

International Trade in Arms Regulations (ITAR)

Export Administration Regulations (EAR)

ITAR: 22 CFR 120 – 130

EAR: 15 CFR 730 - 774

Military controlled items are listed on the Munitions Controls List (MCL) under ITAR by the U.S. Department of State's Directorate of Defense Trade Controls (DDTC).

Non-military covered items are listed on the Commerce Control List (CCL) under EAR by the U.S. Department of Commerce's Bureau of Industry and Security (BIS). Each type of item is given an Export Control Classification Number (ECCN).

These federal laws cover a broad spectrum of science and engineering, however, the laws allow for an exemption for fundamental research. Fundamental research is defined as basic or applied research in science or engineering at an accredited institution of higher education within the United States when the resulting information is expected to become part of the public domain, i.e. when there are no restrictions on publication beyond those intended to protect pre-existing proprietary information or intellectual property rights. Research projects are not eligible for the fundamental research exemption if the federal government designates the research results as classified, administratively controlled, or otherwise restricted or sensitive.

ITAR and EAR are laws that are in force whether or not they are specifically cited in a research agreement. If these Export Laws are cited in an award document the preferred action is to delete the reference or other formal acknowledgement by the sponsor on the basis that the project is afforded the fundamental research exclusion for university based basic and applied research. Another argument is that if the award document is a grant, there is an assumption of basic research to a grant that there is not with a contract.

ITAR and EAR, when they do apply...

If the fundamental research exception cannot be used for one or more of the reasons noted above, then the Principal Investigator must be made aware of the restrictions and procedures required by these export laws.

- No foreign students or other foreign nationals are allowed access to the project.
- The project must be housed separately from all other projects. If the project is computer based, the computer must be either housed separately or password protected and not connected to the internet or other LAN's.

- The P.I. will be under certain extra reporting requirements.

Additionally:

The export of certain goods and technologies must be authorized through issuance of an export license. The export of technical data includes the communication of information in verbal or written form to foreign nationals whether in the U.S. or abroad. This includes “dual use” items as well (dual use are those which may be of use in the private sector as well as the military).

Licensing requires federal approval. P.I.’s must complete the licensing before any foreign travel takes place. This includes non-ITAR/EAR Project foreign travel when the traveler will be carrying a laptop that may have ITAR/EAR data or material on it.

Allow four (4) months for State Department approval/rejection/request for additional information of license application.

The State Department list of Travel Restricted countries is also the ITAR list of prohibited countries.

ITAR/EAR covered projects are marked by ORCA on the Award Summary Sheet. Also, the P.I. must receive a copy of this export summary document. Further the P.I. should be made aware of the terms and conditions where his/her additional reporting requirements will be found.