Since April 2013 there have been 6 export control reform final rules issued that have made substantial changes to the International Traffic in Arms Regulations (ITAR) and the Export Administration Regulations (EAR). These changes include moving items between the ITAR and the EAR.

As indicated in the last EC@UF newsletter the items, information and services moving from the ITAR to the EAR are going into the newly created ‘600 Series’ also known as the Commerce Munitions List (i.e., CML).

The ‘600 Series’ has some but not all of the regulatory burdens currently identified with the ITAR. As such the newly created CML is affectionately described as ITAR-lite. In other words the exporting community is receiving some relief for those items moving from the ITAR to the EAR, but not as much as we hoped for or expected.

In addition to items moving from the ITAR to the EAR there also seems to be items that are moving from the EAR to the ITAR. To date, the US Department of State (State) has only acknowledged that one item has moved from the EAR to the ITAR. Per State the items that seem to be moving from the EAR to the ITAR have in fact always been ITAR controlled and were inadvertently misclassified by manufacturers and exporters.

The supposition is that with the move away from a design intent driven ITAR (i.e., items are ITAR controlled if designed or modified for military applications, purposes, and systems) to a performance driven ITAR (i.e., items (continued on page 2)

Why comply with export controls?

Export control violations can result in penalties and fines which may apply to an individual, the institution or both.

- Administrative Penalties include loss of export privileges or suspension and debarment from government contracting;
- Monetary fines can be up to $1 million per violation; and,
- Jail time can be up to 20 years per violation.
are determined to be ITAR based on objective performance parameters) has made it clearer and easier to identify items as ITAR controlled thus some items ‘seem’ to have moved.

In order to ensure that UF has not inadvertently misclassified UF based efforts we are asking Faculty to contact DRC at 352 392-3526 if their area of research falls under one of the United States Munitions List categories that have been revised. The revised categories include:

- Launch Vehicles, Guided Missiles, Ballistic Missiles, Rockets, Torpedoes, Bombs, and Mines
- Explosives and Energetic Materials, Propellants, Incendiary Agents, and Their Constituents
- Surface Vessels of War and Special Naval Equipment
- Ground Vehicles
- Aircraft and Related Articles
- Military Training Equipment
- Personal Protective Equipment
- Gas Turbine Engines and Associated Equipment

The Laboratory Safety Department of the Division of Environmental Health and Safety (EHS) has recently purchased a Chemical Inventory tracking system designed for academia and run by Stanford University called ChemTracker. ChemTracker will assist UF in complying with numerous Federal and State regulations (i.e., Department of Homeland Security, Department of State, fire codes, OSHA, etc.).

ChemTracker allows EHS to track and run reports on hazardous chemicals inventories as required by various Federal and State Regulators. The ChemTracker information will only be shared with UF entities with a need to know, State and Federal Regulators as well as first responders to campus.

EHS is presently working on uploading into ChemTracker the chemical inventories for the university’s labs and support spaces. The Lab Safety staff is presently reviewing inventories from labs to ensure they are complete and may be contacting lab staff for missing information. Lab Safety will be working with the researchers to gather and refine the inventories. We expect this project to be completed for campus by the end of the year. Once the inventory for campus is finalized, Lab Safety will be working with research sites located around Gainesville, then around the state to finalize their inventories. Lab Safety staff will also be gathering inventories from campus support areas like PPD, IFAS Facilities Operations, Housing and UAA.

Once the inventory is uploaded PIs, lab managers and site coordinators will be given instructions and passwords to access their inventories. The PIs and Labs will then be able to maintain and track their chemical inventories thus improving the ability to manage the purchase, use, and dispose of chemicals needed in the lab. EHS will be asking the labs, storerooms and shop areas to review and update their chemical inventories annually. Contact Mark Yanchisin at 352 392-1591 for additional information.

Export Control Reform Update II (cont’d)

The 2014 Schedule of UF EC Working Group Meetings:

- April 10, 2014
- July 10, 2014
- October 9, 2014

All UF EC Working Group meetings will take place from 10—11 in 264 Grinter Hall.

ChemTracker: EHS’ Chemical Inventory System

2014 Impact of Export Controls on Higher Education and Scientific Institutions
Hosted By Georgia Tech in Atlanta, Georgia

Save the Date: May 5—7, 2014

ITAR Vs. EAR: When Does Access Matter?

The Export Controls @ UF newsletter has provided guidance on ‘Defense Services’, ‘Public Domain’, ‘Use Technology’, ‘Deemed Exports’, and ‘Technical Data’ as defined under the US export control regulations. In this edition we will discuss the issue of access; identify how the ‘ITAR’ and ‘EAR’ differ; and provide guidance to the UF community.

Under the ‘EAR’, the concept of a ‘Deemed Export’ applies only to certain types of proprietary ‘Technology’ (i.e., information) and ‘Source Code’ and does not apply to mere access to commodities or executable code. In general if a commodity subject to the ‘EAR’ is controlled for export to a country then ‘Source Code’ and proprietary ‘Technology’ pertaining to ‘Production’, ‘Development’, and ‘Use’ of the controlled commodity is controlled for release to foreign persons in the US if their last citizenship obtained is from the controlled country. The commodity can be accessed and utilized by foreign persons as long as none of the controlled ‘Technology’ or ‘Source Code’ is released to any foreign persons.

Access to ITAR controlled ‘Defense Articles’ is another story. Although the ‘ITAR’ does not include the term ‘Deemed Export’, the definition of ‘Export’ under the ‘ITAR’ not only includes the physical export of the ITAR controlled commodities out of the US; it also includes the release of ‘Technical Data’ and/or the provision of ‘Defense Services’ to a foreign person in the US.

Unlike the ‘EAR’s narrow definition of controlled Technology the ‘ITAR’ defines its equivalent ‘Technical Data’ much more broadly. ‘Technical Data’ controls non-‘Public Domain’ information on the design, development, production, manufacture, assembly, operation, repair, testing, maintenance or modification of ‘Defense Articles’. Technical Data can be transferred via blueprints, written documents, photos, schematics or visual inspection of an ITAR controlled item. Thus a license would be needed if a foreign person can obtain Technical Data via visual inspection of an ITAR controlled item.

This brings us to the most problematic concept—‘Defense Services’. Under the ‘ITAR’ a ‘Defense Service’ is the provision of training or assistance in the design, development, engineering, manufacture, production, assembly, testing, repair, maintenance, modification, operation, demilitarization, destruction, processing or use of a ‘Defense Article’. Even more disconcerting is that the current regulations require that a license be obtained prior to providing a ‘Defense Service’ even if all of the information to be used in providing the ‘Defense Service’ is in the ‘Public Domain’.

In conclusion, if an item that is subject to the ‘EAR’ is identified, contact DRC at 352-392-3526 if any proprietary ‘Source Code’ or ‘Technology’ (i.e., ‘Development’, ‘Production’, or ‘Use’) is involved. DRC will then determine if a license or other US Government authorization is needed and obtain said authorization prior to the release of the ‘Source Code’ or ‘Technology’. If an ITAR controlled commodity is identified secure the item so that no foreign persons have access and call DRC. Our office will then create a Technology Control Plan to address information and physical security measures of the commodity. Our office will also obtain any necessary licenses prior to a Foreign person having access to the ITAR controlled commodity.
As a public institution of higher education, UF employs foreign nationals, collaborates with international partners on research, education and services, and hosts foreign visitors in connection with international exchange programs, international students, and other business and collaboration agreements. It is the intent of UF to employ foreign nationals, collaborate with foreign nationals and host international visitors, both long and short term, in the most welcoming manner possible while also assuring compliance with U.S. laws and regulations governing the export of certain items, services and technical data.

### UF Export Control Metrics for Calendar Year 2013

<table>
<thead>
<tr>
<th>Parameter</th>
<th>Number*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of projects reviewed</td>
<td>573</td>
</tr>
<tr>
<td>Number of New TCPs</td>
<td>18</td>
</tr>
<tr>
<td>Number of Active TCPs Monitored</td>
<td>55</td>
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<tr>
<td>Number of consults (includes phone, e-mail, in-person)</td>
<td>2332</td>
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<tr>
<td>Number of Training Sessions</td>
<td>47</td>
</tr>
<tr>
<td>Number of people Trained (initial and annual review)</td>
<td>189</td>
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<tr>
<td>Number of New Licenses</td>
<td>2</td>
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<tr>
<td>Number of Active Licenses Maintained</td>
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<tr>
<td>Number of Licenses Closed</td>
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<tr>
<td>Number of Commodity Jurisdictions (via State)</td>
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<tr>
<td>Number of Commodity Classifications (via Commerce)</td>
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<tr>
<td>Number of OTL Technology Reviews</td>
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<tr>
<td>Number of Restricted Party Screenings</td>
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<tr>
<td>Number of MTAs</td>
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<tr>
<td>Number of I-129s Assisted</td>
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<td>Number of Exemptions Recorded by DRC</td>
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<td>Number of Potential Violations Reviewed</td>
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<td>Number of Voluntary Self Disclosures</td>
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</tr>
<tr>
<td>Number of Annual Reviews Conducted</td>
<td>35</td>
</tr>
</tbody>
</table>

*Numbers listed above are extrapolations based on data (actual and estimates) as of 11/21/2013

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