

persons. A broker is a "regulated person" under 21 CFR 1300.02(b)(27) and an international transaction involving the shipment of a listed chemical is considered a regulated transaction under 21 CFR 1300.02(b)(28). Therefore, brokers of international transactions involving the shipment of listed chemicals are subject to the reporting and recordkeeping requirements of 21 CFR 1310.03–1310.06 and the identification requirements of 21 CFR 1310.07.

What Is the Purpose of the 15-Day Advance Notification Requirement in 21 CFR 1313.32?

The 15-day advance notification requirement provides a critical window of opportunity for DEA to carry out its mandate of preventing the diversion of listed chemicals for illegal manufacture of controlled substances. DEA may have knowledge or information unknown to the broker indicating that the chemical may be diverted for the illegal manufacture of controlled substances.

When copies of DEA Form 486 are received, DEA immediately reviews them. If DEA has reason to believe that the chemical proposed for shipment may be diverted to the illegal manufacture of a controlled substance, the Administrator may contact the broker or trader. The information in DEA Form 486 provides the Administrator with the means to identify the diversion and the opportunity to take appropriate steps to attempt to prevent diversion.

Which Internet Web Site Providers Are Subject to DEA Requirements?

Internet Web site providers located in the U.S. who assist in arranging transactions of listed chemicals among buyers, sellers, or transporters from foreign countries are brokers or traders as defined in 21 CFR 1300.02(b)(4). Such brokers or traders must comply with 21 CFR part 1313. Assistance in arranging international transactions by a Web site provider includes the following types of activity:

- Requiring the buyer, seller, or transporter to notify the Web site provider when an agreement for a transaction has been made;
- Utilizing user profiles of Web site visitors' interests to notify the visitors of the availability of listed chemicals they want to buy, the availability of customers for listed chemicals they want to sell, or the availability of transporters to ship the chemicals; and
- Imposing a fee or commission for the Web site service.

Merely advertising foreign companies on the Web site would not be

considered "assisting in arranging international transactions." Furthermore, if the Web site provides only a bulletin board and does not monitor, facilitate, charge a fee for, or otherwise participate in any subsequent transactions, the provider would not be considered a broker or trader.

If either party to a transaction or both are located in the U.S., those companies have the responsibility to comply with the applicable requirements of 21 CFR parts 1309, 1310, and 1313, and the broker is not subject to the 15-day advance notification requirement.

DEA recommends that Internet Web site providers post a notice to their Web site users about the advance notification requirement for international transactions of listed chemicals so that buyers and sellers can plan their transactions accordingly. Web site providers acting as brokers of international transactions are subject to the civil and criminal penalties under the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 801 *et seq.*), including 21 U.S.C. 842, 843, and 960 for any failure to comply with DEA regulations.

While the advance notification and the recordkeeping requirements impose a modest burden on brokers and traders, it is a necessary burden that provides DEA with important information that could prevent the diversion of listed chemicals.

What Additional Information Is DEA Requesting?

DEA requests comments on the following topics to better understand brokering/trading of listed chemicals on the Internet and to make it as easy as possible for Internet providers who serve as brokers or traders of international transactions of listed chemicals to comply with the regulations.

1. How do you provide assistance to chemical buyers and sellers through your Internet Web site?
2. At what point do you as a broker become involved in the transaction?
3. How will complying with the advance notification requirements affect the services you provide to buyers and sellers?
4. What is the size and scope of this emerging segment of the chemical industry?
5. What changes in the nature and methods of buying and selling listed chemicals have been brought about by the use of the Internet?
6. What does the future hold for the use of the Internet in this business?

DEA welcomes answers to these questions and any additional relevant

information that you can provide. Please send comments to the address listed above under **ADDRESSES**.

Dated: February 4, 2004.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control.

[FR Doc. 04–3355 Filed 2–13–04; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF STATE

22 CFR Part 126

[Public Notice 4625]

RIN 1400–ZA08

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) by modifying the denial policy regarding the Democratic Republic of the Congo (DRC).

EFFECTIVE DATE: February 17, 2004.

ADDRESSES: Interested parties are invited to submit written comments to the Department of State, Directorate of Defense Trade Controls, Office of Defense Trade Controls Management, ATTN: Regulatory Change, DRC, 12th Floor, SA–1, Washington, DC 20522–0112. Comments will be accepted at any time.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Sweeney, Office of Defense Trade Controls Management, Department of State, Telephone (202) 663–2700 or FAX (202) 261–8199.

SUPPLEMENTARY INFORMATION: On April 29, 1993, the Department imposed a suspension and denial policy for all licenses and other approvals to export or otherwise transfer defense articles or defense services to Zaire (currently the DRC) (58 FR 26024, April 29, 1993). That action was taken in response to the violence and death fueled by the regime of President Mobutu. Zaire was added to the proscribed destination list at section 126.1 of the ITAR on July 22, 1993 (58 FR 39312, July 22, 1993).

UN Security Council Resolution 1493 (July 28, 2003) imposed an arms embargo on all foreign and Congolese armed groups and militias operating in the territory of North and South Kivu and of Ituri, and to groups not party to the Global and All-Inclusive Agreement, in the DRC. The resolution qualified that those measures shall not apply to:

—Supplies to United Nations Organization Mission in the Democratic

Republic of the Congo (MONUC), the Interim Emergency Multinational Force deployed in Bunia and the integrated Congolese national army and police forces;

—Supplies of non-lethal military equipment intended solely for humanitarian or protective use, and related technical assistance and training as notified in advance to the Secretary-General through its Special Representative.

This amendment adds a new paragraph (i) at section 126.1 of the ITAR that modifies the policy to deny licenses, other approvals, exports and imports of defense articles and defense services, destined for or originating in the Democratic Republic of the Congo except, on a case-by-case basis, for (1) non-lethal equipment and training (lethal and non-lethal) to the MONUC, and the transitional National Unity Government of the Democratic Republic of the Congo, and the integrated Congolese national army and police forces; and (2) humanitarian or protective use, and related assistance and training as notified in advance to the UN.

Mirroring UN Security Council Resolution 1493, the amendment also imposes an arms embargo on certain groups operating in the territory of North and South Kivu and Ituri in the Democratic Republic of the Congo and with respect to DRC groups not party to the Global and All-Inclusive Agreement.

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. 533 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 1966. 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 Nos. 12372 and 13132.

List of Subjects in 22 CFR Part 126

Arms and munitions, Exports.

■ Accordingly, for the reasons set forth above, Title 22, Chapter I, Subchapter M, Part 126 is amended as follows:

PART 126—GENERAL POLICIES AND PROVISIONS

■ 1. The authority citation for Part 126 continues to read as follows:

Authority: Secs. 2, 38, 40, 42, and 71, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2780, 2791, and 2797); 22 U.S.C. 2778; E.O. 11958, 42 FR 4311; 3 CFR, 1977 Comp., p. 79; 22 U.S.C. 2658; 22 U.S.C. 2658; 22 U.S.C. 287c; E.O. 12918, 59 FR 28205, 3 CFR, 1994 Comp., p. 899.

■ 2. Section 126.1 is amended by revising paragraph (a) and adding paragraph (i) to read as follows:

§ 126.1 Prohibited exports and sales to certain countries.

(a) *General.* It is the policy of the United States to deny licenses and other approvals for exports and imports of defense articles and defense services, destined for or originating in certain countries. This policy applies to Belarus, Cuba, Iran, Libya, North Korea, Syria and Vietnam. This policy also applies to countries with respect to which the United States maintains an arms embargo (e.g., Burma, China, Haiti, Liberia, Somalia, and Sudan) or whenever an export would not otherwise be in furtherance of world peace and the security and foreign policy of the United States. Information regarding certain other embargoes appears elsewhere in this section. Comprehensive arms embargoes are normally the subject of a State Department notice published in the **Federal Register**. The exemptions provided in the regulations in this subchapter, except § 123.17 of this subchapter, do not apply with respect to articles originating in or for export to any proscribed countries, areas, or persons in this § 126.1.

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(i) *Democratic Republic of the Congo.* It is the policy of the United States to deny licenses, other approvals, exports or imports of defense articles and defense services destined for or originating in the Democratic Republic of the Congo except for non-lethal equipment and training (lethal and non-lethal) to the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC), and the transitional National Unity Government of the Democratic Republic

of the Congo, and the integrated Congolese national army and police forces, and humanitarian or protective use, and related assistance and training as notified in advance to the UN. An arms embargo exists with respect to all foreign and Congolese armed groups and militias operating in the territory of North and South Kivu and of Ituri, and to groups not party to the Global and All-inclusive Agreement, in the Democratic Republic of the Congo.

Dated: January 15, 2004.

John R. Bolton,

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

[FR Doc. 04–3383 Filed 2–13–04; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 9101]

RIN 1545–BC79

Information Reporting Relating to Taxable Stock Transactions; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to temporary regulations.

SUMMARY: This document contains corrections to temporary regulations that were published in the **Federal Register** on Tuesday, December 30, 2003 (68 FR 75119) requiring information reporting by a corporation if control of the corporation is acquired or if the corporation has a recapitalization or other substantial change in capital structure.

DATES: This correction is effective December 30, 2003.

FOR FURTHER INFORMATION CONTACT: Nancy Rose, (202) 622–4910 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations (TD 9101) that are the subject of these corrections are under sections 6043(c) and 6045 of the Internal Revenue Code.

Need for Correction

As published, the temporary regulations (TD 9101) contain errors that may prove to be misleading and are in need of clarification.