

JOHNS HOPKINS UNIVERSITY GUIDELINES FOR EXPORT CONTROLS

The Department of Commerce (through the Export Administration Regulations or EAR), and the Department of State (through the International Traffic in Arms Regulations or ITAR) have implemented a series of export control laws and federal laws. These regulations have been in existence for over twenty years. The rules are enforced throughout the United States of America. Any institution of higher education and its faculty, staff, and students must comply with these policies. In case of violations, criminal sanctions (including substantial fines and even prison terms) can be applied.

Export control regulations have become a primary concern particularly after September 11, 2001, and examinations involving compliance with these regulations are a major priority. Although the research projects conducted at Johns Hopkins are primarily fundamental due to the university's requirements for unrestricted dissemination and open access by everyone regardless of race, religion, or citizenship, Hopkins faculty, staff, and students in all departments and laboratories must understand their responsibilities in regard to these laws and comply with their standards when deemed appropriate.

This set of laws effectively covers all areas of science and engineering. However, unlicensed export of certain materials or information is forbidden for reasons of national security or trade protection.* As mentioned above, in situations involving academic or research institutions, there is an exclusion involving fundamental research when the results are normally made available to the public. There are three fundamental concepts related to export controls:

1. Understand the nature of the technology that is export controlled and how it is defined.
2. Recognize the fundamental research exclusion
3. Be able to define "deemed export"

A very large portion of exports does not require government licenses. The exports that the United States government classifies as "license controlled" under the EAR and ITAR do require licenses (however, please note that some controlled exports don't require a license.)

Export controlled transmission typically occurs because:

- The nature or type of the export has definite or probable military applications or economic protection issues
- Government concerns about the country of destination, organization, or a particular individual
- Government concerns about the acknowledged or suspected end use or the end user of the export

Even if an item appears on one of the lists of controlled technologies, generally there is exclusion for fundamental research (as long as there are no restrictions on publication of the research or other restrictions on dissemination of the information) or, in certain instances, as long as the research or information will be made public.

When an item is controlled, a license is required before the technology can be exported. This requirement pertains to material items (prototypes or software) as well as to the findings and results of the research. In addition, the term “export” refers to the technology leaving the boundaries of the United States (this includes transfer to a citizen of the United States living abroad whether or not it is related to a research agreement with the U.S. government) as well as transmitting the technology to an individual other than a U.S. citizen or permanent resident within the United States. Please note: A disclosure to a foreign research colleague or even a student in a Laboratory at Hopkins is classified as a “deemed export.”

At this time, the policy of the United States does not permit licenses for the transfer of these items in several countries. A current list of these countries can be found by logging on to the Department of State website located at <http://www.pmdtc.org/>

The majority of the research activities in which Johns Hopkins is involved are excluded from export controls because the University can declare the fundamental research exemption. There are instances when a researcher may need to export a tangible research item, such as a prototype or software. At that point, it is imperative to initiate the process for obtaining a license from either the Department of Commerce or the Department of State (whichever is applicable) as soon as possible. It may take up to six months to receive a license after submitting the application.

A web-based tutorial on export controls designed for the Hopkins research community is now available on the Compliance Training website located at:

<https://secure.lwservers.net/default.cfm>. If you have any questions or require further information, please contact Mr. Michael Alexander at malexander@jhu.edu.

NOTE:

* = More information can be obtained in 15 CFR 774, Supplement 1 (EAR) and 22 CFR 121.1 (ITAR)