



Deemed Exports

Did you know that information and technology don't have to leave the United States to be exported? While an export is generally considered to be information, technology, or materials that physically leave the country, if export-controlled information or technology is released to a foreign national living in the United States, it is deemed to be exported to the home country of the foreign national the information was released to. This is because intangible knowledge travels with the foreign national once they leave the United States.

What is a deemed export?

The Export Administration Regulations (EAR) define a "deemed export" as any release in the United States of "technology" or source code to a foreign person.

The EAR states that:

Technology is 'released' for export when:

- *it is available to foreign nationals for visual inspection (such as reading technical specifications, plans, blueprints, etc.);*
- *when technology is exchanged orally; or*
- *when technology is made available by practice or application under the guidance of persons with knowledge of the technology.*

It is important to note that, for the purposes of the EAR, legal U.S. permanent residents, naturalized citizens, and individuals protected under the [Immigration and Naturalization Act](#) are not considered to be foreign nationals.

Deemed exports are one of the primary concerns for university export compliance programs and can apply to many facets of research at the university. It is important that all projects involving foreign nationals, either assisting or collaborating on the project, be reviewed for export control risks.

When information is controlled due to national security reasons, the Department of Commerce's Bureau of Industry and Security may require a license for a deemed export. This depends on how the technology being exported relates to defense articles and the relationship the United States has with the country receiving the information.

If you have a project that is subject to export controls and have foreign nationals assisting with or collaborating on the project and do not already have a technology control plan in place, please contact the Export Compliance Program at exportctrl@vcu.edu.