

UNIVERSITY RULE

15.02.99.M1 Export Controls Program Management

Approved May 20, 2011

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Rule Statement

It is the policy of Texas A&M University to comply with United States export control laws and regulations including, without limitation, those implemented by the Department of Commerce through its Export Administration Regulations (EAR) and the Department of State through its International Traffic in Arms Regulations (ITAR), as well as those imposed by the Department of Treasury through its Office of Foreign Assets Control (OFAC).

Reason for Rule

Texas A&M University has an obligation to implement an export control compliance program to reduce the risk of export control violations. All employees and students must be aware of and are responsible for the export control implications of their work and must ensure that their activities conform to export control laws and regulations. There are severe institutional and individual sanctions for violations of export control laws and regulations, including the loss of research funding, loss of export privileges as well as criminal and civil penalties.

Definitions

Each of the following terms used in this Rule is defined in [System Policy 15.02, Export Controls Program Management \(Definitions\)](#):

- [Controlled Information](#)
- [Controlled Physical Items](#)
- [Export](#)
- [Foreign Person](#)

Other terms used in this Rule have the meanings set forth below:

- Deemed Export – has the meaning set forth in 15 C.F.R 734.13 of the EAR, and 22 C.F.R 120.17 of the ITAR. Under the EAR, any release in the United States of technology to a Foreign Person is “deemed” to be an export to the Foreign Person’s most recent country of citizenship or permanent residency, and under the ITAR any release in the United States of technical data to a Foreign Person is “deemed” to be an export to all countries in which the Foreign Person has held or holds citizenship or holds permanent residency.
- Empowered Official – The Empowered Official is defined in 22 C.F.R. § 120.25. The Empowered Official has independent authority to: (i) inquire into any aspect of a proposed export or temporary import by the University; (ii) verify the legality of the transaction and the accuracy of the information to be submitted; and (iii) refuse to sign any license application or other request for approval without prejudice or other adverse recourse.
- Release – has the meaning set forth in 15 C.F.R 734.15 of the EAR and 22 C.F.R. 120.50 of the ITAR. Under the EAR, technology is “released” through visual or other inspection by a Foreign Person that reveals technology subject to the EAR to a Foreign Person in the United States or abroad. Technical data is “released” through visual or other inspection by Foreign Persons of a defense article that reveals technical data to a Foreign Person; or via oral or written exchanges with the Foreign Person of technical data in the United States or abroad.
- University Resources – University personnel, and use of funds, space, equipment/hardware and facilities, which are administered by the University.

Official Rule / Responsibilities / Process

1. GENERAL

Encouraging research and intellectual inquiry is a vital goal of Texas A&M University. Texas A&M University supports open research and the free interchange of information among scholars. The University also recognizes that the United States has enacted laws and regulations restricting the transmission of Controlled Information and Controlled Physical Items for the purpose of protecting national, economic, security, and foreign policy interests. These federal export control laws and regulations establish the conditions under which Controlled Information and Controlled Physical Items can be transmitted to anyone outside the United States and to Foreign Persons in the United States. In addition, the export control laws and regulations restrict or prohibit the transaction of business with certain countries, persons and entities that have been sanctioned by federal agencies as a threat to important U.S. interests.

1.1 This Rule applies to all University employees, students, and visitors whose research, scholarship, or job responsibilities involve the use of University resources. To the extent there are overlapping export control compliance obligations with other System members, such as when University faculty, researchers, students or exchange visitors are performing under grants or contracts awarded to Texas A&M AgriLife Research (AgriLife Research) and Texas A&M Engineering Experiment Station (TEES), all System members should coordinate with the applicable Export Controls Office(s).

- 1.2 It is important to keep in mind that export control laws are broad and have implications for a host of University operations. Export control restrictions are based upon: specific commodities, technologies, and services; end-users; and governments. Thus, export controls may apply to a wide range of University activities including: research and innovation; international programs, agreements, exchanges, travel; procurement; information technology and services; human resources; and shipping.
- 1.3 Additionally, export control restrictions apply to the Release of Controlled Information and data, technologies, and commodities to Foreign Persons located within the United States.

2. GENERAL RESPONSIBILITIES

- 2.1 All University employees and students, visiting scientists, postdoctoral fellows, and other persons retained by or working at or for the University must conduct their affairs in accordance with United States export control laws and regulations and bear primary responsibility for complying with export controls in the conduct of research and other activities in which they participate. Any required export license and/or approval must be obtained before exporting anything deemed export controlled.
- 2.2 University employees must be familiar with the United States export control laws and regulations, including important exclusions and exemptions, as they relate to their responsibilities. Depending upon the nature of their activities and/or job functions, University employees may be required to participate in formal training as determined by the University's Empowered Official(s), the Export Controls Office, and/or the employees' supervisors.
- 2.3 University employees with managerial or supervisory authority over Foreign Persons or projects involving Controlled Information or Controlled Physical Items are required to complete export control training at least once every two years.

3. MANAGERS AND SUPERVISORS

- 3.1 All University employees with managerial or supervisory authority over Foreign Persons or projects involving Controlled Information or Controlled Physical Items should view export control compliance as an important part of their day-to-day responsibilities.
- 3.2 Academic deans, directors, department and unit heads have responsibility for overseeing export control compliance in their respective colleges, departments, units, centers, or institutes and supporting the Export Controls Office in implementing procedures for export control compliance.
- 3.3 In addition, vice presidents, directors and heads of other offices or units have responsibility for overseeing export control compliance in their units and supporting the Export Controls Office in implementing procedures, for export control compliance. These other offices include, but are not limited to, Sponsored Research Services, Innovation Partners, Contract Administration, Purchasing,

4. PRINCIPAL INVESTIGATORS

- 4.1 Principal Investigators have expert knowledge of the type of information and technology involved in their research or other University activity such as presenting at conferences and discussing research findings with collaborators. In addition to the responsibilities outlined above, Principal Investigators are responsible for ensuring that their activities conform to export control laws and regulations and that they do not Release Controlled Items or Information or provide export controlled services to a Foreign Person without prior authorization as required; determining if their research is controlled; and documenting adherence to U.S. export controls requirements. Whenever University faculty, researchers, students or exchange visitors are performing under grants or contracts awarded to AgriLife Research and TEES, the University, TEES and AgriLife Research will coordinate their efforts to enhance and appropriately manage research compliance consistent with System Policy 15.01.

5. EMPOWERED OFFICIAL

- 5.1 The Vice President for Research (in addition to other designees who may be appointed by the Vice President for Research) is the University's "Empowered Official" for all purposes relating to applicable federal export control laws and regulations. The Empowered Official(s) is responsible for license applications and other approvals required for compliance with export control laws and regulations, and serves as the University's representative and point of contact with such agencies. The Empowered Official(s) is the University official authorized to sign license applications and other authorizations required by export control laws and regulations on behalf of the University and to bind the University in any proceedings before government agencies with export control responsibilities. To the extent there are overlapping export control compliance obligations with other System members, such as when University faculty, researchers, students or exchange visitors are performing under grants or contracts awarded to AgriLife Research and TEES, the Empowered Official, or designee, will coordinate with the applicable member's Empowered Official, or designee.
- 5.2 The Vice President for Research is the authorized University official responsible for oversight of the University's Export Control Compliance Program. Export license applications, voluntary self-disclosures, and any request to a federal agency regarding export controls must be authorized by the Vice President for Research or his/her designee. To the extent there are overlapping export control compliance obligations with other System members, such as when University faculty, researchers, students or exchange visitors are performing under grants or contracts awarded to AgriLife Research and TEES, all System members should coordinate with the applicable Export Controls Office(s). This includes but is not limited to coordination regarding investigations of potential violations, export license applications, voluntary self-disclosure and requests to federal agencies. The empowered official will coordinate with the RSO and OGC prior to communicating with federal regulatory bodies.

6. EXPORT CONTROL COMPLIANCE PROGRAM

- 6.1 [The Export Control Compliance Program Manual](#) (“Manual”) serves as the University’s guiding framework to assure University compliance with federal export control laws and regulations, including the International Traffic in Arms Regulations (“ITAR”), Export Administration Regulations (“EAR”), and Office of Foreign Assets Control (“OFAC”). This Manual lays out the responsibilities, procedures, and controls for properly managing export control compliance for the University and its employees.
- 6.2 The Export Controls Office reports to the Vice President for Research, or designee, and has the authority and the responsibility for working with other University offices to implement the procedures set forth in the Export Control Compliance Program Manual.
- 6.3 The Export Controls Office will conduct an export controls-specific risk assessment annually before the start of each fiscal year. The risk assessment includes identification of TAMU’s export control risk portfolio and corresponding risk mitigation strategies. The risk assessment is submitted to the System Research Security Office (RSO) and will be included as an attachment to TAMU’s annual compliance plan. Monthly, the Export Control Office will share applications and all associated documents regarding visiting scholars and employment of non-U.S. persons from countries of concern pursuant to guidance provided by the RSO. These documents are provided to the designated insider threat program senior official, appointed by the chancellor, for review.

7. POSSIBLE VIOLATIONS

- 7.1 Each University employee has the responsibility to report possible violations of United States export control laws or regulations. Suspected violations should be reported to the Export Controls Office, together with the details of the suspected violation at exportcontrols@tamu.edu or (979) 862-6419; or via the [Risk, Fraud, and Misconduct Hotline](#). Possible violations of United States export control laws or regulations will be investigated, to the extent necessary, by the Export Controls Office or designee.
- 7.2 In accordance with System policies and regulations, and University rules and procedures, the Vice President for Research is authorized to suspend or terminate a research, teaching, testing, or other activity if the Vice President for Research, or designee, determines that the activity is not in compliance or will lead to noncompliance with export control laws and regulations.
- 7.3 The Vice President for Research, or designee, may determine whether notification to an appropriate government agency is required.

8. DISCIPLINARY ACTIONS

- 8.1 There are severe institutional and individual sanctions for violations of export controls laws, including the loss of research funding, loss of export privileges, as well as civil and criminal penalties including imprisonment. Additionally, employees and students may be subject to disciplinary action up to and including

termination or expulsion per University rules and procedures and System policies and regulations.

Related Statutes, Policies, or Requirements

International Traffic in Arms Regulations (ITAR) 22 C.F.R. §§ 120-130

Export Administration Regulations (EAR) 15 C.F.R. §§ 730-774

Office of Foreign Assets Control (OFAC) 31 C.F.R. §§ 500-599

Atomic Energy Act of 1954 42 U.S.C. Section 2011, et seq. and Nuclear Regulatory Commission Regulations, 10 C.F.R. Part 110

[System Policy 15.02, Export Controls Program Management](#)

Contact Office

Division of Research
Export Controls Office
(979) 862-6419