What they are:
Federal laws regulating the transfer of items, technology, and services to non-U.S. persons and entities. Export controls commonly refer to three distinct sets of regulations: the International Traffic in Arms (ITAR) administered by the Department of State, the Export Administration Regulations (EAR) administered by the Department of Commerce, and the Foreign Assets Control Regulations (FACR) administered by the Department of the Treasury.

Export controls serve several purposes: to restrict exports of goods and technology that could contribute to the military potential of U.S. international adversaries; to prevent proliferation of weapons of mass destruction; and to advance U.S. economic and foreign policy goals.

Export Controls impact the following activities:

- **Shipping** items from the U.S. to a foreign country
- **Transferring** technology, information, or technical data, to entities or individuals outside of the U.S.
- **Sharing** technology, information, or technical data with foreign persons within the U.S.
- **Providing** services to or conducting financial transactions with an embargoed or boycotted country, restricted individual, or entity.

What is controlled:
The EAR covers hundreds of dual use items designed primarily for commercial purposes which also have military applications, and less sensitive military items. The EAR restricts the export of these commodities from the U.S. as well as the transfer of technology regarding their development, production, or use, to foreign persons, both inside and outside the U.S. It also covers the re-export of foreign commodities that either incorporate or are a direct product of controlled U.S. technology. Examples of controlled commodities include, but are not limited to, lasers, radars, satellite components, computers, signal processors, cameras, centrifuges, fermenters, electronics, fiber optics, GPSs, pumps, fittings and piping; bearings, semiconductors, hydrophones, and telecom components. Civil and some low level military satellites, aircraft, and spacecraft and related components are subject to EAR controls, as are specific plant, animal, and human pathogens.

In addition to the specific items described above, the EAR prohibits any export (items or technology) or provision of service that may support a prohibited end use such as weapons proliferation or terrorism, and to specifically listed entities known to support these activities.

ITAR controls items that the State Department has “deemed to be inherently military in character.” Those items, organized into categories, include equipment, software, algorithms, and in each category, technical data and services directly related to the items specified. Examples include, but are not limited to, lasers/directed energy devices; submersible vessels; radiation hardened devices, magnetic, pressure and acoustic sensors; inertial navigation equipment; radar systems; sonar systems, nuclear weapons; toxicological agents; explosives; ranging and guidance systems; and cryptography systems. Also includes any experimental or developmental equipment specifically designed or modified for military applications or specifically designed or modified for use with a military system.

Under the FACR, the Treasury Department’s Office of Foreign Assets Control (OFAC) administers and enforces programs based on U.S. foreign policy and national security goals that (1) Regulate the transfer of items or services to embargoed nations; (2) Impose trade sanctions and trade and travel embargoes aimed at controlling terrorism, drug trafficking, and other illegal activities; and (3) Restrict payments or providing anything of value to nationals of sanctioned countries and to specific foreign entities and individuals. The following countries/areas are currently on OFAC’s sanctions list, Balkans, Belarus, Burma, Burundi, Central African Republic, Cote d’Ivoire, Cuba, Democratic Republic of Congo, Iran, Iraq, Lebanon, Liberia, Libya, North Korea, Russia, Somalia, Sudan, South-Sudan, Syria, Ukraine, Venezuela, Yemen, and Zimbabwe.
Examples of situations that may be subject to Export Controls include, but are not limited to:

- Shipping lab equipment, research materials, computers, prototypes, or samples outside the U.S.
- Sharing information disclosed under confidentiality agreements with foreign persons, including students, staff, and faculty
- Traveling abroad with samples, materials, laptop computers, tablets, smart phones, GPS, or other devices in checked or carry-on luggage
- Exchanging unpublished research results or data with foreign persons located overseas or in the US by any means, including e-mail, file transfers, etc.
- Training a foreign person in the design, development, use, or testing of controlled equipment
- Conducting research under a grant or any contractual agreement that restricts the participation of foreign nationals or requires approval to publish results

Important Considerations:

Who is considered a “foreign person”? 1) Any person who is not a US citizen or lawful permanent resident of the United States (green card holder); 2) Any foreign corporation or other entity or group that is not incorporated or organized to do business in the United States; and 3) Any foreign government.

Is it a “Deemed Export”? The transfer of technology or source code by any method to a foreign national in the U.S. or abroad is deemed to be an export to that individual’s country of citizenship. Methods of transfer include fax, telephone discussions, e-mail, computer data disclosure, face-to-face discussions, training sessions, or facility tours which involve visual inspections of controlled technology. In some instances information or technical data related to export controlled items may not be released via a deemed export to a foreign national.

Penalties for Violators Are SEVERE! The laws provide for criminal sentences for individuals of up to 10 years in prison and up to $1 Million fines and civil fines of up to $500,000.

Good News! Most University activities are EXEMPT. About 95% of the teaching, research, and public service activities performed at NCSU are exempt from Export Controls. EAR and ITAR regulations include exemptions for 1) Education of information concerning general scientific, mathematical or engineering principles commonly taught to all students or information that is already in the public domain; and 2) Fundamental Research which is already published and which is generally accessible or available to the public and fundamental research in science and engineering where the resulting information may be freely published and shared broadly in the scientific community. Exceptions also exist for other activities. For example, university personnel who wish to take their university-owned computing devices out of the country may be able to do so without an export license under an exception for temporary exports, provided the conditions of the exception are met.

Learn More. All NCSU faculty and support personnel should review the Export Controls information found on the SPARCS web page at https://research.ncsu.edu/sparcs/compliance/export-controls/.

Get Help. Have a situation that may be subject to Export Controls? Contact SPARCS at 515-0158 or at Export_Controls@ncsu.edu for more information.

Important Note: The purpose of this handout is to increase awareness of federal laws and regulations, including 15 CFR Parts 730-774 and 22 CFR Parts 120-130. The information provided is not complete and should not be considered legal advice. It is the responsibility of each individual to comply with existing laws and export control regulations.