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Export Control Regulations (ECR)

Export controls can impact University activities on-campus as well as abroad, including, but not limited to:

- International travel, fieldwork & conferences
- International shipping
- International financial transactions
- Hosting a foreign visitor/scholar
- Foreign national participation in research activities
- International collaboration
- Using 3rd party proprietary information/restricted materials
- Teaching courses abroad or online

If any of the above apply to you, please use the resources on this site to learn more about export control regulations and [contact the Export Compliance Officer](#) for assistance.

Up Next: [Export Control – Overview](#)

Contact for Questions



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Overview of Export Control

Export Control Regulations (ECR) constitute a body of law enacted by the federal government to protect national and economic security and advance U.S. foreign policy goals by prohibiting the unlicensed transfer of items that are subject to trade restrictions or have proprietary, military, or economic applications to foreign nationals.

A number of federal agencies and departments have a degree of responsibility for administering and enforcing ECR, however, primary jurisdiction resides within the Departments of Treasury, State, and Commerce, specifically:

- The Department of the Treasury Office of Foreign Assets Control (OFAC) administers and enforces economic and trade sanctions against known terrorists, narcotics traffickers, proliferators of weapons of mass destruction (as named on the Specially Designated Nationals & Blocked Persons List), as well as targeted foreign countries and regimes that are hostile to the U.S. (as identified on the Country Sanctions List).
- The Department of State Directorate of Defense Trade Controls (DDTC), through the International Traffic in Arms Regulations (ITAR), controls the permanent and temporary export, re-export/re-transfer, and temporary import of defense articles and defense services covered by the United States Munitions List (USML), and restricts exports of any ITAR-controlled items to individuals and entities subject to Foreign Assets Controls or Nonproliferation Sanctions or identified on the Debarred List, or any OFAC or EAR entity lists.

- The Department of Commerce [Bureau of Industry and Security \(BIS\)](#), through the [Export Administration Regulations \(EAR\)](#), controls the [export](#) and [re-export/re-transfer](#) of [dual-use](#) items covered by the [Commerce Control List \(CCL\)](#). It also restricts exports of any EAR-controlled items to individuals and entities subject to Foreign Assets Control or Department of State [Nonproliferation Sanctions](#) or exports identified on the [Denied Persons Lists](#), [Entity List](#), [Unverified List](#), or any OFAC or ITAR entity lists.

Impact of Export Control Regulations on University Activities

Export control regulations apply to the transfer of controlled items to foreign nationals by actual shipment out of the U.S., and also by transfer of controlled [technology/technical data](#) and/or [encryption software](#) by written, oral, or visual [release or disclosure](#) to [foreign nationals](#) both in- and outside of U.S. borders. Consequently, export controls can impact University activities on-campus as well as abroad, including:

- International travel, fieldwork & conferences
- International shipping
- International financial transactions
- Hosting a foreign visitor/scholar
- Foreign national participation in research activities
- International collaboration
- Using 3rd party proprietary information/restricted materials
- Teaching courses abroad or online

Additionally, the Department of Homeland Security requires all new, renewed, or amended H1-B, H-1B1 Chile/Singapore, L-1, and O-1A visa petitions filed with the United States Citizenship and Immigration Service (USCIS) include a [Certification Regarding the Release of Controlled Technology or Technical Data to Foreign Persons in the United States \(PDF\)](#). This 'Deemed Export Attestation', as it is also known, can affect the University's ability to hire a candidate of foreign nationality and preclude an employee of foreign nationality from participating in research that involves controlled items.

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ECR Exclusions

Recognizing the importance of academic freedom and the sharing of research results to the furtherance of knowledge, the federal government provides exceptions to certain licensing rules under EAR and ITAR (not FAC) for qualified research conducted at accredited U.S. institutions of higher education. License exceptions are provided for:

- *Fundamental Research*, which will be defined as basic or applied research in engineering and science where the resulting information is ordinarily published and shared broadly in the scientific community;
- Information that is in the *Public Domain*, meaning the information is published, generally accessible, and available to the public through sales at newsstands and bookstores or unlimited distribution at conferences, meetings, and trade shows, etc., or is fundamental research;
- Technology for *Temporary* ('Laptop') export where the subject technology is a 'tool of trade' for temporary use abroad to conduct fundamental research;
- *Educational* information released by instruction in courses listed in course catalogs or through general scientific, mathematical, or engineering principles;
- *Employment* of foreign nationals who are bona fide and full time regular employees.

Important! Although the majority of research conducted at the University of Maine qualifies as fundamental research, neither the fundamental research exclusion nor the public domain exclusion can be invoked for physical goods, software, and encryption; research when there is no intent to publish results; research conducted outside the U.S.; and research involving persons or countries subject to any sanctions. Likewise, no exclusion can be claimed if the University or the researcher accepts award restrictions regarding the participation of foreign nationals or access to, dissemination of, or

publication of resulting research information.

Violations of export control regulations carry potential criminal, civil, and administrative penalties for the University and the individual researcher or staff member. Penalties can range from fines in the millions of dollars and imprisonment for as much as 30 years, to the revocation or denial of licenses, seizure & forfeiture of goods, and debarment from all government contracting. [Don't Let This Happen to You! \(PDF\)](#)

It is critical for University researchers, research team members, and support staff to be aware, and understand the implications of export controls for University activities; be sufficiently schooled in the regulations to recognize potential export control issues; and [contact the Export Control Officer](#) immediately when an export control concern arises.

Up Next: [Export Compliance Checklist](#)



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Export Compliance Checklist

The Office of Research Administration (ORA) together with the Office of Research Compliance (ORC) launched an Export Compliance Checklist in PARS (Proposal Approval Routing System) in November 2016. The checklist helps ORC staff determine whether export controls apply to proposed projects, if any exemptions apply, or if a Technology Control Plan (TCP), an Export License, or both, are needed before project activity is initiated. The primary goals of the checklist are to proactively identify activities which may require licensing so researchers can avoid project implementation delays, and fulfill ECR documentation requirements. *Please provide accurate information with as much detail as possible so that we can better assist you.*

Please [contact the Export Compliance Officer](#) if you need assistance answering questions in the checklist.

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Training

All members of the university community are encouraged to complete training in export controls. If you are new to export control, our [ECR Quick Course \(PDF\)](#) will give you a solid foundation to build on.

If you are required to complete training due to participating in a project subject to a Technology Control Plan (TCP), you will be required to complete on-line training through the Collaborative Institutional Training Initiative (CITI). [Instructions for CITI Training \(PDF\)](#)

After you have enrolled on CITI, there will be one 'required' module and 10 'optional' modules available to choose from. The Office of Research Compliance recommends that users complete, at a minimum, the 'Required' module titled "Introduction to Export Compliance" and the 'Optional' module titled "Export Compliance for Researchers: Part I." Each module takes approximately 40 minutes to complete; training is valid for four years.

Up Next: [Export Control Resources](#)



Instructions to Access CITI Training

Office of Research Compliance (ORC), University of Maine

The Office of Research Compliance (ORC) delivers a variety of research training through the University of Maine System (UMS) subscription service to the Collaborative Institutional Training Initiative (CITI). These instructions guide you through the institution-specific CITI registration and enrollment processes. Further information about Research Compliance at the University of Maine and training requirements can be found on the [ORC website](#).

IMPORTANT NOTE: You are only required to complete the training(s) for your specific area(s) of research compliance.

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I. Establish a CITI Account

- a. Please note: if you have previously set up a CITI account, please do NOT create another one. See Section II (Log into CITI as an Existing User) of this document for guidance.
- b. Go to [CITI Program \(https://about.citiprogram.org/\)](https://about.citiprogram.org/) and click on the white “Register” button located in the upper right hand corner of the homepage.



- c. Search for ‘University of Maine System’ in the section titled ‘Select your Organizational Affiliation’ and click on it.
 - i. Click the check boxes to agree to the CITI Terms of Service and Privacy Policy, and to agree that you are an affiliate of the University of Maine System.
 - ii. Click the “Continue to SSO Login/Instructions”
 - iii. Note: No action is needed in the bottom section titled “Independent Learner Registration.”

The screenshot shows the 'CITI - Learner Registration' page. At the top is the CITI PROGRAM logo and a language selector set to 'Eng'. Below the logo are three links: 'LOG IN', 'LOG IN THROUGH MY ORGANIZATION', and 'REGISTER' (which is underlined). The main content area has a blue header 'CITI - Learner Registration' and a progress bar showing steps 1 through 7, with step 1 highlighted. The current step is 'Select Your Organization Affiliation'. It contains a text box with 'University of Maine System' entered. Below the text box is a note: 'University of Maine System allows the use of a CITI Program username/password or Single Sign On (SSO) for access. Single Sign On (SSO) requires a username and password issued by University of Maine System.' There are two checked checkboxes: 'I AGREE to the Terms of Service and Privacy Policy for accessing CITI Program materials.' and 'I affirm that I am an affiliate of University of Maine System.' At the bottom are two buttons: 'Continue To Create Your CITI Program Username/Password' and 'Continue To SSO Login / Instructions', separated by the word 'or'.

- d. Under “Associate your SSO account with a CITI Program account” click “I don’t have a CITI Program account and I need to create one.”
 - i. Click the button that appears below labeled “Create A New CITI Program Account.”

- ii. This will automatically create an account for you using your UMaine SSO (Single Sign-On), the same login information used to log into the UMaine Portal, etc. You should also receive a confirmation email via your maine.edu email address with this information.

II. Log into CITI as an Existing User

- a. To log into CITI once you have established your CITI account, go to [CITI Program \(https://about.citiprogram.org/\)](https://about.citiprogram.org/) and click the blue “Log In” button located in the upper right hand corner of the homepage.



- b. On the login page, click the center option labeled “Log In Through My Organization.”
- c. On the list of organizations that appears, click on “University of Maine System” and you will be logged in using your UMaine SSO.
- d. NOTE: if you already had an account set up with CITI from another institution, you can affiliate that existing account with UMaine. See [instructions from CITI on how to add/change your affiliated institution.](#)

III. Enroll in CITI Courses

a. New Users

- i. After you enroll, you will be brought to your “My Courses” page. Under “Institutional Courses,” click the button next to University of Maine System labeled “View Courses.”

Institutional Courses

Institutional Courses are available to learners who have an affiliation with one or more subscribing institutions. If an institution with which you are affiliated is not listed, you may want to [add an affiliation](#). If you are no longer associated with a listed institution, you may want to [remove an affiliation](#).

University of Maine System	View Courses
Would you like to affiliate with another Institution?	Add Affiliation
Would you like to remove an existing affiliation?	Remove Affiliation

- ii. You will be brought to the “Select Curriculum” page. Select any desired course(s) from the list. **See section IV (Required Trainings) of this document for details on which specific trainings are required for each area of research.**
- iii. Once you have made your selection(s), hit the “Submit” button at the bottom of the page (Note: you are able to sign up for additional courses later, after you have made this initial selection – see section III.b [Returning Users] of this document for instructions).

b. Returning Users

- i. After logging into CITI as a returning user, you will be brought to the “My Courses” page. Click on the “View Courses” button next to the University of Maine System (as shown above under New Users).
- ii. On this page, you will see a list of all courses you are currently enrolled in and have previously completed.
- iii. To enroll in another course, scroll to the very bottom of the page to the section labeled “Learner Tools for University of Maine System.” Click the link for “Add a Course.”
- iv. You will be brought to the “Select Curriculum” page. Select any desired course(s) from the list. **See section IV (Required Trainings) of this document for details on which specific trainings are required for each area of research compliance.**

IV. Required Trainings

PLEASE NOTE: You are only required to take the trainings for your specific area(s) of research compliance.

If you are unsure of which trainings may be required for your research, please explore the resources available on the [ORC website](#) and reach out to the ORC for additional guidance as needed.

Once you know which trainings are required for your research, find the relevant compliance area below and follow the instructions to sign up. See section III (Enroll in CITI Courses) of this document for instructions on how to enroll as a new or existing CITI users.

a. Animal Care

- i. Visit [Animal Care on the ORC website](#) for guidance on when and for whom this training is required.
- ii. To enroll, on Question 6, select the required course “Working with the IACUC” (as shown below). In addition to the required “Working with the IACUC” course, we strongly recommend you take modules from these sections that apply to your research.

Question 6

Laboratory Animal Welfare

Do you conduct studies that use Lab animals?

1. If YES, then you must complete the Basic course and the appropriate electives and species specific modules.
2. If you are an IACUC Member you should complete the “Essentials for IACUC Members”.
3. Choose the appropriate species specific electives according to your research interests.

- ☒ “Working with the IACUC Course” is required if you plan to use lab animals in your work.
- ☐ If you are an IACUC Member you are required to complete the “Essentials for IACUC Members” course now.
- ☐ Post-Approval Monitoring (PAM)
- ☐ Species Specific Modules
- ☐ I work with Mice. Family: Muridae Cricetidae
- ☐ I work with Rats. Genus: Rattus
- ☐ If you plan to conduct studies that have the potential to cause “more than momentary pain and distress” in Mice or Rats you should complete the module on “Minimizing Pain and Distress”.
- ☐ I work with Frogs, Toads or other Amphibians
- ☐ I work with Swine

List continues – see the CITI enrollment page for the full list of available modules. In addition to the required “Working with the IACUC” course, we strongly recommend you take modules from these sections that apply to your research.

b. Biosafety

- i. Visit [Biosafety on the ORC website](#) for guidance on when and for whom this training is required.
- ii. To enroll, on Question 7, select the following 4 courses:
 1. Introduction to Biosafety
 2. Basic Biosafety Training (Note: after enrollment, on My Courses page, the title will appear as “Training for Investigators, Staff and Students Handling Biohazards.”)
 3. Select Agents, Biosecurity and Bioterrorism
 4. NIH Recombinant DNA (rDNA) Guidelines

Question 7

Biosafety/Biosecurity

Please make your selection below to receive the courses in the Biosafety/Biosecurity Course.

- ☒ Introduction to Biosafety
- ☒ Basic Biosafety Training
- ☐ Biosafety Retraining
- ☐ Animal Biosafety
- ☐ Shipping and Transport of Regulated Biological Materials
- ☐ OSHA Bloodborne Pathogens
- ☒ Select Agents, Biosecurity and Bioterrorism
- ☐ Emergency and Incident Response to Biohazard Spills and Releases
- ☐ Human Gene Transfer Trials
- ☒ NIH Recombinant DNA (rDNA) Guidelines
- ☐ OSHA Personal Protective Equipment Training
- ☐ Institutional Biosafety Committee Member
- ☐ Biosafety Complete Training
- ☐ USDA Permits
- ☐ Dual Use Research of Concern (DURC)
- ☐ Hazard Communication

c. Conflict of Interest

- i. Visit [Conflict of Interest on the ORC website](#) for guidance on when and for whom this training is required.
- ii. To enroll, on Question 5, select “Conflicts of Interest (All OTHER University of Maine System Campuses).”

Question 5

Conflicts of Interest

Check the box for the applicable UMS Campus:

- ☐ Conflicts of Interest (University of Southern Maine Campus ONLY)
- ☒ Conflicts of Interest (All OTHER University of Maine System Campuses)

d. Export Control

- i. Visit [Export Control on the ORC website](#) for guidance on when and for whom this training is required.
- ii. To enroll, on Question 8, select “CITI Export Controls.” (Note: after enrollment, on My Courses page, the title will appear as “CITI Export Controls Course.”)

Question 8

CITI US Export Control Regulations

Please make your selection below to receive the CITI US Export Control Regulations course.

- ☒ CITI Export Controls
- ☐ Not at this time.

e. Human Subjects

- i. Visit [Human Subjects on the ORC website](#) for guidance on when and for whom this training is required.
- ii. On Question 1, select one learner group based on your role and the research you will be conducting. You will be able to go back and add another learner group later on, if needed.
 1. The most common selection is “Social & Behavioral Research Investigators,” shown below. (Note: after enrollment, on My Courses page, the title will appear as “Social & Behavioral Research - Basic/Refresher.”)
 2. The Biomedical Research Investigators course can be selected for researchers that are conducting mostly biomedical research.

Question 1

Human Subjects Research

Please choose one learner group below based on your role and the type of human subjects activities you will conduct. You will be enrolled in the Basic Course for that group.

- ☐ Biomedical Research Investigators: Choose this group to satisfy CITI training requirements for Investigators and staff involved primarily in Biomedical research with human subjects.
- ☒ Social & Behavioral Research Investigators: Choose this group to satisfy CITI training requirements for Investigators and staff involved primarily in Social and Behavioral research with human subjects.
- ☐ IRB Members: This Basic Course is appropriate for IRB or Ethics Committee members.
- ☐ Research with data or laboratory specimens- ONLY: No direct contact with human subjects.
- ☐ Social Behavioral (Español)

f. Responsible Conduct of Research

- i. Visit [Responsible Conduct of Research on the ORC website](#) for guidance on when and for whom this training is required.
- ii. On Question 4, select “General Responsible Conduct of Research Course.” (Note: after enrollment, on My Courses page, the title will appear as “General RCR.”)

Question 4

Responsible Conduct of Research (RCR)

If you want to take Responsible Conduct of Research (RCR) Course, please make your selection below.

- ☒ General Responsible Conduct of Research Course

As a reminder, please note that you are only required to take the trainings for your specific area(s) of research compliance. If you are unsure of which trainings may be required for your research, please explore the resources available on the [ORC website](#) and reach out to the ORC for additional guidance as needed.

V. Access CITI User Records and Reports

- a. Users can access training records and Completion Reports through the “My Records” link in the menu bar at the top of the CITI page.
- b. CITI will automatically alert ORC when you complete training, however there is a slight delay. ORC is also able to view in CITI when your training is complete. Please do not need to send copies of completion reports to ORC.
 - i. If you require immediate assistance (i.e. you've just completed Financial Conflicts of Interest training and need access to PARS), please contact sponsored@maine.edu.
 - ii. For all other CITI training inquiries, please contact umric@maine.edu.

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Resources

Forms & Guides

- [ECR Decision Tree: Flow Chart \(PDF\)](#); [ECR Decision Tree: Text Version \(PDF\)](#)
- [ECR Glossary](#)
- [ECR Quick Course \(PDF\)](#)
- [Export Compliance Informational Session with Don Fischer, April 2018 \(MP4\)](#) (Note: Must be logged in with @maine.edu credentials to view)
- [H1-B Visa Deemed Export Attestation \(PDF\)](#)
- [Primer on U.S. Export Controls \(PDF\)](#)

Compliance Partners

- [UMS General Counsel](#)
- [UMS Information Security](#)

Federal Agencies and Resources

- [ECR Agencies](#)
- [Export.gov's Consolidated Screening List](#)
- The Department of the Treasury [Office of Foreign Assets Control \(OFAC\)](#)
 - [Country Sanctions List](#)
 - [Specially Designated Nationals & Blocked Persons List](#)
- The Department of State [Directorate of Defense Trade Controls \(DDTC\)](#)
 - [Debarred List](#)
 - [International Traffic in Arms Regulations \(ITAR\)](#)

• [International Traffic in Arms Regulations \(ITAR\)](#)

◦ [Nonproliferation Sanctions](#)

◦ [United States Munitions List \(USML\)](#)

• The Department of Commerce [Bureau of Industry and Security \(BIS\)](#)

◦ [Commerce Control List \(CCL\)](#)

◦ [Export Administration Regulations \(EAR\)](#)



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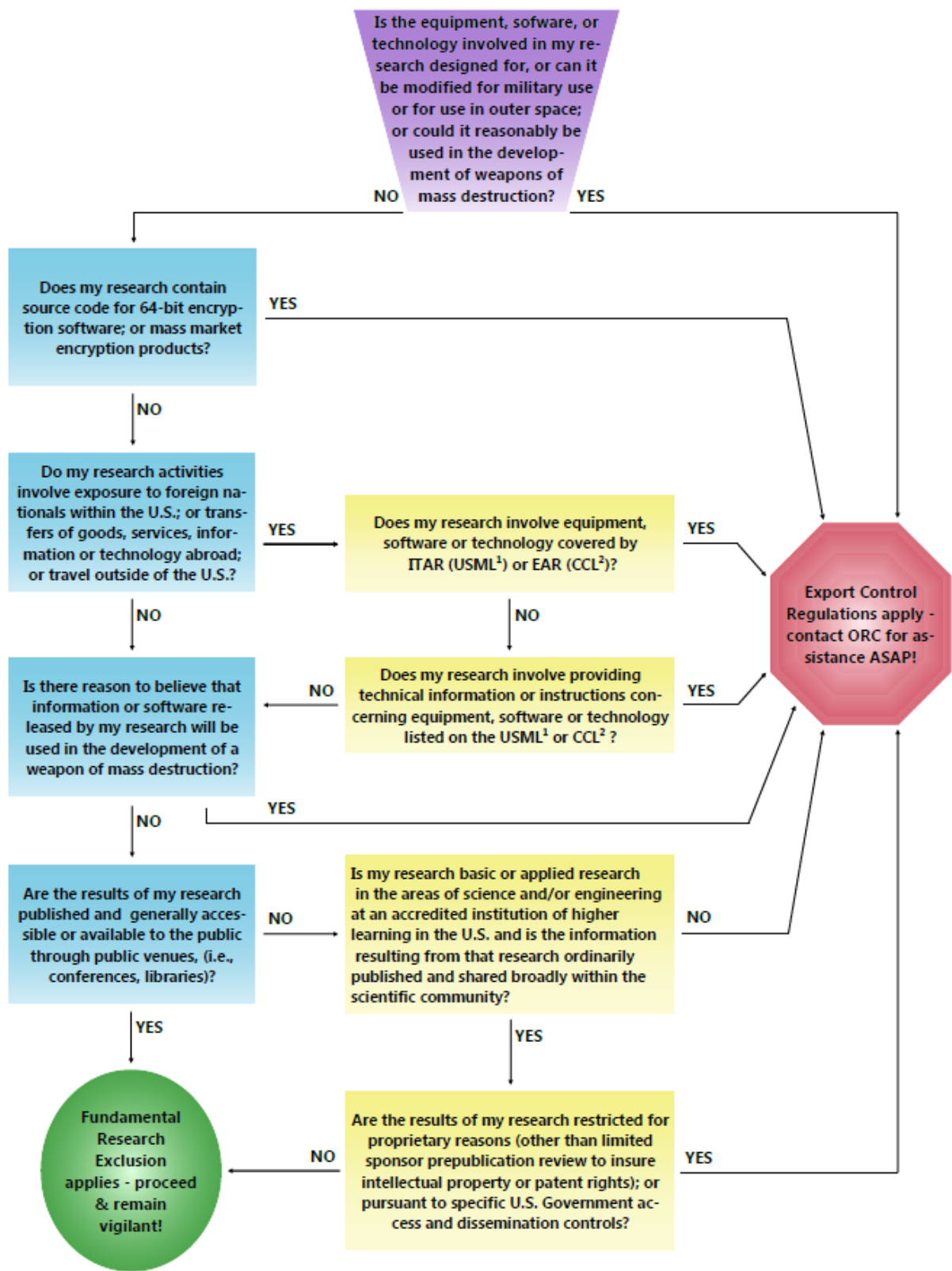
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Export Control Decision Tree

Do my proposed research activities qualify as fundamental research?



¹[United States Munitions List \(International Traffic in Arms Regulations \(ITAR\)\)](#)

²[Commerce Control List \(Export Administration Regulations \(EAR\)\)](#)

Export Control Decision Tree

Do my proposed research activities qualify as fundamental research?

Q1: “Is the equipment, software, or technology involved in my research designed for, or can it be modified for military use or for use in outer space; or could it reasonably be used in the development of weapons of mass destruction?”

1. If yes to Q1, then Export Control Regulations apply - contact ORC for assistance ASAP!
2. If no to Q1, then **Q2: “Does my research contain source code for 64-bit encryption software; or mass market encryption products?”**
 - a. If yes to Q2, then Export Control Regulations apply - contact ORC for assistance ASAP!
 - b. If no to Q2, then **Q3: “Do my research activities involve exposure to foreign nationals within the U.S.; or transfers of goods, services, information or technology abroad; or travel outside of the U.S.?”**
 - i. If yes to Q3, then **Q4: “Does my research involve equipment, software or technology covered by ITAR (USML¹) or EAR (CCL²)?”**
 1. If yes to Q4, then Export Control Regulations apply - contact ORC for assistance ASAP!
 2. If no to Q4, then **Q5: “Does my research involve providing technical information or instructions concerning equipment, software or technology listed on the USML1 or CCL2?”**
 - a. If yes to Q5, then Export Control Regulations apply - contact ORC for assistance ASAP!
 - b. If no to Q5, then **Q6: “Is there reason to believe that information or software released by my research will be used in the development of a weapon of mass destruction?”**
 - i. If yes to Q6, then Export Control Regulations apply - contact ORC for assistance ASAP!
 - ii. If no to Q6, then **Q7: “Are the results of my research published and generally accessible or available to the public through public venues, (i.e., conferences, libraries)?”**
 1. If yes to Q7, then Fundamental Research Exclusion applies - proceed & remain vigilant!
 2. If no to Q7, then **Q8: “Is my research basic or applied research in the areas of science and/or engineering at an accredited institution of higher learning in the U.S. and is the information resulting from that research ordinarily published and shared broadly within the scientific community?”**

- a. If yes to Q8, then **Q9: “Are the results of my research restricted for proprietary reasons (other than limited sponsor prepublication review to insure intellectual property or patent rights); or pursuant to specific U.S. Government access and dissemination controls?”**
 - i. If yes to Q9, then Export Control Regulations apply - contact ORC for assistance ASAP!
 - ii. If no to Q9, then Fundamental Research Exclusion applies - proceed & remain vigilant!
 - b. If no to Q8, then Export Control Regulations apply - contact ORC for assistance ASAP!
 - ii. If no to **Q3 (“Do my research activities involve exposure to foreign nationals within the U.S.; or transfers of goods, services, information or technology abroad; or travel outside of the U.S.?”)** then **Q6: “Is there reason to believe that information or software released by my research will be used in the development of a weapon of mass destruction?”**
 - i. If yes to Q6, then Export Control Regulations apply - contact ORC for assistance ASAP!
 - ii. If no to Q6, then **Q7: “Are the results of my research published and generally accessible or available to the public through public venues, (i.e., conferences, libraries)?**
 - 1. If yes to Q7, then Fundamental Research Exclusion applies - proceed & remain vigilant!
 - 2. If no to Q7, then **Q8: “Is my research basic or applied research in the areas of science and/or engineering at an accredited institution of higher learning in the U.S. and is the information resulting from that research ordinarily published and shared broadly within the scientific community?”**
 - a. If yes to Q8, then **Q9: “Are the results of my research restricted for proprietary reasons (other than limited sponsor prepublication review to insure intellectual property or patent rights); or pursuant to specific U.S.**

Government access and dissemination controls?”

- i. If yes to Q9, then Export Control Regulations apply - contact ORC for assistance ASAP!
- ii. If no to Q9, then Fundamental Research Exclusion applies - proceed & remain vigilant!
- b. If no to Q8, then Export Control Regulations apply - contact ORC for assistance ASAP!

Resources:

¹[United States Munitions List \(International Traffic in Arms Regulations \(ITAR\)\)](#)

²[Commerce Control List \(Export Administration Regulations \(EAR\)\)](#)

[Flow Chart Version of Export Control Decision Tree](#)

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Export Control

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**DEEMED EXPORT
QUESTIONNAIRE &
ATTESTATION (PDF)**

ECR Glossary

CCL – [Commerce Control List](#)

A list of dual-use items under the export control jurisdiction of the Bureau of Industry and Security, U.S. Department of Commerce. Note that certain additional items described in part 732 of the Export Administration Regulations are also subject to the EAR. [Supplement 1 to part 774 of Title 15 of the Code of Federal Regulations]

Commodity

Any article, material or supply, except technology and software.

Defense article

Any item designated on the United States Munitions List (USML) including 'technical data' which is defined as: information required for the design, development, production, manufacture, assembly, operation, repair, testing, maintenance or modification of defense articles; any information that is classified or covered by invention secrecy order; and any software directly related to any item designated on the USML. [ITAR: 22 CFR M Parts 120.6 & 120.10]

Defense service

The furnishing of assistance (including training) to foreign persons, whether in or outside of the U.S. in the design, development, engineering, manufacture, production, assembly, testing, repair, maintenance, modification, operation, demilitarization, destruction, processing or use of defense articles; the furnishing to foreign persons of

any technical data controlled under ITAR whether in or outside of the U.S.; or military training of foreign units and forces by any means or methods, whether in the U.S. or abroad. [ITAR: 22 CFR M Parts 120.9]

Dual use

Describes items that have both commercial and military or proliferation applications. Note: items with purely commercial uses are also subject to EAR. [EAR: 15 CFR VII, Part 772.1]

EAR – Export Administration Regulations

Set forth in Parts 730–774 of Title 15 of the Code of Federal Regulations (CFR) and issued by the U.S. Department of Commerce, Bureau of Industry and Security to implement the Export Administration Act of 1979, as amended, 50 U.S.C. app. 2401–2420 (EAA) and other statutory requirements. EAR control the export and re-export/re-transfer of dual-use items covered by the Commerce Control List (CCL), and restricts exports of any EAR-controlled items to individuals and entities subject to Foreign Assets Controls or Department of State Nonproliferation Sanctions, or identified on the Denied Persons List, Entity List, Unverified List, or any OFAC or ITAR entity lists.

Encryption software

Computer programs that provide capability of encryption functions or confidentiality of information or information systems. Such software includes source code, object code, applications software, or system software. [EAR: 15 CFR VII, Part 772.1]

Export

Any actual shipment or transmission of controlled items out of the U.S. (an 'actual' export); or any written, oral or visual release or disclosure of controlled technology, technical data, information or software or source code to a foreign national in or outside of the U.S. (a 'deemed' export). [EAR: 15 CFR B, Part 734.2(b) & ITAR: 22 CFR M Part 120.17(a)]

Export License

The approval documentation issued by an export agency authority authorizing the recipient to proceed with the export, reexport, or other regulated activity as specified on the application.

FAC – Foreign Assets Controls

Set forth in 31 CFR Parts 500-598 and enacted by Presidential national emergency powers are administered and enforced by The Department of the Treasury, Office of Foreign Assets Control (OFAC). OFAC administers and enforces economic and trade sanctions against known terrorists, narcotics traffickers and proliferators of weapons of mass destruction as named on the Specialty Designated Nationals & Blocked Persons List, and against targeted foreign countries and regimes that are hostile to the U.S. as identified on the Country Sanctions List.

Foreign person (ITAR) & Foreign national (EAR)

Any natural person who is NOT a U.S. citizen or lawful permanent resident of the U.S.

any natural person who is not a U.S. citizen or lawful permanent resident of the U.S. (e.g., 'green card' holder) as defined by 8 U.S.C. 1101(a)(20), or who is not a protected individual (i.e., political refugee or asylum holder) as defined by 8 U.S.C. 1324b(a)(3). The term also includes 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, as well as international organizations, foreign governments and any agency or subdivision of foreign governments (e.g., diplomatic missions). [EAR: 15 CFR VII, Part 772.1 & ITAR: 22 CFR M Part 120.16]

ITAR – International Traffic in Arms Regulation

Set forth in Parts 120–130 of Title 22 of the Code of Federal Regulations (CFR) and issued by the U.S. Department of State, Directorate of Defense Trade Controls to implement 22 U.S.C. 2778 of the Arms Export Control Act (AECA) and Executive Order 11958, as amended. ITAR control the permanent and temporary export, re-export/re-transfer, and temporary import of defense articles and defense services covered by the United States Munitions List (USML), and restricts exports of any ITAR-controlled items to individuals and entities subject to Foreign Assets Controls or Nonproliferation Sanctions, or identified on the Debarred List, or any OFAC or EAR entity lists.

Item

Includes, but is not limited to, commodities, software, technical data/information, technology, services. [EAR: 15 CFR VII, Part 772.1 & ITAR: 22 CFR M Part 120.6 to 120.10]

Re-export/Re-transfer

The shipment or transmission of a controlled item from one foreign country to another foreign country, or any written, oral or visual release or disclosure of controlled technology, technical data, information, software or source code in one foreign country to a national of another foreign country. [EAR: 15 CFR B, Part 734.2(b) & ITAR: 22 CFR M Part § 120.19]

Release or disclosure

As pertains to controlled technology/technical data, information, and encrypted software, release or disclosure includes oral, visual, or written communications such as face-to-face, telephone, fax or e-mail, technical assistance or training, computer data disclosure, tours involving visual inspection, and foreign students or foreign professors conducting research.

Technology, technical data, information and encryption software

- Technical data. Denotes: (1) information required for the design, development, production, manufacture, assembly, operation, repair, testing, maintenance or modification of defense articles, i.e.: blueprints, drawings, photographs, plans, instructions or documentation; (2) classified information relating to defense articles and defense services; (3) information covered by an invention secrecy order; (4) software directly related to defense articles including but not limited to the system functional design, logic flow, algorithms, application programs, operating systems and support software for design, implementation, test, operation, diagnosis and repair. [ITAR: 22 CFR M Part 120.10(a) and 121.8]
- Technology. Denotes specific information (i.e., 'technical data or technical

assistance') necessary for the 'development,' 'production,' or 'use' of a product. 'Technical assistance' may take forms such as instruction, skills training, working knowledge and consulting services, and may involve transfer of 'technical data' which may take forms such as blueprints, plans, diagrams, models, formulae, tables, engineering designs and specifications, manuals and instructions written or recorded on other media or devices such as disk, tape, read-only memories. [EAR: 15 CFR VII, Part 772.1]

Temporary import

Bringing into the U.S. from a foreign country any defense article that is to be returned to the country from which it was shipped or taken, or any defense article that is in transit to another foreign destination. [ITAR: 22 CFR M Part 120.17(a)]

USML – United States Munitions List

A list of defense articles and defense services under the export control jurisdiction of the U.S. Department of State, Directorate of Defense Trade Controls. [Part 121 of Title 22 of the Code of Federal Regulations (CFR)]

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A Primer on U.S. Export Controls

Export Control Regulations (ECR) are a complicated body of Federal laws that govern how items, technology, and data may be exported from the U.S. or shared with foreign persons within the U.S. The primary goals of the regulations are to protect national and economic security and advance U.S. foreign policy goals. The federal agencies and departments with primary jurisdiction are listed in the table below:

Regulations	Federal Agency with Oversight	Area of Oversight
ITAR - <i>International Traffic in Arms Regulations</i>	Department of State, Directorate of Defense Trade Controls (DDTC)	Technologies with inherently military properties
EAR - <i>Export Administration Regulations</i>	Department of Commerce, Bureau of Industry & Security (BIS)	Technologies with both commercial and military applications, most commercial items, and certain military items not controlled under the ITAR
OFAC- <i>Office of Foreign Assets Control</i>	Department of the Treasury, OFAC	Prohibits transactions of value with certain countries and individuals

What University activities may raise export control issues?

- Traveling overseas with high tech equipment, confidential, unpublished, or proprietary data
- International travel/fieldwork
- International shipping (including hand-carrying equipment)
- Using 3rd party export controlled technology or information
- Sponsored research containing contractual restrictions on publications or dissemination
- Providing financial support/International financial transactions
- Hiring of foreign nationals (*including students*)
- Collaborating with foreign colleagues in the U.S. or abroad
- Hosting international visitors/scholars
- Purchasing equipment/supplies controlled by EAR/ITAR

Why comply?

Individuals as well as the University/UMS can be prosecuted for violating export controls. The penalties for violating export control regulations can include:

- High fines (up to \$1,000,000 per violation)
- Loss of import/export privileges
- Debarment or suspension from government contracting
- Seizure of items being shipped
- Imprisonment up to 10 years

Investigator Responsibilities

At a minimum, PIs must be able to recognize that an export control issue might exist and know who to contact for assistance with export compliance. More information about export controls, including access to training can be found at [Export Control on the ORC website](#).

Questions may be directed to Amanda Ashe, Director of Research Compliance, Office of Research Compliance at Amanda.l.ashe@maine.edu or 207-581-1480.