

EXPORT COMPLIANCE

Biological Safety Symposium Implementation of a Deemed Export Program

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Federal Agencies and their Export Control Regulations

- US export controls exist to protect the national security and foreign policy interests of this country. Export controls govern the shipment, transmission, or transfer of regulated items, information and software to foreign countries, persons or entities.
- The Federal agencies and their export control regulations most commonly associated with research activity at academic institutions in the US are the following:
 - **US Department of State (Directorate of Defense Trade Controls)**
 - The [International Traffic in Arms Regulations](#) (ITAR) governs "defense articles and services" (items and information specifically designed or adapted for military use).
 - **US Department of Commerce (Bureau of Industry and Security)**
 - The [Export Administration Regulations](#) (EAR) govern dual use items and information predominately civilian in character but may have military applications.
 - **US Department of the Treasury (Office of Foreign Assets Control)**
 - The Office of Foreign Assets Control Regulations (OFAC) administers and enforces trade embargoes and economic sanctions. For reference, see their Lists of Sanctioned Countries and Specially Designated Nationals (SDNs) under the "Resources" tab on the [OFAC website](#).
- Violations of these export control regulations can lead to significant civil and criminal penalties.

What is an Export

- Any oral, written, electronic or visual disclosure, shipment, transfer or transmission outside of the United States to anyone, including a U.S. citizen, of any commodity, technology (information, technical data, or assistance) or software/codes.
- Any oral, written, electronic or visual disclosure, transfer or transmission of a commodity, technology or software/codes to a non-U.S. entity or individual, wherever located (even to a foreign professor/student at The University).

Also an Export

- Deemed Export-
 - "Deemed Export" is a term used by the Commerce Department. An export of technology or source code is "deemed" to take place when it is released to a foreign national within the United States.
 - Although the State Department does not use this term, but rather includes this concept in its definition of export, Rutgers University will use the term "deemed export" when discussing access by foreign nationals to controlled information within the United States, without regard to which agency may have cognizance over the transaction.

Who is a Foreign National

- The term "foreign national" refers to everyone other than a U.S. citizen, a permanent resident alien, and certain "protected individuals" (refugees and those with asylum), it includes any company not incorporated in the United States.
- For purposes of Export Controls, individuals on a visa (including foreign visiting faculty) are considered foreign nationals.

Deemed Export Program

- A consistent and standardized process for on boarding non- U.S. Persons.
 - H.R.
 - Visa
 - Visitors
 - Students
 - Employees
 - Professors
 - Tour
- Adhere to all export regulations
 - Jurisdiction/Classification
 - Screening
 - License determination

Penalties

- The Export Administration Regulations (EAR) provides the following sanctions:
 - **Willful Violations**
 - **University**
 - A fine of up to the greater of \$1,000,000 or five times the value of the exports for each violation.
 - **Individual**
 - A fine of up to \$250,000 or imprisonment for up to ten years, or both, for each violation.
 - **Knowing Violations**
 - **University**
 - A fine of up to the greater of \$50,000 or five times the value of the exports for each violation.
 - **Individual**
 - A fine of up to the greater of \$50,000 or five times the value of the exports or imprisonment for up to five years, or both, for each violation.

Penalties

- The Export Administration Regulations (EAR) provides the following sanctions:
 - **Civil (Administrative) Sanctions**
 - The imposition of a fine of up to \$12,000 for each violation, except that the fine for violations involving items controlled for national security reasons is up to \$120,000 for each violation.
 - Additionally, for each violation of the EAR any or all of the following may be imposed:
 - The denial of export privileges; and/or
 - The exclusion from practice; and/or
 - Seizure/Forfeiture of goods.

Contact

- Rutgers Export Compliance Officer (RECO)
- He can be reached at 848-932-4522, or via email at robert.phillips@rutgers.edu
- The Export Compliance website:
 - <http://vpr.rutgers.edu/export.php>