

revise the VSC-24 cask system listing within the "List of Approved Spent Fuel Storage Casks" to include Amendment No. 5 to CoC No. 1007. This amendment changes the certificate holder's name from Pacific Sierra Nuclear Associates to BNG Fuel Solutions Corporation. In the direct final rule, NRC stated that if no significant adverse comments were received, the direct final rule would become final on September 13, 2005. The NRC did not receive any comments that warranted withdrawal of the direct final rule. Therefore, this rule will become effective as scheduled.

Dated at Rockville, Maryland, this 23rd day of August, 2005.

For the Nuclear Regulatory Commission.

**Michael T. Lesar,**

*Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration.*

[FR Doc. 05-17058 Filed 8-26-05; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA-2005-21705; Airspace Docket No. 05-ACE-21]

#### Modification of Legal Description of the Class E Airspace; Columbia Regional Airport, MO

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Direct final rule; confirmation of effective date.

**SUMMARY:** This document confirms the effective date of the direct final rule which modifies the legal description of the Class E Airspace at Columbia Regional Airport, MO.

**DATES:** Effective 0901 UTC, October 27, 2005.

**FOR FURTHER INFORMATION CONTACT:**

Brenda Mumper, Air Traffic Division, Airspace Branch, ACE-520A, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64216; telephone: (816) 321-2121.

**SUPPLEMENTARY INFORMATION:** The FAA published this direct final rule with a request for comments in the **Federal Register** on July 21, 2005 (70 FR 41950). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that if no adverse notice of intent to submit such an

adverse comment was received within the comment period, the regulation would become effective on October 27, 2005. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO, on August 15, 2005.

**Elizabeth S. Wallis,**

*Acting Area Director, Western Flight Services Operations.*

[FR Doc. 05-17060 Filed 8-26-05; 8:45 am]

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## DEPARTMENT OF STATE

### 22 CFR Parts 120, 122, 123, 124, 126, and 127

[Public Notice 5176]

#### Amendments to the International Traffic in Arms Regulations: Port Directors Definition, NATO Definition, Major Non-NATO Ally Definition, Recordkeeping Requirements, Supporting Documentation for Electronic License Applications, Disclosure of Registration Documents

**AGENCY:** Department of State.

**ACTION:** Final rule.

**SUMMARY:** The definition of "District Director of Customs" has been amended to reflect the change in title. Also, references to the Customs Service have been changed to the U.S. Customs and Border Protection. A definition has been added for the "North Atlantic Treaty Organization" and another definition for "major non-NATO ally." The recordkeeping requirement has been revised to include maintaining records in an electronic format and reproduction of readable documents. No need for multiple copies of supporting documentation for electronic license applications. Also, registration documents are not releasable to the public.

**DATES: Effective Date:** This rule is effective August 29, 2005.

**ADDRESSES:** Interested parties are invited to submit written comments to the Department of State:

- E-mail comments may be sent to [DDTCResponseTeam@state.gov](mailto:DDTCResponseTeam@state.gov) with the subject line: Parts 120, 122, 123, 124, 126 and 127.

- Written comments may be sent to Directorate of Defense Trade Controls, Office of Defense Trade Controls Management, ATTN: Regulatory Change, Parts 120, 122, 123, 124, 126 and 127, SA-1, 12th Floor, Washington, DC 20522-0112.

Persons with access to the Internet may also view this notice by going to the regulations.gov Web site at: <http://www.regulations.gov>. Comments will be accepted at any time.

**FOR FURTHER INFORMATION CONTACT:**

Mary F. Sweeney, Office of Defense Trade Controls Management, Bureau of Political-Military Affairs, Department of State on 202-663-2865.

**SUPPLEMENTARY INFORMATION:**

The definition of "District Director of Customs" has been amended to reflect that references to "District Directors," have been replaced with "Port Directors" (Sections 123.4, 123.5, 123.6, 123.13, 123.16, 123.17, 123.18, 123.23, 126.4, 126.5, 126.6, and 126.13). Also, references to the "Bureau of Customs and Border Protection" and "U.S. Customs" have been replaced by "U.S. Customs and Border Protection" (Sections 122.5, 123.4, 123.5, 123.6, 123.13, 123.16, 123.17, 123.18, 123.22, 123.23, 123.24, 124.3, 126.4, 126.5, 126.6, 126.13, and 127.4).

The ITAR has been amended by adding two new definitions. There is a definition at 22 CFR 120.31 for the "North Atlantic Treaty Organization" and the countries are listed. The other definition is at 22 CFR 120.32 for "major non-NATO ally." Major non-NATO ally means a country that is designated in accordance with § 517 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321k) as a major non-NATO ally for purposes of the Foreign Assistance Act of 1961 and the Arms Export Control Act (22 U.S.C. 2751 *et seq.*) (22 U.S.C. 2403(q)). The countries are listed in 22 CFR 120.32. Also, Taiwan shall be treated as though it were designated a major non-NATO ally (as defined in section 644(q) of the Foreign Assistance Act of 1961 (22 U.S.C. 2403(q)) in accordance with section 1206 of the Foreign Relations Authorization Act, Fiscal Year 2003 (Pub. L. 107-228). In complying with Presidential Determination No. 2004-35 of June 3, 2004 and Presidential Determination No. 2004-37 of June 16, 2004, the ITAR is being amended to add Morocco and Pakistan as major non-NATO allies of the United States.

Section 122.3 has been amended to require a registrant renewing its registration to submit the renewal request at least 30 days prior to the expiration date.

Section 122.5 has been amended to include if maintaining records in an electronic format the information must be capable of being reproduced legibly on paper. Also, the stored information if altered must keep track of all changes,

who made them and when they were made.

Section 123.1 has been revised to address if submitting fully electronic license applications that there is no need for multiple copies of supporting documentation.

Section 126.10 regarding disclosure of information has been amended to include that registration documents may not generally be disclosed to the public under Section 38(e) of the Arms Export Control Act.

Section 127.4 has been revised to address the authority of U.S. Immigration and Customs Enforcement and U.S. Customs and Border Protection officers.

Certain references to the "Office of Defense Trade Controls" were changed to the "Directorate of Defense Trade Controls" (Sections 122.5, 123.1, 123.4, 123.5, 123.16, 126.4, 126.5, 126.6 and 126.13).

### Regulatory Analysis and Notices

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 consultation provisions of Executive Orders 12372 and 13132. This rule does not impose any new reporting or recordkeeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

### List of Subjects

#### 22 CFR Part 120

Arms and munitions, Classified information, Exports.

#### 22 CFR Part 122

Arms and munitions, Exports, Reporting and recordkeeping requirements.

#### 22 CFR Parts 123 and 126

Arms and munitions, Exports.

#### 22 CFR Part 124

Arms and munitions, Exports, Technical assistance.

#### 22 CFR Part 127

Arms and munitions, Crime, Exports, Penalties, Seizures and forfeitures.

■ Accordingly, for the reasons set forth above, title 22, chapter I, subchapter M, parts 120, 122, 123, 124, 126, and 127 are amended as follows:

### PART 120—PURPOSE AND DEFINITIONS

■ 1–2. The authority citation for part 120 continues to read as follows:

**Authority:** Secs. 2, 38, and 71, Public Law 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. 2651a; Pub. L 105–261, 112 Stat. 1920.

■ 3. Section 120.24 is revised to read as follows:

#### § 120.24 Port Directors.

*Port Directors of U.S. Customs and Border Protection* means the U.S. Customs and Border Protection Port Directors at the U.S. Customs and Border Protection Ports of Entry (other than the port of New York, New York where their title is the Area Directors).

■ 4. Section 120.31 is added to read as follows:

#### § 120.31 North Atlantic Treaty Organization.

*North Atlantic Treaty Organization (NATO)* is comprised of the following member countries: Belgium, Bulgaria, Canada, Czech Republic, Denmark, Estonia, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Lithuania, Luxembourg, The Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Turkey, United Kingdom and the United States.

■ 5. Section 120.32 is added to read as follows:

#### § 120.32 Major non-NATO ally.

*Major non-NATO ally* means a country that is designated in accordance with § 517 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321k) as a major non-NATO ally for purposes of the Foreign Assistance Act of 1961 and the Arms Export Control Act (22 U.S.C. 2751 *et seq.*) (22 U.S.C. 2403(q)). The following countries have been designated as major non-NATO allies: Argentina, Australia, Bahrain, Egypt, Israel, Japan, Jordan, Kuwait, Morocco, New Zealand, Pakistan, the Philippines, Thailand, and Republic of Korea. Taiwan shall be treated as though it were designated a major non-NATO ally

(as defined in section 644(q) of the Foreign Assistance Act of 1961 (22 U.S.C. 2403(q)).

### PART 122—REGISTRATION OF MANUFACTURERS AND EXPORTERS

■ 6. The authority citation for part 122 is revised to read as follows:

**Authority:** Secs. 2 and 38, Public Law 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778); E.O. 11958, 42 FR 4311; 1977 Comp. p. 79, 22 U.S.C. 2651a.

■ 7. Section 122.3 is amended by revising paragraph (b) and adding paragraph (c) to read as follows:

#### § 122.3 Registration fees.

\* \* \* \* \*

(b) *Expiration of registration.* A registrant must submit its request for registration renewal at least 30 days prior to the expiration date.

(c) *Lapse in registration.* A registrant who fails to renew a registration and, after an intervening period, seeks to register again must pay registration fees for any part of such intervening period during which the registrant engaged in the business of manufacturing or exporting defense articles or defense services.

■ 8. Section 122.5 is revised to read as follows:

#### § 122.5 Maintenance of records by registrants.

(a) A person who is required to register must maintain records concerning the manufacture, acquisition and disposition (to include copies of all documentation on exports using exemptions and applications and licenses and their related documentation), of defense articles; of technical data; the provision of defense services; brokering activities; and information on political contributions, fees, or commissions furnished or obtained, as required by part 130 of this subchapter. Records in an electronic format must be maintained using a process or system capable of reproducing all records on paper. Such records when displayed on a viewer, monitor, or reproduced on paper, must exhibit a high degree of legibility and readability. (For the purpose of this section, "legible" and "legibility" mean the quality of a letter or numeral that enables the observer to identify it positively and quickly to the exclusion of all other letters or numerals. "Readable" and "readability" means the quality of a group of letters or numerals being recognized as complete words or numbers.) This information must be stored in such a manner that none of it may be altered once it is initially

recorded without recording all changes, who made them, and when they were made. For processes or systems based on the storage of digital images, the process or system must afford accessibility to all digital images in the records being maintained. All records subject to this section must be maintained for a period of five years from the expiration of the license or other approval, to include exports using an exemption (See §123.26 of this subchapter); or, from the date of the transaction (e.g. expired licenses or other approvals relevant to the export transaction using an exemption). The Managing Director, Directorate of Defense Trade Controls, and the Director of the Office of Defense Trade Controls Licensing, may prescribe a longer or shorter period in individual cases.

(b) Records maintained under this section shall be available at all times for inspection and copying by the Directorate of Defense Trade Controls or a person designated by the Directorate of Defense Trade Controls (e.g. the Diplomatic Security Service) or U.S. Immigration and Customs Enforcement, or U.S. Customs and Border Protection. Upon such request, the person maintaining the records must furnish the records, the equipment, and if necessary, knowledgeable personnel for locating, reading, and reproducing any record that is required to be maintained in accordance with this section.

**PART 123—LICENSES FOR THE EXPORT OF DEFENSE ARTICLES**

■ 9–10. The authority citation for part 123 continues to read as follows:

**Authority:** Secs. 2, 38, and 71, Public Law 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2797); 22 U.S.C. 2753; E.O. 11958, 42 FR 4311; 3 CFR, 1977 Comp. p. 79; 22 U.S.C. 2651a; 22 U.S.C. 2776; Public Law 105–261, 112 Stat. 1920; Sec 1205(a), Public Law 107–228.

■ 11. Section 123.1 is amended by revising paragraph (c)(2) to read as follows:

**§ 123.1 Requirement for export or temporary import licenses.**

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

(2) Attachments and supporting technical data or brochures should be submitted in seven collated copies. Two copies of any freight forwarder lists must be submitted. If the request is limited to renewal of a previous license or for the export of spare parts, only two sets of any attachment (including freight forwarder lists) and one copy of the

previous license should be submitted. In the case of fully electronic submissions, unless otherwise expressly required by the Directorate of Defense Trade Controls, applicants need not provide multiple copies of supporting documentation and attachments, supporting technical data or brochures, and freight forwarder lists.

\* \* \* \* \*

■ 12. Section 123.4 is amended by revising paragraphs (a), (a)(2), (b), (d) introductory text, (d)(1)(i), and (d)(2) to read as follows:

**§ 123.4 Temporary import license exemptions.**

(a) Port Directors of U.S. Customs and Border Protection shall permit the temporary import (and subsequent export) without a license, for a period of up to 4 years, of unclassified U.S.-origin defense items (including any items manufactured abroad pursuant to U.S. Government approval) if the item temporarily imported:

\* \* \* \* \*

(2) Is to be enhanced, upgraded or incorporated into another item which has already been authorized by the Directorate of Defense Trade Controls for permanent export; or

\* \* \* \* \*

(b) Port Directors of U.S. Customs and Border Protection shall permit the temporary import (but not the subsequent export) without a license of unclassified defense articles that are to be incorporated into another article, or modified, enhanced, upgraded, altered, improved or serviced in any other manner that changes the basic performance or productivity of the article prior to being returned to the country from which they were shipped or prior to being shipped to a third country. A DSP–5 is required for the reexport of such unclassified defense articles after incorporation into another article, modification, enhancement, upgrading, alteration or improvement.

\* \* \* \* \*

(d) *Procedures.* To the satisfaction of the Port Director of U.S. Customs and Border Protection, the importer and export must comply with the following procedures:

(1) \* \* \*

(i) File and annotate the applicable U.S. Customs and Border Protection document (e.g., Form CF 3461, 7512, 7501, 7523 or 3311) to read: “This shipment is being imported in accordance with and under the authority of 22 CFR 123.4(a) (identify subsection),” and

\* \* \* \* \*

(2) At the time of export, in accordance with the U.S. Customs and Border Protection procedures, the Directorate of Defense Trade Controls (DDTC) registered and eligible exporter, or an agent acting on the filer’s behalf, must electronically file the export information using the Automated Export System (AES), and identify 22 CFR 123.4 as the authority for the export and provide, as requested by U.S. Customs and Border Protection, the entry document number or a copy of the U.S. Customs and Border Protection document under which the article was imported.

■ 13. Section 123.5 is revised to read as follows:

**§ 123.5 Temporary export licenses.**

(a) The Directorate of Defense Trade Controls may issue a license for the temporary export of unclassified defense articles (DSP–73). Such licenses are valid only if the article will be exported for a period of less than 4 years and will be returned to the United States and transfer of title will not occur during the period of temporary export. Accordingly, articles exported pursuant to a temporary export license may not be sold or otherwise permanently transferred to a foreign person while they are overseas under a temporary export license. A renewal of the license or other written approval must be obtained from the Directorate of Defense Trade Controls if the article is to remain outside the United States beyond the period for which the license is valid.

(b) *Requirements.* Defense articles authorized for temporary export under this section may be shipped only from a port in the United States where a Port Director of U.S. Customs and Border Protection is available, or from a U.S. Post Office (see 39 CFR part 20), as appropriate. The license for temporary export must be presented to the Port Director of U.S. Customs and Border Protection who, upon verification, will endorse the exit column on the reverse side of the license. In some instances of the temporary export of technical data (e.g. postal shipments), self-endorsement will be necessary (see § 123.22(b)). The endorsed license for temporary export is to be retained by the licensee. In the case of a military aircraft or vessel exported under its own power, the endorsed license must be carried on board such vessel or aircraft as evidence that it has been duly authorized by the Department of State to leave the United States temporarily.

(c) Any temporary export license for hardware that is used, regardless of whether the hardware was exported directly to the foreign destination or

returned directly from the foreign destination, must be endorsed by the U.S. Customs and Border Protection in accordance with the procedures in § 123.22 of this subchapter.

■ 14. Section 123.6 is revised to read as follows:

**§ 123.6 Foreign trade zones and U.S. Customs and Border Protection bonded warehouses.**

Foreign trade zones in the United States and U.S. Customs and Border Protection bonded warehouses are considered integral parts of the United States for the purpose of this subchapter. An export license is therefore not required for shipment between the United States and a foreign trade zone or a U.S. Customs and Border Protection bonded warehouse. In the case of classified defense articles, the provisions of the Department of Defense Industrial Security Manual will apply. An export license is required for all shipments of articles on the U.S. Munitions List from foreign trade zones and U.S. Customs and Border Protection bonded warehouses to foreign countries, regardless of how the articles reached the zone or warehouse.

■ 15. Section 123.13 is revised to read as follows:

**§ 123.13 Domestic aircraft shipments via a foreign country.**

A license is not required for the shipment by air of a defense article from one location in the United States to another location in the United States via a foreign country. The pilot of the aircraft must, however, file a written statement with the Port Director of U.S. Customs and Border Protection at the port of exit in the United States. The original statement must be filed at the time of exit with the Port Director of U.S. Customs and Border Protection. A duplicate must be filed at the port of reentry with the Port Director of U.S. Customs and Border Protection, who will duly endorse it and transmit it to the Port Director of U.S. Customs and Border Protection at the port of exit. The statement will be as follows:

**Domestic Shipment Via a Foreign Country of Articles on the U.S. Munitions List**

Under penalty according to Federal law, the undersigned certifies and warrants that all the information in this document is true and correct, and that the equipment listed below is being shipped from (U.S. port of exit) via (foreign country) to (U.S. port of entry), which is the final destination in the United States.

*Description of Equipment*

Quantity \_\_\_\_\_  
 Equipment \_\_\_\_\_

Value \_\_\_\_\_  
 Signed \_\_\_\_\_  
 Endorsement: U.S. Customs and Border Protection Inspector.  
 Port of Exit \_\_\_\_\_  
 Date \_\_\_\_\_  
 Signed \_\_\_\_\_  
 Endorsement: U.S. Customs and Border Protection Inspector.  
 Port of Entry \_\_\_\_\_  
 Date \_\_\_\_\_

■ 16. Section 123.16 is amended by revising paragraphs (a), (b)(1) introductory text, (b)(2) introductory text, (b)(3), (b)(4), (b)(5), (b)(9), and (b)(10) introductory text to read as follows:

**§ 123.16 Exemptions of general applicability.**

(a) The following exemptions apply to exports of unclassified defense articles for which no approval is needed from the Directorate of Defense Trade Controls. These exemptions do not apply to: Proscribed destinations under § 126.1 of this subchapter; exports for which Congressional notification is required (see § 123.15 of this subchapter); MTCR articles; Significant Military Equipment (SME); and may not be used by persons who are generally ineligible as described in § 120.1(c) of this subchapter. All shipments of defense articles, including those to and from Canada, require a Shipper's Export Declaration (SED) or notification letter. If the export of a defense article is exempt from licensing, the SED must cite the exemption. Refer to § 123.22 for Shipper's Export Declaration and letter notification requirements.

(b) \* \* \*  
 (1) Port Directors of U.S. Customs and Border Protection shall permit the export without a license of defense hardware being exported in furtherance of a manufacturing license agreement, technical assistance agreement, distribution agreement or an arrangement for distribution of items identified in Category XIII(b)(1), approved in accordance with part 124, provided that:

(2) Port Directors of U.S. Customs and Border Protection shall permit the export of components or spare parts (for exemptions for firearms and ammunition see § 123.17) without a license when the total value does not exceed \$500 in a single transaction and:

(3) Port Directors of U.S. Customs and Border Protection shall permit the export without a license, of packing cases specially designed to carry defense articles.

(4) Port Directors of U.S. Customs and Border Protection shall permit the export without a license, of unclassified models or mock-ups of defense articles, provided that such models or mock-ups are nonoperable and do not reveal any technical data in excess of that which is exempted from the licensing requirements of § 125.4(b) of this subchapter and do not contain components covered by the U.S. Munitions List (see § 121.8(b) of this subchapter). Some models or mockups built to scale or constructed of original materials can reveal technical data. U.S. persons who avail themselves of this exemption must provide a written certification to the Port Director of U.S. Customs and Border Protection that these conditions are met. This exemption does not imply that the Directorate of Defense Trade Controls will approve the export of any defense articles for which models or mock-ups have been exported pursuant to this exemption.

(5) Port Directors of U.S. Customs and Border Protection shall permit the temporary export without a license of unclassified defense articles to any public exhibition, trade show, air show or related event if that article has previously been licensed for a public exhibition, trade show, air show or related event and the license is still valid. U.S. persons who avail themselves of this exemption must provide a written certification to the Port Director of U.S. Customs and Border Protection that these conditions are met.

\* \* \* \* \*

(9) Port Directors of U.S. Customs and Border Protection shall permit the temporary export without a license by a U.S. person of any unclassified component, part, tool or test equipment to a subsidiary, affiliate or facility owned or controlled by the U.S. person (see § 122.2(c) of this subchapter) if the component, part, tool or test equipment is to be used for manufacture, assembly, testing, production, or modification provided:

(i) The U.S. person is registered with the Directorate of Defense Trade Controls and complies with all requirements set forth in part 122 of this subchapter;

(ii) No defense article exported under this exemption may be sold or transferred without the appropriate license or other approval from the Directorate of Defense Trade Controls.

(10) Port Directors of U.S. Customs and Border Protection shall permit, without a license, the permanent export, and temporary export and return to the

United States, by accredited U.S. institutions of higher learning of articles fabricated only for fundamental research purposes otherwise controlled by Category XV (a) or (e) in § 121.1 of this subchapter when all of the following conditions are met:

\* \* \* \* \*

■ 17. Section 123.17 is amended by revising paragraphs (a), (b), (c) introductory text, (d) and (e) to read as follows:

**§ 123.17 Exports of firearms and ammunition.**

(a) Except as provided in § 126.1 of this subchapter, Port Directors of U.S. Customs and Border Protection shall permit the export without a license of components and parts for Category I(a) firearms, except barrels, cylinders, receivers (frames) or complete breech mechanisms when the total value does not exceed \$100 wholesale in any transaction.

(b) Port Directors of U.S. Customs and Border Protection shall permit the export without a license of nonautomatic firearms covered by Category I(a) of § 121.1 of this subchapter if they were manufactured in or before 1898, or are replicas of such firearms.

(c) Port Directors of U.S. Customs and Border Protection shall permit U.S. persons to export temporarily from the United States without a license not more than three nonautomatic firearms in Category I(a) of § 121.1 of this subchapter and not more than 1,000 cartridges therefor, provided that:

\* \* \* \* \*

(d) Port Directors of U.S. Customs and Border Protection shall permit a foreign person to export without a license such firearms in Category I(a) of § 121.1 of this subchapter and ammunition therefor as the foreign person brought into the United States under the provisions of 27 CFR 178.115(d). (The latter provision specifically excludes from the definition of importation the bringing into the United States of firearms and ammunition by certain foreign persons for specified purposes).

(e) Port Directors of U.S. Customs and Border Protection shall permit U.S. persons to export without a license ammunition for nonautomatic firearms referred to in paragraph (a) of this section if the quantity does not exceed 1,000 cartridges (or rounds) in any shipment. The ammunition must also be for personal use and not for resale or other transfer of ownership. The foregoing exemption is also not applicable to the personnel referred to in § 123.18.

■ 18. Section 123.18 is amended by revising paragraphs (a) introductory text, (a)(3), and (b) to read as follows:

**§ 123.18 Firearms for personal use of members of the U.S. Armed Forces and civilian employees of the U.S. Government.**

\* \* \* \* \*

(a) Firearms. Port Directors of U.S. Customs and Border Protection shall permit nonautomatic firearms in Category I(a) of § 121.1 of this subchapter and parts therefor to be exported, except by mail, from the United States without a license if:

\* \* \* \* \*

(3) In the case of other U.S. Government employees, they are for personal use and not for resale or other transfer of ownership, and the Chief of the U.S. Diplomatic Mission or his designee in the country of destination has approved in writing to Department of State the import of the specific types and quantities of firearms into that country. The exporter shall provide a copy of this written statement to the Port Director of U.S. Customs and Border Protection.

(b) Ammunition. Port Directors of U.S. Customs and Border Protection shall permit not more than 1,000 cartridges (or rounds) of ammunition for the firearms referred to in paragraph (a) of this section to be exported (but not mailed) from the United States without a license when the firearms are on the person of the owner or with his baggage or effects, whether accompanied or unaccompanied (but not mailed).

■ 19. Section 123.22 is amended by revising paragraphs (a), (b)(1) introductory text, (b)(2) introductory text, (b)(3)(iii) and (c) to read as follows:

**§ 123.22 Filing, retention, and return of export licenses and filing of export information.**

(a) Any export, as defined in this subchapter, of a defense article controlled by this subchapter, to include defense articles transiting the United States, requires the electronic reporting of export information. The reporting of the export information shall be to the U.S. Customs and Border Protection using the Automated Export System (AES) or directly to the Directorate of Defense Trade Controls (DDTC). Any license or other approval authorizing the permanent export of hardware must be filed at a U.S. Port before any export. Licenses or other approvals for the permanent export of technical data and defense services shall be retained by the applicant who will send the export information directly to DDTC. Temporary export or temporary import licenses for such items need not be filed

with the U.S. Customs and Border Protection, but must be presented to the U.S. Customs and Border Protection for decrementing of the shipment prior to departure and at the time of entry. The U.S. Customs and Border Protection will only decrement a shipment after the export information has been filed correctly using the AES. Before the export of any hardware using an exemption in this subchapter, the DDTC registered applicant/exporter, or an agent acting on the filer's behalf, must electronically provide export information using the AES (see paragraph (b) of this section). In addition to electronically providing the export information to the U.S. Customs and Border Protection before export, all the mandatory documentation must be presented to the port authorities (e.g., attachments, certifications, proof of AES filing; such as the External Transaction Number (XTN) or Internal Transaction Number (ITN)). Export authorizations shall be filed, retained, decremented or returned to DDTC as follows:

(1) *Filing of licenses and documentation for the permanent export of hardware.* For any permanent export of hardware using a license (e.g., DSP-5, DSP-94) or an exemption in this subchapter, the exporter must, prior to an AES filing, deposit the license and provide any required documentation for the license or the exemption with the U.S. Customs and Border Protection, unless otherwise directed in this subchapter (e.g., § 125.9). If necessary, an export may be made through a port other than the one designated on the license if the exporter complies with the procedures established by the U.S. Customs and Border Protection.

(2) *Presentation and retention by the applicant of temporary licenses and related documentation for the export of unclassified defense articles.* Licenses for the temporary export or temporary import of unclassified defense articles need not be filed with the U.S. Customs and Border Protection, but must be retained by the applicant and presented to the U.S. Customs and Border Protection at the time of temporary import and temporary export. When a defense article is temporarily exported from the United States and moved from one destination authorized on a license to another destination authorized on the same or another temporary license, the applicant, or an agent acting on the applicant's behalf, must ensure that the U.S. Customs and Border Protection decrements both temporary licenses to show the exit and entry of the hardware.

(b) *Filing and reporting of export information—(1) Filing of export information with the U.S. Customs and*

**Border Protection.** Before exporting any hardware controlled by this subchapter, using a license or exemption, the DDTC registered applicant/exporter, or an agent acting on the filer's behalf, must electronically file the export information with the U.S. Customs and Border Protection using the Automated Export System (AES) in accordance with the following timelines:

\* \* \* \* \*

(2) *Emergency shipments of hardware that cannot meet the pre-departure filing requirements.* U.S. Customs and Border Protection may permit an emergency export of hardware by truck (e.g., departures to Mexico or Canada) or air, by a U.S. registered person, when the exporter is unable to comply with the SED filing timeline in paragraph (b)(1)(i) of this section. The applicant, or an agent acting on the applicant's behalf, in addition to providing the export information electronically using the AES, must provide documentation required by the U.S. Customs and Border Protection and this subchapter. The documentation provided to the U.S. Customs and Border Protection at the port of exit must include the External Transaction Number (XTN) or Internal Transaction Number (ITN) for the shipment and a copy of a notification to DDTC stating that the shipment is urgent and why. The original of the notification must be immediately provided to DDTC. The AES filing of the export information when the export is by air must be at least two hours prior to any departure from the United States; and, when a truck shipment, at the time when the exporter provides the articles to the carrier or at least one hour prior to departure from the United States, when the permanent export of the hardware has been authorized for export:

\* \* \* \* \*

(3) \* \* \*

(iii) Technical data and defense service exemptions. In any instance when technical data is exported using an exemption in this subchapter (e.g., §§ 125.4(b)(2), 125.4(b)(4), 126.5) from a U.S. port, the exporter is not required to report using AES, but must, effective January 18, 2004, provide the export data electronically to DDTC. A copy of the electronic notification to DDTC must accompany the technical data shipment and be made available to the U.S. Customs and Border Protection upon request.

**Note to paragraph (b)(3)(iii):** Future changes to the electronic reporting procedure will be amended by publication of a rule in the **Federal Register**. Exporters are reminded to continue maintaining records of all export

transactions, including exemption shipments, in accordance with this subchapter.

(c) Return of licenses. All licenses issued by the Directorate of Defense Trade Controls (DDTC) must be returned to the DDTC in accordance with the following:

(1) License filed with the U.S. Customs and Border Protection. The U.S. Customs and Border Protection must return to the DDTC any license when the total value or quantity authorized has been shipped or when the date of expiration is reached, whichever occurs first.

(2) Licenses not filed with the U.S. Customs and Border Protection. Any license that is not filed with the U.S. Customs and Border Protection (e.g., oral or visual technical data releases or temporary import and export licenses retained in accordance with paragraph (a)(2) of this section), must be returned by the applicant to the DDTC no later than 60 days after the license has been expended (e.g., total value or quantity authorized has been shipped) or the date of expiration, whichever occurs first.

■ 20. Section 123.23 is revised to read as follows:

**§ 123.23 Monetary value of shipments.**

Port Directors of U.S. Customs and Border Protection shall permit the shipment of defense articles identified on any license when the total value of the export does not exceed the aggregate monetary value (not quantity) stated on the license by more than ten percent, provided that the additional monetary value does not make the total value of the license or other approval for the export of any major defense equipment sold under a contract reach \$14,000,000 or more, and provided that the additional monetary value does not make defense articles or defense services sold under a contract reach the amount of \$50,000,000 or more.

■ 21. Section 123.24 is amended by revising paragraph (a) to read as follows:

**§ 123.24 Shipments by U.S. Postal Service.**

(a) The export of any defense hardware using a license or exemption in this subchapter by the U.S. Postal Service must be filed with the U.S. Customs and Border Protection using the Automated Export System (AES) and the license must be filed with the U.S. Customs and Border Protection before any hardware is actually sent abroad by mail. The exporter must certify the defense hardware being exported in accordance with this subchapter by clearly marking on the

package "This export is subject to the controls of the ITAR, 22 CFR (identify section for an exemption) or (state license number) and the export has been electronically filed with the U.S. Customs and Border Protection using the Automated Export System (AES)."

\* \* \* \* \*

■ 22. Section 123.27 is amended by revising paragraph (a)(1) to read as follows:

**§ 123.27 Special licensing regime for export to U.S. allies of commercial communications satellite components, systems, parts, accessories, attachments and associated technical data.**

(a) \* \* \*

(1) The proposed exports or re-exports concern exclusively one or more countries of the North Atlantic Treaty Organization (see § 120.31 of this subchapter) and/or one or more countries which have been designated in accordance with section 517 of the Foreign Assistance Act of 1961 and with section 1206 of the Foreign Relations Authorization Act, Fiscal Year 2003 as a major non-NATO ally (see § 120.32 of this subchapter).

\* \* \* \* \*

**PART 124—AGREEMENTS, OFFSHORE PROCUREMENT AND OTHER DEFENSE SERVICES**

■ 23. The authority citation for part 124 continues to read as follows:

**Authority:** Secs. 2, 38, and 71, Public Law 90-629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2797); E.O. 11958, 42 FR 4311; 3 CFR, 1977 Comp., p. 79; 22 U.S.C. 2651a; 22 U.S.C. 2776; Public Law 105-261.

■ 24. Section 124.3 is amended by revising paragraphs (a) and (b) introductory text to read as follows:

**§ 124.3 Exports of technical data in furtherance of an agreement.**

(a) *Unclassified technical data.* The U.S. Customs and Border Protection or U.S. Postal authorities shall permit the export without a license of unclassified technical data if the export is in furtherance of a manufacturing license or technical assistance agreement which has been approved in writing by the Directorate of Defense Trade Controls (DDTC) and the technical data does not exceed the scope or limitations of the relevant agreement. The approval of the DDTC must be obtained for the export of any unclassified technical data that may exceed the terms of the agreement.

(b) *Classified technical data.* The export of classified information in furtherance of an approved manufacturing license or technical assistance agreement which provides for

the transmittal of classified information does not require further approval from the Directorate of Defense Trade Controls when:

\* \* \* \* \*

**PART 126—GENERAL POLICIES AND PROVISIONS**

■ 25. The authority citation for part 126 continues to read as follows:

**Authority:** Secs. 2, 38, 40, 42, and 71, Public Law 90-629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2780, 2791, and 2797); E.O. 11958, 42 FR 4311; 3 CFR, 1977 Comp., p. 79; 22 U.S.C. 2651a; 22 U.S.C. 287c; E.O. 12918, 59 FR 28205, 3 CFR, 1994 Comp., p. 899; Sec. 1225, Public Law 108-375.

■ 26. Section 126.4 is amended by revising paragraphs (a) and (d) to read as follows:

**§ 126.4 Shipments by or for United States Government agencies.**

(a) A license is not required for the temporary import, or temporary export, of any defense article, including technical data or the performance of a defense service, by or for any agency of the U.S. Government for official use by such an agency, or for carrying out any foreign assistance, cooperative project or sales program authorized by law and subject to control by the President by other means. This exemption applies only when all aspects of a transaction (export, carriage, and delivery abroad) are affected by a United States Government agency or when the export is covered by a United States Government Bill of Lading. This exemption, however, does not apply when a U.S. Government agency acts as a transmittal agent on behalf of a private individual or firm, either as a convenience or in satisfaction of security requirements. The approval of the Directorate of Defense Trade Controls must be obtained before defense articles previously exported pursuant to this exemption are permanently transferred (e.g., property disposal of surplus defense articles overseas) unless the transfer is pursuant to a grant, sale, lease, loan or cooperative project under the Arms Export Control Act or a sale, lease or loan under the Foreign Assistance Act of 1961, as amended, or the defense articles have been rendered useless for military purposes beyond the possibility of restoration.

**Note:** Special definition. For purposes of this section, defense articles exported abroad for incorporation into a foreign launch vehicle or for use on a foreign launch vehicle or satellite that is to be launched from a

foreign country shall be considered a permanent export.

\* \* \* \* \*

(d) A Shipper's Export Declaration (SED), required under § 123.22 of this subchapter, and a written statement by the exporter certifying that these requirements have been met must be presented at the time of export to the appropriate Port Director of U.S. Customs and Border Protection or Department of Defense transmittal authority. A copy of the SED and the written certification statement shall be provided to the Directorate of Defense Trade Controls immediately following the export.

■ 27. Section 126.5 is amended by revising paragraphs (a), (b) introductory text, (c)(5) and (d) introductory text to read as follows:

**§ 126.5 Canadian exemptions.**

(a) *Temporary import of defense articles.* Port Director of U.S. Customs and Border Protection and postmasters shall permit the temporary import and return to Canada without a license of any unclassified defense articles (see § 120.6 of this subchapter) that originate in Canada for temporary use in the United States and return to Canada. All other temporary imports shall be in accordance with §§ 123.3 and 123.4 of this subchapter.

(b) *Permanent and temporary export of defense articles.* Except as provided below, the Port Director of U.S. Customs and Border Protection and postmasters shall permit, when for end-use in Canada by Canadian Federal or Provincial governmental authorities acting in an official capacity or by a Canadian-registered person or return to the United States, the permanent and temporary export to Canada without a license of defense articles and related technical data identified in 22 CFR 121.1. The above exemption is subject to the following limitations: Defense articles and related technical data, and defense services identified in paragraphs (b)(1) through (b)(21) of this section and exports that transit third countries. Such limitations also are subject to meeting the requirements of this subchapter, (to include 22 CFR 120.1(c) and (d), parts 122 and 123 (except insofar as exemption from licensing requirements is herein authorized) and § 126.1, and the requirement to obtain non-transfer and use assurances for all significant military equipment. For purposes of this section, "Canadian-registered person" is any Canadian national (including Canadian business entities organized under the laws of Canada), dual citizen

of Canada and a third country (subject to § 126.1), and permanent resident registered in Canada in accordance with the Canadian Defense Production Act, and such other Canadian Crown Corporations identified by the Department of State in a list of such persons publicly available through the Internet Web site of the Directorate of Defense Trade Controls and by other means. The defense articles, related technical data, and defense services identified in 22 CFR 121.1 continuing to require a license are:

\* \* \* \* \*

(c) \* \* \*

(5) The U.S. exporter must provide the Directorate of Defense Trade Controls a semi-annual report of all their on-going activities authorized under this section. The report shall include the article(s) being produced; the end user(s) (i.e., name of U.S. or Canadian company); the end item into which the product is to be incorporated; the intended end use of the product (e.g., United States or Canadian Defense contract number and identification of program); the name and address of all the Canadian contractors and subcontractors; and

\* \* \* \* \*

(d) *Reexports/retransfer.* Reexport/retransfer in Canada to another end user or end use or from Canada to another destination, except the United States, must in all instances have the prior approval of the Directorate of Defense Trade Controls. Unless otherwise exempt in this subchapter, the original exporter is responsible, upon request from a Canadian-registered person, for obtaining or providing reexport/retransfer approval. In any instance when the U.S. exporter is no longer available to the Canadian end user the request for reexport/retransfer may be made directly to Department of State, Directorate of Defense Trade Controls. All requests must include the information in § 123.9(c) of this subchapter. Reexport/retransfer approval is acquired by:

\* \* \* \* \*

■ 28. Section 126.6 is amended by revising paragraphs (a) introductory text, (c) introductory text, (c)(6)(i), (c)(6)(ii), (c)(7)(ii) and (c)(7)(iv) to read as follows:

**§ 126.6 Foreign-owned military aircraft and naval vessels, and the Foreign Military Sales program.**

(a) A license from the Directorate of Defense Trade Controls is not required if:

\* \* \* \* \*

(c) Foreign Military Sales Program. A license from the Directorate of Defense Trade Controls is not required if the defense article or technical data or a defense service to be transferred was sold, leased or loaned by the Department of Defense to a foreign country or international organization under the Foreign Military Sales (FMS) Program of the Arms Export Control Act pursuant to an Letter of Offer and Acceptance (LOA) authorizing such transfer which meets the criteria stated below:

\* \* \* \* \*

(6) \* \* \*

(i) The transfer is made by the relevant foreign diplomatic mission of the purchasing country or its authorized freight forwarder, provided that the freight forwarder is registered with the Directorate of Defense Trade Controls pursuant to part 122 of this subchapter, and

(ii) At the time of shipment, the Port Director of U.S. Customs and Border Protection is provided an original and properly executed DSP-94 accompanied by a copy of the LOA and any other documents required by U.S. Customs and Border Protection in carrying out its responsibilities. The Shippers Export Declaration or, if authorized, the outbound manifest, must be annotated "This shipment is being exported under the authority of Department of State Form DSP-94. It covers FMS Case [insert case identification], expiration [insert date]. 22 CFR 126.6 applicable. The U.S. Government point of contact is \_\_\_\_\_, telephone number \_\_\_\_\_," and

\* \* \* \* \*

(7) \* \* \*

(ii) The U.S. person(s) identified in the contract maintain a registration with the Directorate of Defense Trade Controls for the entire time that the defense service is being provided. In any instance when the U.S. registered person(s) identified in the contract employs a subcontractor, the subcontractor may only use this exemption when registered with DDTC, and when such subcontract meets the above stated requirements, and

\* \* \* \* \*

(iv) The U.S. person responsible for the transfer reports the initial transfer, citing this section of the ITAR, the FMS case identifier, contract and subcontract number, the foreign country, and the duration of the service being provided to the Directorate of Defense Trade Controls using DDTC's Direct Shipment Verification Program.

■ 29. Section 126.10 is amended by revising paragraph (b) to read as follows:

**§ 126.10 Disclosure of information.**

\* \* \* \* \*

(b) *Determinations required by law.* Section 38(e) of the Arms Export Control Act (22 U.S.C. 2778) provides by reference to certain procedures of the Export Administration Act that certain information required by the Department of State in connection with the licensing process may generally not be disclosed to the public unless certain determinations relating to the national interest are made in accordance with the procedures specified in that provision, except that the names of the countries and types and quantities of defense articles for which licenses are issued under this section shall not be withheld from public disclosure unless the President determines that release of such information would be contrary to the national interest. Registration with the Directorate of Defense Trade Controls is required of certain persons, in accordance with Section 38 of the Arms Export Control Act. The requirements and guidance are provided in the ITAR pursuant to parts 122 and 129. Registration is generally a precondition to the issuance of any license or other approvals under this subchapter, to include the use of any exemption. Therefore, information provided to the Department of State to effect registration, as well as that regarding actions taken by the Department of State related to registration, may not generally be disclosed to the public. Determinations required by Section 38(e) shall be made by the Assistant Secretary for Political-Military Affairs.

\* \* \* \* \*

■ 30. Section 126.13 is amended by revising paragraphs (a) introductory text and (b) to read as follows:

**§ 126.13 Required information.**

(a) All applications for licenses (DSP-5, DSP-61, DSP-73, and DSP-85), all requests for approval of agreements and amendments thereto under part 124 of this subchapter, all requests for other written authorizations, and all 30-day prior notifications of sales of significant military equipment under § 126.8(c) must include a letter signed by a responsible official empowered by the applicant and addressed to the Directorate of Defense Trade Controls, stating whether:

\* \* \* \* \*

(b) In addition, all applications for licenses must include, on the application or an addendum sheet, the complete names and addresses of all U.S. consignors and freight forwarders, and all foreign consignees and foreign

intermediate consignees involved in the transaction. If there are multiple consignors, consignees or freight forwarders, and all the required information cannot be included on the application form, an addendum sheet and seven copies containing this information must be provided. The addendum sheet must be marked at the top as follows: "Attachment to Department of State License Form (insert DSP-5, 61, 73, or 85, as appropriate) for Export of (insert commodity) valued at (insert U.S. dollar amount) to (insert country of ultimate destination)." The Directorate of Defense Trade Controls will impress one copy of the addendum sheet with the Department of State seal and return it to the applicant with each license. The sealed addendum sheet must remain attached to the license as an integral part thereof. Port Directors of U.S. Customs and Border Protection and Department of Defense transmittal authorities will permit only those U.S. consignors or freight forwarders listed on the license or sealed addendum sheet to make shipments under the license, and only to those foreign consignees named on the documents. Applicants should list all freight forwarders who may be involved with shipments under the license to ensure that the list is complete and to avoid the need for amendments to the list after the license has been approved. If there are unusual or extraordinary circumstances that preclude the specific identification of all the U.S. consignors and freight forwarders and all foreign consignees, the applicant must provide a letter of explanation with each application.

\* \* \* \* \*

**PART 127—VIOLATIONS AND PENALTIES**

■ 31–32. The authority citation for part 127 is revised to read as follows:

**Authority:** Secs. 2, 38, and 42, Public Law 90-629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2791); E.O. 11958, 42 FR 4311; 3 CFR, 1977 Comp., p. 79; 22 U.S.C. 401; 22 U.S.C. 2651a; 22 U.S.C. 2779a; 22 U.S.C. 2780.

■ 33. Section 127.4 is revised to read as follows:

**§ 127.4 Authority of U.S. Immigration and Customs Enforcement and U.S. Customs and Border Protection officers.**

(a) U.S. Immigration and Customs Enforcement and U.S. Customs and Border Protection officers may take appropriate action to ensure observance of this subchapter as to the export or the attempted export of any defense article or technical data, including the inspection of loading or unloading of



any vessel, vehicle, or aircraft. This applies whether the export is authorized by license or by written approval issued under this subchapter.

(b) U.S. Immigration and Customs Enforcement and U.S. Customs and Border Protection officers have the authority to investigate, detain or seize any export or attempted export of defense articles or technical data contrary to this subchapter.

(c) Upon the presentation to a U.S. Customs and Border Protection Officer of a license or written approval authorizing the export of any defense article, the customs officer may require the production of other relevant documents and information relating to the proposed export. This includes an invoice, order, packing list, shipping document, correspondence, instructions, and the documents otherwise required by the U.S. Customs and Border Protection or U.S. Immigration and Customs Enforcement.

Dated: July 25, 2005.

**Robert G. Joseph,**

*Under Secretary, Arms Control and International Security, Department of State.*  
[FR Doc. 05-17121 Filed 8-26-05; 8:45 am]

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## DEPARTMENT OF STATE

### 22 CFR Part 126

[Public Notice: 5177]

RIN: 1400-ZA18

#### Amendment to the International Traffic in Arms Regulations: Section 126.1(i)

**AGENCY:** Department of State.

**ACTION:** Final rule.

**SUMMARY:** This rule amends the International Traffic in Arms Regulations (ITAR) by modifying the denial policy regarding the Democratic Republic of the Congo (DRC) at 22 CFR 126.1. This action is taken in accordance with UN Security Council Resolution (UNSCR) 1596, unanimously adopted on April 18, 2005, which imposed a nation-wide embargo on arms sales or transfers to any recipient in the DRC. It represents an expansion of the policy issued under UNSCR 1493, which on July 28, 2003, imposed an embargo on the sale of arms, related materials, and defense services in the provinces of North and South Kivu and the Ituri District in the DRC.

**DATES:** *Effective Date:* This rule is effective on August 29, 2005.

**ADDRESSES:** Interested parties are invited to submit written comments to the Department of State, Directorate of

Defense Trade Controls, Office of Defense Trade Controls Policy, ATTN: Regulatory Change, Part 126, 12th Floor, SA-1, Washington, DC 20522-0112. E-mail comments may be sent to [DDTCResponseTeam@state.gov](mailto:DDTCResponseTeam@state.gov) with the subject line: Part 126. Persons with access to the Internet may also view this notice by going to the regulations.gov Web site at: <http://www.regulations.gov>. Comments will be accepted at any time.

**FOR FURTHER INFORMATION CONTACT:**

James Juraska, Office of Defense Trade Controls Policy, Bureau of Political-Military Affairs, Department of State 202-663-2860.

**SUPPLEMENTARY INFORMATION:** On April 18, 2005, the United Nations Security Council voted unanimously on UN Security Council Resolution (UNSCR) 1596 to expand the embargo of UNSCR 1493 (2003) on the export of arms and related material, as well as defense services, to the Democratic Republic of the Congo (DRC). Additionally, Resolution 1596 imposed a travel ban and an asset freeze on those who violate the expanded arms embargo, and mandated governments in the region to implement measures to monitor aircraft. This final rule amends Section 126.1(i) of the ITAR, 22 CFR 126.1(i), which details the export and sales policy of the United States with respect to the Democratic Republic of the Congo, to reflect the United Nations Security Council's expanded mandate. This amendment to Section 126.1(i) becomes effective upon publication in the **Federal Register**. Please note that, as of April 18, 2005 (prior to the effective date of this final rule), the substance of the measures set forth in UNSCR 1596 entered into effect in accordance with another provision of the ITAR, (Section 126.1(c)), 22 CFR 126.1(c).

It is the policy of the U.S. Government to deny all applications for licenses and other approvals and to suspend all existing licenses and authorizations to export or otherwise transfer defense articles and defense services to any geographic region in the Democratic Republic of the Congo (DRC) except under the circumstances specified below.

UNSCR 1596 established several exemptions under which the embargo would not apply, namely:

(a) Supplies of arms and related materials or technical training and assistance intended solely for the support of or use by units of the army or police of the DRC that operate under the command of the *etat-major integre*, have completed the process of integration (if operating in the provinces of North or South Kivu or the Ituri

district), or are in the process of integration (if operating elsewhere in the DRC),

(b) Supplies of arms and related materials or technical training and assistance intended solely for the support of or use by the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC), and

(c) Supplies of non-lethal military equipment and related technical assistance and training intended solely for humanitarian or protective use, as notified in advance to the DRC Committee in accordance with paragraph 8 (e) of Resolution 1533 (2004).

All future shipments of arms and related materials consistent with such exemptions noted in subparagraph (a) above shall only be made to receiving sites as designated by the Government of National Unity and Transition, in coordination with the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC), and notified in advance to the DRC Committee.

As previously noted on the Directorate of Defense Trade Controls Web site, <http://www.pmdtc.org>, effective April 18, 2005, no application for the export to the DRC of defense articles or services covered by the ITAR will be approved. Exceptions to this policy will be made (in accordance with the ITAR) on a case-by-case basis for proposed exports that conform to the conditions specified in (a) through (c) above. Any existing license for authorization for the export to any geographic region of the DRC of ITAR-controlled defense articles or services is suspended as of April 18, 2005. Holders of existing licenses and authorizations for such exports to the DRC who wish to request lifting of the suspension must submit documentation in support of an exception for review by the Directorate of Defense Trade Controls (DDTC).

#### Regulatory Analysis and Notices

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 Fairness Act of 1996. It will not have substantial direct effects on the States, the relationship