

DEPARTMENT OF STATE

22 CFR Part 120

[Public Notice 4274]

RIN AB-62

**Bureau of Political-Military Affairs;
Amendment to the International Traffic
in Arms Regulations**

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This rule amends the International Traffic in Arms Regulations (ITAR) which implements section 38 of the Arms Export Control Act (AECA), that governs the import and export of defense articles and defense services. The rule reflects the changed authorities as a result of the realignment of the responsibilities for defense trade controls.

EFFECTIVE DATE: January 29, 2003.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: Effective January 20, 2003, the Department of State will realign responsibilities for defense trade controls under section 38 of the AECA and the International Traffic in Arms Regulations, 22 CFR Parts 120-130 ("ITAR"). Section 120.1(a) of the ITAR is amended to replace "Director of the Office of Defense Trade Controls" with "Deputy Assistant Secretary for Defense Trade Controls and Managing Director of Defense Trade Controls." Section 120.1, subparagraph (b) is amended by inserting "(1)" after "(b)" and by adding the new subparagraph "(b)(2)": and by adding a new subparagraph "(b)(2)" about the new Directorate of Defense Trade Controls and the positions of the Deputy Assistant Secretary for Defense Trade Controls (DAS-Defense Trade Controls); Managing Director of Defense Trade Controls (MD-Defense Trade Controls); Director, Office of Defense Trade Controls Management; Director, Office of Defense Trade Controls Licensing; Director, Office of Defense Trade Controls Compliance; and Director, Office of Defense Trade Controls Policy. Initially, one individual will hold both the DAS-Defense Trade Controls and MD-Defense Trade Controls positions. The position of Director of the Office of Defense Trade Controls is abolished.

It is anticipated that further amendments to the ITAR will be promulgated in the near future to reflect these specific changes as a result of this realignment.

This amendment involves a foreign affairs function of the United States and, therefore, is not subject to the procedures required by 5 U.S.C. 553 and 554. It is exempt from review under Executive Order 12866 but has been reviewed internally by the Department to ensure consistency with the purposes thereof. This rule does not require analysis under the Regulatory Flexibility Act or the Unfunded Mandates Reform Act. It has been found not to be a major rule within the meaning of the Small Business Regulatory Enforcement Act of 1996. It will not have substantial direct effects on the States, the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this rule does not have sufficient federalism implications to warrant application of the consultation provisions of Executive Order 12372 and 13132.

List of Subjects in 22 CFR Part 120

Arms and munitions, Classified information, Exports.

Accordingly, for the reasons set forth above, Title 22, Chapter I, Subchapter M, Part 120, is being amended as follows:

PART 120—PURPOSE AND DEFINITIONS

1. The authority citation for part 120 is revised to read as follows:

Authority: Secs. 2, 38, and 71, Pub. L. 90-629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2797); 22 U.S.C. 2794; E.O. 11958, 42 FR 4311, 3 CFR, 1977 Comp. p. 79; 22 U.S.C. 2658; Pub. L. 105-261, 112 Stat. 1920.

2. Section 120.1(a) and (b) are revised to read as follows:

§ 120.1 General authorities and eligibility.

(a) Section 38 of the Arms Export Control Act (22 U.S.C. 2778) authorizes the President to control the export and import of defense articles and defense services. The statutory authority of the President to promulgate regulations with respect to exports of defense articles and defense services was delegated to the Secretary of State by Executive Order 11958, as amended. This subchapter implements that authority. By virtue of delegations of authority by the Secretary of State, these regulations are primarily administered by the Deputy Assistant Secretary for

Defense Trade Controls and Managing Director of Defense Trade Controls, Bureau of Political-Military Affairs.

(b) (1) *Authorized officials.* All authorities conferred upon the Deputy Assistant Secretary for Defense Trade Controls or the Managing Director of Defense Trade Controls by this subchapter may be exercised at any time by the Under Secretary of State for Arms Control and International Security or the Assistant Secretary of State for Political-Military Affairs unless the Legal Adviser or the Assistant Legal Adviser for Political-Military Affairs of the Department of State determines that any specific exercise of this authority under this paragraph may be inappropriate.

(2) In the Bureau of Political-Military Affairs, there is a Deputy Assistant Secretary for Defense Trade Controls (DAS-Defense Trade Controls) and a Managing Director of Defense Trade Controls (MD-Defense Trade Controls). One individual holds both the DAS-Defense Trade Controls and MD-Defense Trade Controls positions. The position of Director, Office of Defense Trade Controls is abolished. The DAS-Defense Trade Controls/MD-Defense Trade Controls has assumed all duties, responsibilities, and authorities held under the ITAR by that Director. The MD-Defense Trade Controls has responsibility for the Directorate of Defense Trade Controls, which oversees the subordinate offices described in paragraph (b)(2)(i) of this section.

(i) All references to the Office of Defense Trade Controls and the Director of the Office of Defense Trade Controls contained in the International Traffic in Arms Regulations (ITAR) shall be deemed to be references to:

(A) The Office of Defense Trade Controls Management and the Director, Office of Defense Trade Controls Management, respectively, insofar as such references relate to management of defense trade controls operations; to include the exercise of general authorities in this part 120 and the design, development, and refinement of processes, activities, and functional tools for the export licensing regime and to effect export compliance/enforcement activities;

(B) The Office of Defense Trade Controls Licensing and the Director, Office of Defense Trade Controls Licensing, respectively, insofar as such references relate to licensing or other authorization of defense trade, including references under parts 123, 124, 125, 126, 129 and 130 of this subchapter, and the commodity jurisdiction procedure under this part 120;