

QUICK REFERENCE FOR DETERMINING POTENTIAL APPLICATION OF EXPORT CONTROL LAWS FOR RESEARCH PROJECTS

1. DOES THE FUNDAMENTAL RESEARCH EXCLUSION APPLY TO YOUR PROJECT?
 - Does not apply if you are transferring physical property or technology to anyone (even a U.S. citizen) in another country – proceed to page 2 or call ORPA or Office of General Counsel for help
 - May not apply if equipment which is otherwise export controlled is being used on campus by a foreign national – please call ORPA or the Office of General Counsel for more details
 - Does not apply if the research project involves encryption software or involves dealings with an individual or organization from an embargoed country

The Fundamental Research Exclusion will apply If the results of the Research Project:

- (a) Will be derived from basic or applied scientific research conducted at the University of Rochester and/or other accredited university located in the U.S.
- (b) Will not be subject to any publication restriction (except for a temporary restriction only to ensure there is no inadvertent disclosure of proprietary information and to ensure that any patent rights are protected)
- (c) Will be published and broadly shared in the scientific community

If (a), (b) and (c) apply, the research results of your project will not be subject to Export Controls.

PLEASE BE AWARE that any proprietary or confidential information given to you by third parties (government or industry) which is subject to an agreement restricting your ability to disclose that information is NOT subject to the Fundamental Research Exclusion. You may not disclose that information to others without complying with the export laws, if applicable. YOU MUST MAKE SURE THAT THIS PROPRIETARY OR CONFIDENTIAL INFORMATION IS NOT TOO ENTWINED WITH YOUR RESEARCH PROJECT. THE INFORMATION MUST BE SUFFICIENTLY TANGENTIAL SO THAT (i) IT WILL BE POSSIBLE TO EXCLUDE ANY REFERENCE TO IT IN THE PUBLICATION OF YOUR RESEARCH RESULTS AND (ii) OTHERS CAN WORK ON YOUR PROJECT WITHOUT HAVING ACCESS TO IT.

If the Fundamental Research Exclusion does not apply, proceed to page two.

2. REVIEW THE POWER POINT SLIDES FOUND ON THE ORPA WEBSITE FOR AN OVERVIEW OF WHETHER EXPORT CONTROL LAWS MAY APPLY TO YOUR PROJECT. ALTERNATIVELY, CALL ORPA OR THE OFFICE OF GENERAL COUNSEL TO ASSIST YOU WITH NEXT STEPS. Note that the export control laws are likely to apply to projects that involve the export of tangible items or any collaboration with individuals who reside in an embargoed country.
3. IF YOU THINK THEY MIGHT APPLY, CHECK THE FOLLOWING LISTS TO SEE IF ANY OF THE ITEMS, TECHNOLOGIES OR COUNTRIES (IF WORKING WITH INDIVIDUALS IN AN EMBARGOED COUNTRY) INVOLVED IN YOUR PROJECT ARE COVERED:

THE COMMERCE CONTROL LIST (CCL) AT

http://www.access.gpo.gov/bis/ear/ear_data.html

- a. This is the index to the Export Administration Regulations.
- b. Click on the Alphabetical Index to the CCL to find your item or technology.
- c. If you do not find any of your item or technology on the list – proceed to check the US Munitions and OFAC lists below (you may want to call ORPA or the Office of Counsel to confirm your conclusion that none of your items or technologies is listed).
- d. If one or more items or technologies are listed, write down the ECCN Citation that is listed next to your item or technology.
- e. Return to the index and, under Part 774, click on the Category number that corresponds to the first digit in your ECCN citation (e.g. if your ECCN citation is 3A001, you would click on the list for Category 3).
- f. Find your ECCN Citation within the list (organized by number and letter sequence) and read the controls that apply. In most cases, you will also be referred to a Country Char to check. Again, you may call ORPA or the Office of Counsel to assist you in doing this. This will tell you whether a license is required.

THE US MUNITIONS LIST (USML) AT

https://www.pmdtdc.state.gov/regulations_laws/documents/official_itar/ITAR_Part_121.pdf; or

http://www.access.gpo.gov/nara/cfr/waisidx_01/22cfr121_01.html

- a. The US Munitions List is much shorter than the CCL and is also organized by categories.
- b. The main categories are as follows:

I	Firearms, Close Assault Weapons and Combat Shotguns
II	Guns and Armament
III	Ammunition/Ordinance
IV	Launch Vehicles, Guided Missiles, Ballistic Missiles, Rockets, Torpedoes, Bombs, and Mines
V	Explosives and Energetic Materials, Propellants, Incendiary Agents, and Their Constituents
VI	Vessels of War and Special Naval Equipment
VII	Tanks and Military Vehicles

VIII	Aircraft and Associated Equipment
IX	Military Training Equipment and Training
X	Protective Personnel Equipment and Shelters
XI	Military Electronics
XII	Fire Control, Range Finder, Optical and Guidance and Control Equipment
XIII	Auxiliary Military Equipment
XIV	Toxicological Agents, Including Chemical Agents, Biological Agents, and Associated Equipment
XV	Spacecraft Systems and Associated Equipment
XVI	Nuclear Weapons, Design and Testing Related Items
XVII	Classified Articles, Technical Data and Defense Services Not Otherwise Enumerated
XVIII	Directed Energy Weapons
XIX	[Reserved]
XX	Submersible Vessels, Oceanographic and Associated Equipment
XXI	Miscellaneous Articles

- c. Find the category or categories that most closely describe your item or technology and read through the list of controlled items and technologies that require licenses to see if any of your items or technologies is listed.
- d. If an item or technology is listed, you will most likely need a license and should call ORPA or the Office of Counsel and some one will assist you.

THE OFAC LIST OF EMBARGOED COUNTRIES AND SPECIALLY DESIGNATED INDIVIDUALS WHO ARE BLOCKED FROM US TRADING ACTIVITY (WHICH MAY INCLUDE RESEARCH COLLABORATION) AT:

<http://www.treas.gov/offices/enforcement/ofac/index.shtml>

- a. The link referenced above will take you to country-by-country explanations for each of the OFAC embargoes that are clearly written and easy to understand.
 - b. The site also includes published lists of specially designated nationals (SDNs) with whom it is illegal for U.S. persons to trade or do business with.
 - c. If the entity or person(s) you are working with on your project are from countries that are on the Embargoed Countries list or are listed on the Specially Designated Nationals list, you should call ORPA or the Office of Counsel, who will assist you in determining whether a license is required.
4. IF YOU BELIEVE ONE OR MORE ITEMS ,TECHNOLOGIES OR COUNTRIES INVOLVED IN YOUR PROJECTS IS OR MAY BE ON ONE OF THESE LISTS, CALL ORPA OR THE OFFICE OF COUNSEL AND SOMEONE WILL ASSIST YOU WITH NEXT STEPS.