(1) *Build-to-Print.* ''Build-to-Print'' means that a foreign consignee can produce a defense article from engineering drawings without any technical assistance from a U.S. exporter. This transaction is based strictly on a ''hands-off'' approach since the foreign consignee is understood to have the inherent capability to produce the defense article and only lacks the necessary drawings. Supporting documentation such as acceptance criteria, and specifications, may be released on an as-required basis (*i.e.* ''must have'') such that the foreign consignee would not be able to produce an acceptable defense article without this additional supporting documentation. Documentation which is not absolutely necessary to permit manufacture of an acceptable defense article (*i.e.* ''nice to have'') is not considered within the boundaries of a ''Build-to-Print'' data package;

(2) *Build/Design-to-Specification.* ''Build/Design-to-Specification'' means that a foreign consignee can design and produce a defense article from requirement specifications without any technical assistance from the U.S. exporter. This transaction is based strictly on a ''hands-off'' approach since the foreign consignee is understood to have the inherent capability to both design and produce the defense article and only lacks the necessary requirement information;

(3) *Basic Research.* ''Basic Research'' means a systemic study directed toward greater knowledge or understanding of the fundamental aspects of phenomena and observable facts without specific applications towards processes or products in mind. It does not include ''Applied Research'' (*i.e.* a systemic study to gain knowledge or understanding necessary to determine the means by which a recognized and specific need may be met. It is a systematic application of knowledge toward the production of useful materials, devices, and systems or methods, including design, development, and improvement of prototypes and new processes to meet specific requirements.);

(4) *Design Methodology*, such as: The underlying engineering methods and design philosophy utilized (*i.e.*, the ''why'' or information that explains the rationale for particular design decision, engineering feature, or performance requirement); engineering experience (*e.g.* lessons learned); and the rationale and associated databases (*e.g.* design allowables, factors of safety, component life predictions, failure analysis criteria) that establish the operational requirements (*e.g.*, performance, mechanical, electrical, electronic, reliability and maintainability) of a defense article. (Final analytical results and the initial conditions and parameters may be provided.)

(5) *Engineering Analysis*, such as: Analytical methods and tools used to design or evaluate a defense article's performance against the operational requirements. Analytical methods and tools include the development and/or use of mockups, computer models and simulations, and test facilities. (Final analytical results and the initial conditions and parameters may be provided.)

(6) *Manufacturing Know-how*, such as: information that provides detailed manufacturing processes and techniques needed to translate a detailed design into a qualified, finished defense article. (Information may be provided in a build-to-print package that is necessary in order to produce an acceptable defense article.)

[58 FR 39310, July 22, 1993, as amended at 65 FR 45284, July 21, 2000]

§ 125.5 Exemptions for plant visits.

(a) A license is not required for the oral and visual disclosure of unclassified technical data during the course of a classified plant visit by a foreign person, provided (1) the classified visit has itself been authorized pursuant to a license issued by the Office of Defense Trade Controls; or (2) the classified visit was approved in connection with an actual or potential government-to-government program or project by a U.S. Government agency having classification jurisdiction over the classified defense article or classified technical data involved under Executive Order 12356 or other applicable Executive Order; and (3) the unclassified information to be released is directly related to the classified defense article or technical data for which approval was obtained and does not disclose the details of the design, development, production

or manufacture of any other defense articles. In the case of visits involving classified information, the requirements of the Defense Industrial Security Manual (Department of Defense Manual 5220.22M) must be met.

(b) The approval of the Office of Defense Trade Controls is not required for the disclosure of oral and visual classified information to a foreign person during the course of a plant visit approved by the appropriate U.S. Government agency if (1) the requirements of the Defense Industrial Security Manual have been met, (2) the classified information is directly related to that which was approved by the U.S. Government agency, (3) it does not exceed that for which approval was obtained, and (4) it does not disclose the details of the design, development, production or manufacture of any defense articles.

(c) A license is not required for the disclosure to a foreign person of unclassified technical data during the course of a plant visit (either classified or unclassified) approved by the Office of Defense Trade Controls or a cognizant U.S. Government agency provided the technical data does not contain information in excess of that approved for disclosure. This exemption does not apply to technical data which could be used for design, development, production or manufacture of a defense article.

§ 125.6 Certification requirements for exemptions.

(a) To claim an exemption for the export of technical data under the provisions of §§125.4 and 125.5, an exporter must certify that the proposed export is covered by a relevant paragraph of that section. For §125.4, certification consists of marking the package or letter containing the technical data: ''22 CFR 125.4 (identify subsection) applicable.'' This certification must be made in written form and retained in the exporter's files for a period of five years. A Shippers Export Declaration is not required for exports of unclassified technical data (see §123.22 (d) of this subchapter.

(b) If a District Director of Customs or Postmaster is unavailable at the time of export, or if the export is via oral, visual, or electronic means, the exporter must also complete a written certification as indicated in paragraph (a) of this section.

§ 125.7 Procedures for the export of classified technical data and other classified defense articles.

(a) All applications for the export or temporary import of classified technical data or other classified defense articles must be submitted to the Office of Defense Trade Controls on Form DSP–85.

(b) An application for the export of classified technical data or other classified defense articles must be accompanied by seven copies of the data and a completed Form DSP–83 (see §123.10 of this subchapter). Only one copy of the data or descriptive literature must be provided if a renewal of the license is requested. All classified materials accompanying an application must be transmitted to the Office of Defense Trade Controls in accordance with the requirements of the Defense Industrial Security Manual (Department of Defense Manual Number 5220.22–M).

§ 125.8 Filing of licenses for exports of unclassified technical data.

(a) Licenses for the export of unclassified technical data must be presented to the appropriate District Director of Customs or Postmaster at the time of shipment or mailing. The District Director of Customs or Postmaster will endorse and transmit the licenses to the Office of Defense Trade Controls in accordance with the instructions contained on the reverse side of the license.

(b) If a license for the export of unclassified technical data is used but not endorsed by U.S. Customs or a Postmaster for whatever reason (e.g., electronic transmission, unavailability of Customs officer or Postmaster, etc.), the person exporting the data must self-endorse the license, showing when and how the export took place. Every license must be returned to the Office of Defense Trade Controls when the total value authorized has been shipped or when the date of expiration has been reached, whichever occurs first.