

## 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:**

Robert W. Maggi, Deputy Assistant Secretary and Managing Director of Defense Trade Controls, Bureau of Political-Military Affairs, Department of State(202) 663-2700 or Michael T. Dixon, Office of Defense Export Controls Management (202) 663-2798; FAX (202) 261-8199.

**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;

(C) The Office of Defense Trade Controls Compliance and the Director, Office of Defense Trade Controls Compliance, respectively, insofar as such references relate to violations of law or regulation and compliance therewith, including references contained in parts 127, 128 and 130, of this subchapter, and including references under part 122 of this subchapter, and that portion under part 129 of this subchapter pertaining to registration;

(D) The Office of Defense Trade Controls Policy and the Director, Office of Defense Trade Controls Policy, respectively, insofar as such references relate to the general policies of defense trade, including references under this part 120 and part 126 of this subchapter.

(ii) Future amendments to the ITAR will be promulgated to reflect future realignment of responsibilities for defense trade controls.

\* \* \* \* \*

Dated: January 29, 2003.

**John R. Bolton,**

*Under Secretary, Arms Control and International Security, Department of State.*

[FR Doc. 03-2926 Filed 2-13-03; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### 23 CFR Part 450

[FHWA Docket No. FHWA-99-5933]

FHWA RIN 2125-AE95; FTA RIN 2132-AA75

#### Statewide Transportation Planning; Metropolitan Transportation Planning

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Correction to final rule.

**SUMMARY:** This document corrects the final rule on Statewide Transportation Planning; Metropolitan Transportation Planning published in the **Federal Register** on January 23, 2003 (68 FR 3176). The FHWA is correcting the definition of non-metropolitan local official by removing the word "or" and replacing it with the word "and" as stated in the preamble.

**EFFECTIVE DATE:** March 17, 2003.

**FOR FURTHER INFORMATION CONTACT:** For the FHWA: Ms. Jill Hochman, Office of Interstate and Border Planning (HEPI), (202) 366-0233, or Mr. Reid Alsop, Office of the Chief Counsel (HCC-31), (202) 366-1371. For the FTA: Mr. Paul Verchinski, Statewide Planning Division (TPL-11), (202) 366-1626, or Mr. Scott

Biehl, Office of the Chief Counsel (TCC-30), (202) 366-0952. Both agencies are located at 400 Seventh Street, SW., Washington, DC 20590-0001. Office hours for the FHWA are from 7:45 a.m. to 4:15 p.m., e.t., and for the FTA are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays.

#### SUPPLEMENTARY INFORMATION:

##### Electronic Access

Internet users can access all comments received by the U.S. DOT Dockets, Room PL-401, by using the universal resource locator (URL): <http://dms.dot.gov>. It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

An electronic copy of this document may be downloaded using a computer, modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512-1661. Internet users may also reach the Office of the Federal Register's home page at: <http://www.archives.gov> and the Government Printing Office's Web page at: <http://www.access.gpo.gov/nara>.

##### Background

The FHWA in consultation with the Federal Transit Administration, published a final rule on Statewide and Metropolitan Planning on January 24, 2003, at 68 FR 3176. After reviewing the final published document, the agencies realized that there was a mistake in the definition of the non-metropolitan local official. The definition indicated that a non-metropolitan local official, "means the elected or appointed officials of general purpose \* \* \*"; however, the word "or" that follows the word "elected" and precedes the word "appointed" should be an "and". In the section-by-section analysis section of the preamble, the agencies explain that the definition should read "elected and appointed officials of general purpose \* \* \*".

The language for the definition of non-metropolitan local official was jointly proposed by the National Association of Counties (NACO) representing the local governments, the National Association of Development Organizations (NADO) representing local officials and the American Association of State and Highway Transportation Officials (AASHTO) representing the State DOTs. The agencies reviewed this proposed definition and believed it had merit because it came from the organizations whose members are most impacted by the final rule. Therefore, this correction merely changes the "or" to an "and" to

accurately reflect the definition we intended to appear in the final rule.

#### Rulemaking Analyses and Notices

*Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures*

The FHWA and the FTA have determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 and the U.S. Department of Transportation regulatory policies and procedures. This action merely corrects a definition used in the final rule to remove the word "or" and replace it with the word "and" as stated in the preamble to the final rule. This correction is not a substantive change to the rule, but rather, is a ministerial change necessary to accurately reflect the intent of the agencies.

#### *Regulatory Flexibility Act*

In compliance with the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601-612), the FHWA and the FTA have evaluated the effects of this final rule on small entities and has determined it will not have a significant economic impact on a substantial number of small entities.

#### *Unfunded Mandates Reform Act of 1995*

This rule does not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub L. 104-4, March 22, 1995, 109 Stat. 48). This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million in any one year.

#### *Executive Order 13132 (Federalism)*

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, and the agencies have determined that this action does not have sufficient federalism implications to warrant the preparation of a Federalism assessment. The FHWA and the FTA have also determined that this action does not preempt any State law or State regulation or affect the States' ability to discharge traditional State governmental functions.

#### *Executive Order 12372 (Intergovernmental Review)*

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction; 20.500 Federal Transit Capital Improvement Grants; 20.505, Federal Transit Metropolitan Planning Grants; 20.507, Federal Transit Formula Grants; 20515, State Planning and Research.