



Export Control Policy

Office of the Vice President for Research
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POLICY STATEMENT

At New Mexico Tech, export control compliance is an essential part of our broader research integrity and institutional compliance efforts. It supports responsible research practices, protects academic freedom, and ensures that international collaborations and research activities follow federal laws and university policies.

The university is committed to full compliance with all applicable U.S. Export Control laws and regulations, including the International Traffic in Arms Regulations (ITAR), the Export Administration Regulations (EAR), and the Foreign Assets Control Regulations (FACR). These regulations govern the transfer—whether physical, electronic, or verbal—of controlled items, technology, software, and services to foreign persons or entities both within and outside the United States.

NMT is dedicated to ensuring that its teaching, research, and service activities are conducted openly and without unnecessary restrictions that limit collaboration, publication, or the dissemination of academic and research findings. The university actively protects its Fundamental Research Exclusion (FRE) by negotiating research agreements that avoid publication or participation restrictions. However, when contractual or regulatory limitations apply, this Export Control Policy governs the conduct of those affected activities.

The purpose of this policy is to enhance awareness and understanding of Export Control regulations as they apply to university operations, and to outline the compliance responsibilities of all NMT personnel. Failure to comply with these regulations can result in severe consequences, including institutional sanctions and significant civil or criminal liability for individuals involved in violations.

GENERAL POLICY

This policy applies to all members of the campus community, including but not limited to faculty, researchers, staff, students, postdoctoral fellows, visiting scholars, contractors, and volunteers. All members of the community must comply with:

- Arms Export Control Act (AECA), 22 U.S.C. 2751 et seq.
- International Traffic in Arms Regulations (ITAR), 22 C.F.R. 120 et seq.
- Export Administration Regulations (EAR), 15 C.F.R. 730 et seq.
- Foreign Assets Control Regulations (FACR), 31 C.F.R. 500 et seq.

The following activities may be subject to US export control laws when they involve the transfer of controlled items, technologies or information to foreign persons or entities:

- Research and sponsored projects
- Purchasing equipment and materials
- International travel
- Hiring and collaboration with foreign nationals
- Data storage and IT services

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- Gifts and advancement

KEY EXPORT CONTROL RISKS AT NMT

Export control laws may apply to:

- Research involving controlled technologies or technical data
- Shipping or receiving controlled items internationally without ECO review or required licenses
- International travel with controlled items or data
- Virtual collaborations or communications with foreign nationals
- Hiring or hosting foreign nationals
- Cloud storage or remote access involving controlled data
- Use of restricted encryption software or services
- Conducting business with sanctioned countries or restricted parties
- Accepting gifts or grants from restricted entities

RESPONSIBILITIES

Academic, Research, and Administrative Units

Each unit is expected to collaborate with the Export Control Officer (ECO) to:

- Develop procedures to manage compliance related to export controls
- Identify export control issues in relevant activities
- Provide guidance on international collaborations and travel

Export Control Officer (ECO)

Designated by the Vice President for Research, the ECO must be a U.S. person employed by NMT, and is responsible for:

- Serving as primary contact for export control matters
- Assessing applicability of export controls to university activities
- Coordinating export license applications
- Approving Technology Control Plans (TCPs)
- Conducting training and educational programs
- Coordinating with appropriate offices to address potential export control concerns
- Investigating suspected policy violations
- Maintaining records for at least five years, as required by law
- Collaborating with IT to assess export risks in digital infrastructure

Empowered Official (EO)

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The ITAR requires qualified individual be designated as the Empowered Official. This individual must be:

- A U.S. person employed by NMT
- Authorized to sign export license applications
- Knowledgeable about AECA and ITAR
- Has the independent Authority to approve transactions, and to refuse export transactions that may violate regulations

NMT Community Responsibilities

Community members must ensure that no exports or deemed exports occur contrary to law. Before or when engaging in the following activities, individuals shall consult the ECO:

- Starting new research, regardless of funding, when there is reasonable possibility that export control laws may apply
- Traveling abroad with electronic devices or data
- Sending or receiving controlled materials
- Sharing controlled information orally, digitally, or in writing
- Hiring foreign nationals for controlled research
- Participating in international collaborations or conferences
- Accepting grants, gifts, or contracts with export control clauses
- Developing or implementing TCPs
- Using cloud services or storage located abroad for controlled data or research
- Screening individuals/entities through Restricted Party Lists

TRAINING

NMT offers regular training on export compliance. Participation in initial training and refresher training according to the procedures and the Export Control Officer is required. Training records will be maintained by the ECO.

RECORDKEEPING AND COMPLIANCE MONITORING

All export control records, including licenses, screening results, training records, and TCPs, must be retained for at least five years from the date of the export transaction. The ECO will conduct periodic audits to ensure compliance and report violations to appropriate federal agencies as required. For questions or assistance, contact the Export Control Officer through the Office of Research Compliance and Safety.

VIOLATIONS

Suspected violations of this policy and controlling legal requirements should be reported to the export control officer. The ECO will investigate potential violations and make recommendations accordingly. Violations of this policy will be handled in accordance with internal disciplinary processes, and will be reported to federal sponsors if funded research is involved.

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DEFINITIONS

- **Arms Export Control Act (AECA)** is the basic U.S. law providing the authority and general rules for the conduct of Foreign Military Sales and commercial sales of defense articles, defense services, and training.
- **Controlled Exports** are specific types of exports regulated by the federal government (e.g., commodity, biologics, equipment, software, encryption, technology, or technical information) sent from the U.S. to a foreign person or destination.
- **Controlled Item** is equipment, software, or technology subject to EAR or ITAR. An item is "Controlled" if:
 1. The item appears on the Commerce Control List (including items, software, or information) and is subject to the export licensing authority of the Bureau of Industry and Security under the Export Administration Regulations;
 2. The item is a defense article or technical data subject to the export licensing authority of the Department of State, listed on the U.S. Munitions List under the International Traffic in Arms Regulations, or is otherwise specifically, designed, developed, configured, adapted, or modified for military application;
 3. An item that is to be shipped, transmitted, or transferred to a country subject to U.S. economic sanctions, to an end-user on a U.S. Government Restricted Party List, or in support of a prohibited end-use; or
 4. Other prohibitions limit the shipment, transmission, or transfer of items.
- **Controlled Unclassified Information (CUI)** is any information that law, regulation, or government wide policy requires to have safeguarding or disseminating controls, excluding information that is classified under Executive Order 13526, Classified National Security Information, December 29, 2009, or any predecessor or successor order, or the Atomic Energy Act of 1954, as amended.
- **Deemed export** is the release or transmission of controlled exports or information to any foreign person within the U.S. Such a release of information is considered to be an export to the foreign national's home country or country of current citizenship.
- **Dual Use** is technology or items that are designed or suitable for both civilian and military purposes are considered dual use and fall within the Export Administration Regulations.
- **Empowered Official (EO)** is an individual legally authorized to sign export licenses and enforce compliance. This is a designated individual who has the authority to oversee and ensure compliance with U.S. export control regulations such as International Traffic in Arms Regulations (ITAR), the Export Administration Regulations (EAR), and Office of Foreign Assets Control (OFAC) rules. Their role is crucial in ensuring that research activities, international collaborations, and technology transfers align with federal laws. According to 22 CFR 120.67, an EO must be:
 1. A U.S. person directly employed by the institution.
 2. Legally authorized to sign export license applications and other compliance documents.
 3. Knowledgeable about export control laws, including the Arms Export Control Act (AECA) and the International Traffic in Arms Regulations (ITAR).
 4. Able to inquire into, verify, and refuse export transactions if necessary.

- **Export** is any transfer of controlled items or information to foreign persons or destinations.
 1. Noun: An export is goods or services transferred across national borders for the purpose of selling or realizing foreign exchange.
 2. Verb: The act of transferring controlled exports (see definition above), transferring funds, contracting, and/or providing services to foreign persons or entities. Examples include the shipment of goods as well as the transfer of written documents or information via email, phone, fax, internet, and verbal conversation.
- **Export Administration Regulations (EAR)** is a set of United States government regulations on the export and import of most commercial items and dual-use items and technologies. The U.S. Department of Commerce is responsible for implementing and enforcing EAR.
 - **Export Control** refers to federal export laws and regulations, including without limitation, the Arms Export Control Act ("AECA"), 22 U.S.C. 2751 et seq.; the International Traffic in Arms Regulations ("ITAR"), 22 C.F.R. 120 et seq.; the Export Administration Regulations ("EAR"), 15 C.F.R. 730 et seq.; Foreign Assets Control Regulations (FACR), 31 C.F.R. 500 et seq.
- **Export Control Officer (ECO)** is the person responsible for developing and implementing policies regarding export control obligations.
- **Export License** is a written authorization provided by the appropriate regulatory authority detailing the specific terms and conditions allowing the export or re-export of controlled exports.
- **Foreign Assets Control Regulations (FACR)** are regulations administered by the Office of Foreign Assets Control (OFAC), a U.S. Treasury agency. These regulations enforce economic and trade sanctions against individuals, groups, and countries.
- **Foreign National** any person who is not a U.S. citizen, lawful permanent resident (green card holder), or protected individual under U.S. law (e.g., refugees or asylees), as defined by U.S. export regulations.
- **Foreign Person or Entity** is any non-U.S. citizen, non-permanent resident, or foreign entity. Anyone who is not a U.S. person (see definition below) is considered a foreign person. Any foreign corporation, business association, partnership, trust, society, or any other foreign entity or group as well as international organizations and foreign governments are considered foreign entities.
- **Fundamental Research** is Research that is publicly available and not restricted by proprietary or national security clauses. According to the Bureau of Industry Security, this means research in science, engineering, or mathematics, the results of which ordinarily are published and shared broadly within the research community, and for which the researchers have not accepted restrictions for proprietary or national security reasons.
- **Fundamental Research Exclusion (FRE)** provides that fundamental research is not subject to export control regulations under the Fundamental Research exclusion. See National Security Decision Directive 189 (NSDD 189).
 1. Research that contains publication restrictions or that contains access or dissemination restrictions does not qualify as Fundamental Research. See 15 CFR §734.8 "Information Resulting from Fundamental Research," 22 CFR §120.10 "Technical Data," and 22 CFR §120.11 "Public Domain."

- **International Traffic in Arms Regulations (ITAR)** is a set of United States Government regulations on the export and import of defense related articles and services. The U.S. Department of State is responsible for implementing and enforcing ITAR.
- **Investigator** is the principal investigator, the co-principal investigator, and any other person (including faculty, staff, and students) who are responsible for the design, conduct, or reporting of NMT research. Any individual responsible for a task that could have an effect on the research design, conduct, or reporting is considered to be an investigator, even if the individual does not have sole or primary responsibility for the task or the research.
- **Non-NMT Investigator** is any person who is responsible for the design, conduct, or reporting of NMT research; and employed by an entity other than NMT, working pursuant to a sub-award with another entity, working as an independent contractor or collaborator, or otherwise not employed by NMT.
- **NMT Research** means a systematic investigation designed to develop or contribute to generalizable knowledge, including basic and applied investigations and product development, that is:
 - Funded by or through NMT (including outside sponsored funding)
 - Conducted at NMT, regardless of funding
 - Non-sponsored and conducted off-campus by NMT employees
- **Office of Foreign Assets Control (OFAC)** under the US Department of the Treasury administers and enforces economic and trade sanctions based on US foreign policy and national security goals against targeted foreign countries and regimes, terrorists, international narcotics traffickers, those engaged in activities related to the proliferation of weapons of mass destruction, and other threats to the national security, foreign policy or economy of the United States.
- **Technology Control Plan (TCP)** is a document outlining safeguards for controlled data, information and equipment. This is a document generated by the Office of Research Compliance and Safety outlining the physical, information, and personnel security measures required to safeguard controlled exports.
- **United States Person or Entity** is anyone who is a U.S. citizen, a lawful permanent resident of the U.S., or has refugee or asylum status in the U.S., regardless of their current location is considered a U.S. person. This also includes U.S. incorporated or organized firms and their foreign branches.
- **United States Munitions List (USML)** appears in the ITAR outlining articles, services, and related technology designated as defense and space related by the U.S. Department of State.
- **Visual Compliance** is a software used by the ECO or designee to screen people and entities against mandatory Restricted and Denied Parties lists maintained by the U.S. government and its allies, world organizations and law enforcement agencies.

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Acting President New Mexico Tech

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