



EXPORT CONTROL

WHAT ARE EXPORT CONTROLS (EC)?

U.S. laws that regulate the distribution of export controlled technology, equipment, software, information, or services ("Commodities") to a foreign person or to a foreign country.

Major EC regulations include International Traffic in Arms regulations, Export Administration regulations and Office of Foreign Assets Control regulations.

WHAT IS AN EXPORT?

Transfer of controlled "Commodities" to a foreign person or a foreign country.

WHAT IS A DEEMED EXPORT?

Transfer of controlled "Commodities" to a foreign person in the U.S.

WHAT RESEARCH OR ACTIVITIES ARE GENERALLY SUBJECT TO EC?

- ▲ Proprietary research
- ▲ Developmental research
- ▲ "Use" technology (confidential/proprietary information pertaining to operation, installation, maintenance, repair, overhaul and refurbishing)
- ▲ International projects
- ▲ Defense research and/or Defense services
- ▲ Prohibited activities (proliferation of Weapons of Mass Destruction activities)
- ▲ Equipment or item listed on U.S. Munitions List or Commerce Control List including associated information and software

WHAT RESEARCH OR ACTIVITIES ARE NOT SUBJECT TO EC?

- ▲ The informational results of "Fundamental Research" are not subject to EC. Fundamental Research is defined as "basic or applied research in science and engineering, the results of which ordinarily are published and shared broadly within the scientific community, as distinguished from proprietary research and from industrial development, design, production and project utilization, the results of which ordinarily are restricted for proprietary or national security reasons" (National Security Decision Directive -189).

To qualify for a Fundamental Research exemption,

- ▲ There should be no publication restrictions - sponsor "review" (not approval) of a publication for purposes of pursuing a patent or removing inadvertently included proprietary information is not considered a restriction
- ▲ There should be no foreign person restrictions
- ▲ Scope of research work should be basic or applied
- ▲ The work must be done at a U.S. accredited institution of higher learning in the U.S.

Educational activities, in general, are not subject to EC when the information being delivered consists of general scientific, mathematical or engineering principles commonly taught in universities or information that is in the public domain.



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HOW CAN I IDENTIFY WHETHER A RESEARCH PROJECT IS SUBJECT TO EC?

There are certain “red flags” that should alert you that an EC review is necessary. For example:

- ▲ Publication restrictions and/or foreign national restrictions
- ▲ Funding agreement or sponsor specifies that project is controlled
- ▲ Sponsor (or third party) provides information, equipment or materials that are controlled
- ▲ International shipping of materials or equipment
- ▲ Scope of work involves areas of concern (satellites, autonomous vehicles - air, land or water; weapons, explosives, detectors, military systems, space technologies, pathogens, toxins, select agents, rockets, radar, etc.)

**REMEMBER,
EXPORTING IS A PRIVILEGE,
NOT A RIGHT.**

WHAT DO I HAVE TO DO IF MY RESEARCH PROJECT IS IDENTIFIED AS EC?

If you are willing to accept a project subject to EC regulations, it will require very different ways of working than are typical on a university campus. You will need to implement a Technology Control Plan (TCP) which is a security plan that governs the storage, use and transfer of the export controlled information or equipment. For example, you may need to control access to your laboratory and you may need to prevent certain colleagues or students from participating in the research. You may also have to limit publication or dissemination of research results.

Further, you will need to pay attention to:

- ▲ Visitors to the lab
- ▲ Information Technology security - to prevent EC information from being shared or accessed
- ▲ Items purchased or provided by a third party
- ▲ International travel
- ▲ Sharing export controlled information among lab personnel

WHY SHOULD I BE CONCERNED?

Noncompliance with EC regulations leads to administrative, civil and criminal penalties. Penalties are severe and there is strict vigilance on compliance by regulatory agencies. Further, civil violations are based on strict liability, i.e. “lack of knowledge” is not an acceptable defense.