

**Tennessee Technological University
Policy No. 760**



Effective Date: July 1, 2015

Policy No.: 760

Policy Name: Export Controls

Policy Subject: Export Controls, Trade Sanctions

Date Revised: July 1, 2015

I. Purpose

The purpose of the policy on Export Controls is to provide the laws and regulations governing the participation of faculty, staff and students in research falling under Export Controls and Trade Sanctions regulations. Federal laws restricting exports of goods, services, information, or technology are enforced by various Federal Agencies including the U.S. Department of Commerce through its Export Administration Regulations (EAR)—("dual use items"), the U.S. Department of State through its International Traffic in Arms Regulations (ITAR)—("inherently military items), and the U.S. Department of the Treasury through the Office of Foreign Assets Control, OFAC (trade embargos). These laws restrict exports of goods and technology that could contribute to the military potential of U.S. international adversaries, prevent the proliferation of weapons of mass destruction, advance U.S. foreign policy goals, and protect U.S. economy and promote trade goals.

Export control laws regulate the distribution to foreign nationals, foreign entities and foreign countries of strategically important technology, service, and information for reason of foreign policy and national security. These laws apply to all activities, not just sponsored research projects. Export Controls present unique challenges to Tennessee Tech because they require balancing concerns about national security and U.S. economic vitality with individual concepts of unrestricted academic freedom, publication and dissemination of research findings and results, whether sponsored or not.

II. Review

This policy will be reviewed every three years or whenever circumstances require review, whichever is earlier, by the Associate Vice President for Research or his/her designee with recommendations for revision presented to the Vice President for Research and Economic Development.

III. Definitions

- A.** Export Controls: federal government laws and regulations that require federal agency approval before any oral, written, electronic or visual disclosure; shipment, transfer or transmission of commodities, goods, technology, information, and technical data; and assistance or software codes to restricted foreign countries, persons, and entities (including universities). It also includes the provision of services to, or conducting financial transactions, with an embargoed or boycotted country, restricted individuals, or entities.
- B.** Deemed Exports: the disclosure or transfer of export controlled software, technologies or technical data to a foreign entity or individual inside the US is

“deemed” to be an export to the home country of the foreign entity or individual. Situations that can involve the release of U.S. technology or software include:

1. tour of laboratory by foreign national
 2. foreign national employee involved in certain research, development, and manufacturing activities
 3. foreign student or scholar conducting research
 4. hosting a foreign scientist
- C. Fundamental Research: research in basic and applied science and/or engineering where the resulting information is ordinarily published and shared broadly in the scientific community. Tennessee Tech’s research will not qualify as fundamental research (EAR 734.8; ITAR 120.11(8)) if:
1. Tennessee Tech or the researcher accepts any restrictions on the publication of the information resulting from the research, other than customary prepublication reviews by research sponsors to prevent inadvertent disclosure of their proprietary information or the compromise of the patent rights of sponsors, or
 2. The research is federally funded and Tennessee Tech or the researcher accepts specific access or dissemination controls regarding the resulting information.

IV. Policy

- A. Tennessee Tech hereby adopts TBR General Policies Regarding Research related to Technology Transfer found in TBR Policy 2:08:00:00, as may be amended from time to time.
- B. Tennessee Tech faculty, staff and students are governed by Export Control regulations, including the [International Traffic in Arms Regulations \(ITAR\)](#) implemented by the U.S. Department of State, the [Export Administration Regulations \(EAR\)](#) and the [Commerce Control List \(CCL\)](#) implemented by the U.S. Department of Commerce, and the [Office of Foreign Asset Control \(OFAC\)](#), which is part of the U.S. Department of the Treasury with regard to the shipment, transmission, or transfer outside the United States or with foreign nationals (non-US citizens) within the United States, including at Tennessee Tech, of goods, services, technologies, and information.
- C. Researchers, faculty, staff and students are responsible for complying with all the federal laws and regulations, TBR and Tennessee Tech policies and guidelines, and any other requirements related to export control and trade sanctions, including but not limited to Export Administration Act (15 CFR Parts 730-774), Executive Order 12829 of the National Industrial Security Program (22 CFR Parts 120-130),

Atomic Energy Act 10 CFR 810, Energy Reorganization Act 10 CFR 1-199, Arms Export Control Act (22 CFR Parts 120-130), Trading with the Enemy Act (31 CFR Parts 500-598), as may be amended from time to time.

- D. Researchers are required to review and become familiar with the Export Controls procedures and guidelines found [here](#).
- E. Violations of the Export Controls and Trade Sanctions laws will result in civil and criminal penalties, in addition to sanctions, as may be amended from time to time. The following is a partial list of the penalties and sanctions:

	Department of Commerce (EAR)	Department of State (ITAR)	Department of the Treasury (OFAC)
Civil Penalties	<ul style="list-style-type: none"> • Fines of up to \$250,000 per violation (or twice the amount of the transaction) • Suspension or debarment from government contracts • Revocation of export privileges 	<ul style="list-style-type: none"> • Fines of up to \$500,000 per violation • Suspension or debarment from government contracts • Seizure and forfeiture of article • Revocation of export privileges 	<ul style="list-style-type: none"> • Fines of up to \$250,000 per violation • Suspension or debarment from government contracts
Criminal Penalties (willful violation)	Fines of \$1 million per violation, up to 20 years imprisonment	Fines of up to \$1 million per violation, up to 10 years imprisonment and debarment	Fines of up to \$1 million per violation, up to 10 years imprisonment

- 1. Sanctions
 - a. Termination of export privileges
 - b. Suspension and/or debarment from federal government contracting
 - c. Loss of federal funds
 - d. Voluntary disclosure of violations serves as a "mitigating factor" in deciding penalties.
- F. Before applying for an award that involves export control, or before shipping, transmitting, or transferring goods, services, technologies and information outside the United States or with foreign nationals (non-US citizens) within the United States, including here at Tennessee Tech, individuals must complete and pass

training (found [here](#)) as defined by the Office of Research and Economic Development, as may be amended from time to time.

- G. All researchers must comply with Tennessee Tech Policy 735 (Conflict of Interest in Research), as may be amended from time to time.
- H. Tennessee Tech will comply with Tennessee Tech Policy 770 (Whistleblower Protection in Research), as may be amended from time to time.
- I. Tennessee Tech is committed to complying with export control regulations in research, teaching, and other scholarly pursuits. The policy and procedures for preventing and reporting fraud, waste, or abuse regarding export controls can be found in Tennessee Tech Policy 131.

V. Interpretation

The Vice President for Research and Economic Development and or his/her designee has the final authority to interpret the terms of this policy.

VI. Citation of Authority for Policy

TBR Policy 2:08:00:00

Approved by:

Administrative Council: 2015-02-25

University Assembly: 2015-04-22

Federal Agency/Department	Regulations	Name of Law
Department of Commerce	Export Administration Regulations	Export Administration Act (15 CFR Parts 730-774).
Department of Defense	National Industrial Security Program Operating Manual	E.O. 12829 National Industrial Security Program (22 CFR Parts 120-130).
Department of Energy	10 CFR 810	Atomic Energy Act
Nuclear Regulatory Agency	10 CFR 1-199	Energy Reorganization Act
Department of State	International Traffic in Arms Regulations (ITAR)	Arms Export Control Act (22 CFR Parts 120-130).
Department of Treasury	Office of Foreign Assets Control (OFAC)	Trading with the Enemy Act (31 CFR Parts 500-598).