted for proprietary or national security reasons. Information that results from fundamental research is not subject to export control.
- 4.9. **U.S. Person:** Any citizen of the U.S., permanent U.S. resident alien, or protected individual (as defined by law), wherever that person is located. U.S. incorporated or organized firms and their foreign branches are considered U.S. persons.

## 5. Responsibilities & Procedures

### 5.1. Roles and Responsibilities for Compliance with Export Controls

- 5.1.1. It is the responsibility of all members of the university community to be aware of and comply with all export controls as well as applicable university policies, standards, and procedures.
- 5.1.2. The OSU lead, such as the faculty member or principal investigator in charge of a project, is to comply with export controls that are associated with the project and is accountable for instances of non-compliance.
- 5.1.3. OSU’s empowered official obtains a U.S. State Department license for all university transactions that require such a license.
- 5.1.4. OSU’s Office of Export Controls and International Compliance, located within the Research Office, is responsible for assessing export control obligations and facilitating the acquisition of export licenses if required.

### 5.2. When to Consult with Office of Export Controls and International Compliance

- 5.2.1. The Office of Export Controls and International Compliance (<https://research.oregonstate.edu/export>) provides guidance and assistance on compliance with export controls and should be consulted any time there are questions, concerns, or it is suspected that export controls may apply, especially for activities described in this section.
- 5.2.2. **Projects that contain certain subject matter or use.** Projects that do not meet the definition of fundamental research, which include those that involve any

restrictions on publication of results or any restrictions on the nationalities of individuals who can participate in the research or activity, may require compliance with export control obligations. In addition, projects that involve the following are subject to export controls:

- a. Select Agents and Toxins, biologicals or other hazardous materials (see website for representative list: <https://research.oregonstate.edu/export/export-controlled-bio-agents>);
- b. Equipment designed for the military;
- c. Data, information, or technologies designated by the U.S. government as “classified”;
- d. Controlled Unclassified Information categorized by the U.S. government as Export Controlled;
- e. High power lasers;
- f. Nuclear technology;
- g. Encryption items or technology;
- h. Foundational and emerging technologies as defined by the U.S. Department of Commerce; or,
- i. Other technologies, as designated by the U.S. government, that may be subject to export controls.

5.2.3. **International Travel.** International travel is not itself an export, but international travel can trigger export control regulations, especially when:

- a. Traveling with unpublished export controlled data, information, or technology on a computer;
- b. Traveling with advanced technology or with biological samples (which may also trigger additional compliance responsibilities); or,
- c. Traveling, participating in speaking engagements or in any event located in an embargoed country.

5.2.4. **International Shipping.** Projects that include any international transfer or shipment of samples, equipment, or proprietary information/data may be subject to export controls.

- 5.2.5. **Restrictions on participation or publication.** Projects where restrictions have been placed on participation or publication may be subject to export controls.
- a. International students, visitors, and collaborators. Projects that restrict researcher participation (e.g., faculty, students or others) based on country of origin or citizenship may be subject to export controls.
  - b. Publication restrictions. Projects that contain publication restrictions may be subject to export controls.

### 5.3. Empowered Officials

- 5.3.1. In accordance with U.S. Department of State export licensing requirements, the university's president designates empowered officials to provide final adjudication on the completion of export transactions that may need a license to proceed. Empowered officials are the final authority for OSU as to whether it will enter into a particular export transaction that may require an export license from the U.S. Department of State.
- 5.3.2. The Export Controls and International Compliance Officer and the Vice President for Research are designated as empowered officials at OSU.
- 5.3.3. Empowered officials understand the provisions of export controls and have the authority to inquire into any aspect of a proposed export and to verify the legality and accuracy of the information submitted for a transaction. An empowered official also has the authority to reject any export transaction on the basis of compliance requirements.
- 5.3.4. OSU's empowered official obtains a U.S. State Department license for all university transactions that require such a license.

### 5.4. Other Responsible Officials and Roles

- 5.4.1. The Provost and Executive Vice President is the final authority to determine if an international activity that is not subject to export licensing is in the best interest of the university and should proceed, subject to the empowered officials' final authority on export transactions.
- 5.4.2. The Vice President for Research is the primary senior official who oversees compliance with all applicable regulations for university research operations, in consultation with OSU's Office of Audit, Risk, and Compliance, and the Office of the General Counsel.
- 5.4.3. The Vice President for Finance and Administration oversees compliance with non-research-related transactions and operations, in consultation with OSU's Office of Audit, Risk, and Compliance, and the Office of the General Counsel.

- 5.4.4. The Vice President for University Relations and Marketing is responsible for the implementation of policies related to the physical shipping of goods by the university and members of the university community.
- 5.4.5. The Provost's Office oversees the implementation of international travel policies, rules, and guidelines for university faculty, staff, and students.

## 6. Forms & Tools

- 6.1. Please visit the Office of Export Controls and International Compliance website at: [www.oregonstate.edu/export](http://www.oregonstate.edu/export) to access forms and tools, to help determine if assistance may be needed, or to further understand the resources available to the OSU community.

## 7. Frequently Asked Questions

- 7.1. Export Control FAQs: <https://research.oregonstate.edu/export/export-control-frequently-asked-questions>

## 8. Related Information

- 8.2. OSU University Policy 01-040 *International Travel*: [https://policy.oregonstate.edu/UPSM/01-020\\_international\\_travel\\_policy](https://policy.oregonstate.edu/UPSM/01-020_international_travel_policy)
- 8.2. Export License Exceptions are detailed in 15 CFR 740: [https://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&tpl=/ecfrbrowse/Title15/15cfr740\\_main\\_02.tpl](https://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&tpl=/ecfrbrowse/Title15/15cfr740_main_02.tpl)
- 8.2. U.S. State Department – International Traffic in Arms Regulations (“ITAR”): 22 CFR §§120-130 (<https://www.ecfr.gov/cgi-bin/text-idx?SID=6d22ddbe2b71313310673f75e3648b4d&mc=true&tpl=/ecfrbrowse/Title22/22CisubchapM.tpl>)
- 8.4. U.S. Commerce Department – Export Administration Regulations (“EAR”): 15 CFR §§730-774 (<https://www.ecfr.gov/cgi-bin/text-idx?SID=e32d858118b60cd4f96660d05ad24651&mc=true&tpl=/ecfrbrowse/Title15/15CVIsubchapC.tpl>)
- 8.5. U.S. Bureau of Industry and Security (“BIS”) (<http://www.bis.doc.gov/>)
- 8.6. U.S. Treasury Department – Office of Foreign Assets Control (“OFAC”) (<http://www.treas.gov/offices/enforcement/ofac/>) - 31 CFR §§500-599
- 8.7. National Security Decision Directive 189 (“NSDD 189”) (<http://www.fas.org/irp/offdocs/nsdd/nsdd-189.htm>)

## 9. History

- 9.1 Adopted by OSU: March 23, 2020.
- 9.2 Last review date: March 23, 2020.
- 9.3 Next scheduled review date: March 2023.

## 10. Website

- 10.1 University Policy 06-040 Export Controls: [http://policy.oregonstate.edu/UPSM/06-040\\_export\\_controls](http://policy.oregonstate.edu/UPSM/06-040_export_controls)

## 11. Contacts

Department	Phone Number	Website
Export Controls and International Compliance, Research Office	541-737-0647	<a href="http://www.oregonstate.edu/export">www.oregonstate.edu/export</a>