

(d)(2) of this section and we uphold our finding, the non-attorney representative will be ineligible to receive direct fee payment beginning with the month after the month we uphold our finding.

(3) If an eligible non-attorney representative does not protest, in accordance with paragraph (d)(2) of this section, our finding about the criteria in paragraph (a)(6) of this section, the non-attorney representative will be ineligible to receive direct fee payment for 6 full calendar months beginning with the month after the month the protest period ends. If the eligible non-attorney representative protests in accordance with paragraph (d)(2) of this section and we uphold our finding, the non-attorney representative will be ineligible to receive direct fee payment for 6 full calendar months beginning with the month after the month we uphold our finding. In either case, the non-attorney representative may provide us with documentation that he or she has acquired and maintains the required liability insurance coverage described in paragraph (a)(6) of this section, no earlier than the sixth month of the ineligibility. The non-attorney representative will again be eligible to receive direct fee payment beginning in the first month after the month we find that we have received sufficient documentation that the non-attorney representative meets the requirements of paragraph (a)(6) of this section.

(4) If an eligible non-attorney representative does not protest, in accordance with paragraph (d)(2) of this section, our finding about the criteria in paragraph (a)(7) of this section, the non-attorney representative will be ineligible to receive direct fee payment for 6 full calendar months beginning with the month after the month the protest period ends. If the eligible non-attorney representative protests in accordance with paragraph (d)(2) of this section and we uphold our finding, the non-attorney representative will be ineligible to receive direct fee payment for 6 full calendar months beginning with the month after the month we uphold our finding. In either case, the non-attorney representative may provide us with documentation that he or she has satisfied the criteria in paragraph (a)(7) of this section at any time. The non-attorney representative will again be eligible to receive direct fee payment beginning in the first month after the month we find that we have received sufficient documentation, but not earlier than the month following the end of the 6 month ineligibility period.

(f) *Reapplying.* A representative may reapply to become eligible to receive direct fee payment under paragraph (a)

of this section during any subsequent application period if he or she:

(1) Did not meet the initial criteria for eligibility in paragraphs (a)(1), (2), (3), and (5) of this section in a prior application period; or

(2) Failed to timely correct a defective application in a prior application period as described in paragraph (b) of this section.

■ 13. Amend § 416.1520 by revising paragraph (b)(4) to read as follows:

**§ 416.1520 Fee for a representative's services.**

\* \* \* \* \*

(b) \* \* \*

(4) If your representative is an attorney or an eligible non-attorney, and you are entitled to past-due benefits, we will pay the authorized fee, or a part of the authorized fee, directly to the attorney or eligible non-attorney out of the past-due benefits, subject to the limitations described in § 416.1530(b)(1). If the representative is a non-attorney who is ineligible to receive direct fee payment, we assume no responsibility for the payment of any fee that we have authorized.

\* \* \* \* \*

■ 14. Amend § 416.1530 by revising the first sentence of paragraph (a), heading and introductory text of paragraph (b)(1), heading and the first sentence of paragraph (b)(2), heading of paragraph (c), and paragraph (c)(1) to read as follows:

**§ 416.1530 Payment of fees.**

(a) *Fees allowed by a Federal court.* We will pay an attorney representative out of your past-due benefits the amount of the fee allowed by a Federal court in a proceeding under title XVI of the Act.

(b) *Fees we may authorize—*

(1) *Attorneys and eligible non-attorneys.* Except as provided in paragraph (c) of this section, if we make a determination or decision in your favor and you were represented by an attorney or an eligible non-attorney, and as a result of the determination or decision you have past-due benefits, we will pay the representative out of the past-due benefits, the smallest of the amounts in paragraphs (b)(1)(i) through (iii) of this section, less the amount of the assessment described in paragraph (d) of this section.

\* \* \* \* \*

(2) *Non-attorneys ineligible for direct payment.* If the representative is a non-attorney who is ineligible to receive direct payment of his or her fee, we assume no responsibility for the

payment of any fee that we authorized.

\* \* \* \* \*

(c) *Time limit for filing request for approval of fee to obtain direct payment.* (1) To receive direct fee payment from your past-due benefits, a representative who is an attorney or an eligible non-attorney should file a request for approval of a fee, or written notice of the intent to file a request, at one of our offices, or electronically at the times and in the manner that we prescribe if we give notice that such a method is available, within 60 days of the date we mail the notice of the favorable determination or decision.

\* \* \* \* \*

[FR Doc. 2011-19026 Filed 7-27-11; 8:45 am]

BILLING CODE 4191-02-P

**DEPARTMENT OF STATE**

**22 CFR Parts 120, 122, 123, and 129**

RIN 1400-AC74

[Public Notice 7538]

**International Traffic in Arms Regulations: Electronic Payment of Registration Fees**

**AGENCY:** Department of State.

**ACTION:** Final rule.

**SUMMARY:** The Department of State is amending the International Traffic in Arms Regulations (ITAR) to change the method of payment to electronic submission of registration fees. The institution of the electronic submission of registration fees will simplify the collection and verification of payments, eliminate the need to manually process and collect returned payments, and eliminate the possibility of lost payments. Definitions for “Foreign Ownership” and “Foreign Control” are also added.

**DATES:** *Effective Date:* This rule is effective September 26, 2011.

**FOR FURTHER INFORMATION CONTACT:** Lisa V. Aguirre, Director, Office of Defense Trade Controls Compliance, Directorate of Defense Trade Controls, Department of State, 2401 E Street, NW., SA-1, Room H1200, Washington, DC 20522-0112; telephone 202-632-2798 or fax 202-632-2878; or e-mail through [DDTCResponseTeam@state.gov](mailto:DDTCResponseTeam@state.gov), with the subject line, “Electronic Payment of Registration Fees.”

**SUPPLEMENTARY INFORMATION:** The Directorate of Defense Trade Controls (DDTC) is responsible for the collection of registration fees from persons in the business of manufacturing, exporting,

and/or brokering defense articles or defense services.

Previously, registrants submitted registration fees to DDTC by check or money order, and these payments were processed manually. The institution of the electronic submission of registration fees will simplify the collection and verification of payments, eliminate the need to manually process and collect returned payments, and eliminate the possibility of lost payments.

Section 122.2(a) is revised to provide for electronic payment as the sole means of registration fee submission. The form used for obtaining registration, the DS-2032 Statement of Registration, has been revised to reflect that fee payments are to be made electronically. Additionally, the certifications previously required through the transmittal letter referenced in § 122.2(b) of the ITAR are incorporated into the revised DS-2032. Consequently, § 122.2(b) no longer requires a separate transmittal letter; rather, it addresses certain certifications to be made on the Statement of Registration that previously were provided via the transmittal letter. The new § 122.2(b) title will be "Statement of Registration Certification."

Definitions for "ownership" and "control" are removed from part 122 by the removal of § 122.2(c). Definitions for "Foreign Ownership" and "Foreign Control" constitute the new § 120.37.

Section 122.3(a) is revised to remove reference to the transmittal letter.

The revision to § 129.4(a) is in line with the change in part 122 regarding the provision of electronic payment of registration fees. References to the transmittal letter are removed from §§ 129.4(a) and (b).

Title and number of the registration form is corrected in § 120.28(a)(2), and § 123.16(b)(9) is revised to correct a reference to § 122.2(c) and replace it with a reference to § 120.37.

This rule was first presented as a proposed rule for public comment on February 24, 2011. That comment period ended April 25, 2011. No comments pertinent to this rule were received.

Having thoroughly reviewed and evaluated the rule, the Department has determined that it will accept, and hereby does adopt, the proposed rule as a final rule.

## Regulatory Analysis and Notices

### *Administrative Procedure Act*

The Department of State is of the opinion that controlling the import and export of defense articles and services is a foreign affairs function of the United States Government and that rules

implementing this function are exempt from § 553 (Rulemaking) and § 554 (Adjudications) of the Administrative Procedure Act. Although the Department is of the opinion that this rule is exempt from the rulemaking provisions of the APA, the Department published this rule with a 60-day provision for public comment and without prejudice to its determination that controlling the import and export of defense services is a foreign affairs function.

### *Regulatory Flexibility Act*

Since this amendment is not subject to the notice-and-comment procedures of 5 U.S.C. 553, it does not require analysis under the Regulatory Flexibility Act.

### *Unfunded Mandates Reform Act of 1995*

This amendment does not involve a mandate that will result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

### *Executive Order 13175*

The Department has determined that this rulemaking will not have Tribal implications, will not impose substantial direct compliance costs on Indian Tribal governments, and will not pre-empt Tribal law. Accordingly, the requirements of Executive Order 13175 do not apply to this rulemaking.

### *Small Business Regulatory Enforcement Fairness Act of 1996*

This amendment has been found not to be a major rule within the meaning of the Small Business Regulatory Enforcement Fairness Act of 1996.

### *Executive Orders 12372 and 13132*

This amendment will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this amendment does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on

Federal programs and activities do not apply to this amendment.

### *Executive Order 12866*

The Department of State does not consider this rule to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review. The Department is of the opinion that controlling the import and export of defense articles and services is a foreign affairs function of the United States Government and that rules governing the conduct of this function are exempt from the requirements of Executive Order 12866.

### *Executive Order 13563*

The Department of State has considered this rule in light of Executive Order 13563, dated January 18, 2011, and affirms that this regulation is consistent with the guidance therein.

### *Executive Order 12988*

The Department of State has reviewed the amendment in light of sections 3(a) and 3(b)(2) of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

### *Paperwork Reduction Act*

The information collection (IC) requirements for the current Statement of Registration (Department of State form DS-2032) are approved under Office of Management and Budget (OMB) control number 1405-0002. This rule imposes new reporting requirements subject to the Paperwork Reduction Act, 44 U.S.C. chapter 35. The Department published a notice in the **Federal Register** (76 FR 10291, with correction at 76 FR 16588) soliciting public comments on the revised information collection and notifying the public that this collection was submitted to OMB for review and approval. No comments pertinent to this rule were received.

Formerly, the ITAR, § 122.2(b), required the respondent to provide separate correspondence (via a "transmittal letter," to accompany the DS-2032, Statement of Registration, submission) certifying criminal history, eligibility, and foreign ownership. Often, this mandate was overlooked by the respondent, resulting in the return without action of the incomplete application. The revised DS-2032 incorporates these certifications within the form, only requiring the user to click on the appropriate response.

Other changes to the Statement of Registration include additional data fields necessary to match electronic payment to the form. Whereas payments

will be received electronically, respondents will continue submitting the DS-2032 in paper format. New data elements specific to electronic payment were not previously required on the DS-2032 because such information is visible on U.S. and foreign bank drafts.

Additionally, data elements are added to ensure clarification during analysis as well as standardization of responses. Specifically, necessary information is listed in the form, only requiring the respondent to make a selection by clicking the applicable checkbox rather than manually entering the information. This enhancement eliminates typographical errors and the misinterpretation of information requested, which often results in the submission of incorrect information.

With these changes, the estimated burden time for completion of the DS-2032 is reduced from two hours to one hour.

**List of Subjects in 22 CFR Parts 120, 122, 123, and 129**

Arms and munitions, Registration, Exports, Brokering.

Accordingly, for the reasons set forth in the preamble, Title 22, Chapter I, Subchapter M, parts 120, 122, 123, and 129 are amended as follows:

**PART 120—PURPOSE AND DEFINITIONS**

■ 1. The authority citation for part 120 continues 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; E.O. 13284, 68 FR 4075; 3 CFR, 1977 Comp. p. 79; 22 U.S.C. 2651a; Pub. L. 105-261, 112 Stat. 1920.

■ 2. In § 120.28, paragraph (a)(2) is revised to read as follows:

**§ 120.28 Listing of forms referred to in this subchapter.**

\* \* \* \* \*

(a) \* \* \*

(2) Statement of Registration (Form DS-2032).

\* \* \* \* \*

**§§ 120.33–120.36 [Reserved]**

■ 3. Part 120 is amended by reserving §§ 120.33 through 120.36 and adding § 120.37 to read as follows:

**§ 120.37 Foreign ownership and foreign control.**

Foreign ownership means more than 50 percent of the outstanding voting securities of the firm are owned by one or more foreign persons (as defined in § 120.16). Foreign control means one or more foreign persons have the authority

or ability to establish or direct the general policies or day-to-day operations of the firm. Foreign control is presumed to exist where foreign persons own 25 percent or more of the outstanding voting securities unless one U.S. person controls an equal or larger percentage.

**PART 122—REGISTRATION OF MANUFACTURERS AND EXPORTERS**

■ 4. The authority citation for part 122 continues 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.

■ 5. Section 122.2 is revised to read as follows:

**§ 122.2 Submission of registration statement.**

(a) *General.* An intended registrant must submit a Department of State Form DS-2032 (Statement of Registration) to the Office of Defense Trade Controls Compliance by registered or overnight mail delivery, and must submit an electronic payment via Automated Clearing House payable to the Department of State of one of the fees prescribed in § 122.3(a) of this subchapter. Automated Clearing House (ACH) is an electronic network used to process financial transactions in the United States. Intended registrants should access the Directorate of Defense Trade Control’s Web site at <http://www.pmdt.c.state.gov> for detailed guidelines on submitting an ACH electronic payment. Electronic payments must be in U.S. currency and must be payable through a U.S. financial institution. Cash, checks, foreign currency, or money orders will not be accepted. In addition, the Statement of Registration must be signed by a senior officer (e.g., Chief Executive Officer, President, Secretary, Partner, Member, Treasurer, General Counsel) who has been empowered by the intended registrant to sign such documents. The intended registrant also shall submit documentation that demonstrates that it is incorporated or otherwise authorized to do business in the United States. The Directorate of Defense Trade Controls will notify the registrant if the Statement of Registration is incomplete either by notifying the registrant of what information is required or through the return of the entire registration package. Registrants may not establish new entities for the purpose of reducing registration fees.

(b) *Statement of Registration Certification.* The Statement of Registration of the intended registrant

shall include a certification by an authorized senior officer of the following:

(1) Whether the intended registrant, chief executive officer, president, vice presidents, other senior officers or officials (e.g., Comptroller, Treasurer, General Counsel) or any member of the board of directors:

(i) Has ever been indicted for or convicted of violating any of the U.S. criminal statutes enumerated in § 120.27 of this subchapter; or

(ii) Is ineligible to contract with, or to receive a license or other approval to import defense articles or defense services from, or to receive an export license or other approval from, any agency of the U.S. Government.

(2) Whether the intended registrant is foreign owned or foreign controlled (see § 120.37 of this subchapter). If the intended registrant is foreign owned or foreign controlled, the certification shall also include whether the intended registrant is incorporated or otherwise authorized to engage in business in the United States.

■ 6. Section 122.3 is amended by revising paragraph (a) introductory text to read as follows:

**§ 122.3 Registration fees.**

(a) A person who is required to register must do so on an annual basis upon submission of a completed Form DS-2032 and payment of a fee as follows:

\* \* \* \* \*

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

■ 7. The authority citation for part 123 continues 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. 2753; E.O. 11958, 42 FR 4311; 3 CFR, 1977 Comp. p. 79; 22 U.S.C. 2651a; 22 U.S.C. 2776; Pub. L. 105-261, 112 Stat. 1920; Sec 1205(a), Pub. L. 107-228.

■ 8. Section 123.16 is amended by revising paragraph (b)(9) introductory text to read as follows:

**§ 123.16 Exemptions of general applicability.**

\* \* \* \* \*

(b) \* \* \*

(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 § 120.37 of this subchapter for definition of foreign ownership and

foreign control) if the component, part, tool or test equipment is to be used for manufacture, assembly, testing, production, or modification provided:

\* \* \* \* \*

## PART 129—REGISTRATION AND LICENSING OF BROKERS

■ 9. The authority citation for part 129 continues to read as follows:

**Authority:** Sec. 38, Pub. L. 104–164, 110 Stat. 1437, (22 U.S.C. 2778).

■ 10. Section 129.4 is amended by revising paragraphs (a) and (b) to read as follows:

### § 129.4 Registration statement and fees.

(a) *General.* An intended registrant must submit a Department of State Form DS–2032 (Statement of Registration) to the Office of Defense Trade Controls Compliance by registered or overnight mail delivery, and must submit an electronic payment via Automated Clearing House (ACH) or Society for Worldwide Interbank Financial Telecommunications (SWIFT), payable to the Department of State of the fees prescribed in § 122.3(a) of this subchapter. Automated Clearing House is an electronic network used to process financial transactions originating from within the United States and SWIFT is the messaging service used by financial institutions worldwide to issue international transfers for foreign accounts. Payment methods (i.e., ACH and SWIFT) are dependent on the source of the funds (U.S. or foreign bank) drawn from the applicant's account. The originating account must be the registrant's account and not a third party's account. Intended registrants should access the Directorate of Defense Trade Control's Web site at <http://www.pmdtcc.state.gov> for detailed guidelines on submitting ACH and SWIFT electronic payments. Payments, including from foreign brokers, must be in U.S. currency, payable through a U.S. financial institution. Cash, checks, foreign currency, or money orders will not be accepted. The Statement of Registration must be signed by a senior officer (e.g., Chief Executive Officer, President, Secretary, Partner, Member, Treasurer, General Counsel) who has been empowered by the intended registrant to sign such documents. The intended registrant, whether a U.S. or foreign person, shall submit documentation that demonstrates it is incorporated or otherwise authorized to do business in its respective country. Foreign persons who are required to register shall provide information that is substantially similar in content to that which a U.S.

person would provide under this provision (e.g., foreign business license or similar authorization to do business). The Directorate of Defense Trade Controls will notify the registrant if the Statement of Registration is incomplete either by notifying the registrant of what information is required or through the return of the entire registration package. Registrants may not establish new entities for the purpose of reducing registration fees.

(b) A person registering as a broker who is already registered as a manufacturer or exporter in accordance with part 122 of this subchapter must cite their existing manufacturer or exporter registration, and must pay an additional fee according to the schedule prescribed in § 122.3(a) of this subchapter for registration as a broker.

\* \* \* \* \*

Dated: July 20, 2011.

**Ellen O. Tauscher,**

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

[FR Doc. 2011–19115 Filed 7–27–11; 8:45 am]

**BILLING CODE 4710–25–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### 25 CFR Part 15

#### Office of the Secretary

#### 43 CFR Parts 4, 30

[Docket ID BIA–2009–0001]

RIN 1076–AF07

### Indian Trust Management Reform—Implementation of Statutory Changes

**AGENCY:** Bureau of Indian Affairs, Office of the Secretary, Interior.

**ACTION:** Final rule; confirmation.

**SUMMARY:** The Office of the Secretary of the Department of the Interior and Bureau of Indian Affairs (collectively, the Department) are confirming the interim final rule published and effective on February 10, 2011, to implement the latest statutory changes to the Indian Land Consolidation Act, as amended by the 2004 American Indian Probate Reform Act and later amendments (ILCA/AIPRA). The February 10, 2011, publication stated that the Department would review comments on the interim final rule and either confirm the rule or initiate a proposed rulemaking. The Department did not receive any adverse comments, and therefore confirms the rule without change.

**DATES:** The February 10, 2011, effective date of the interim final rule is confirmed.

#### FOR FURTHER INFORMATION CONTACT:

Michele Singer, Office of Regulatory Affairs & Collaborative Action, U.S. Department of the Interior, 1001 Indian School Road, NW., Suite 312, Albuquerque, NM 87104, *phone:* (505) 563–3805; *fax:* (505) 563–3811; *e-mail:* [Michele.Singer@bia.gov](mailto:Michele.Singer@bia.gov).

#### SUPPLEMENTARY INFORMATION: On

February 10, 2011, the Department published an interim final rule (76 FR 7500), under Docket No. BIA–2009–001, to implement the latest statutory changes to ILCA/AIPRA. The rule's changes primarily affect the probate of permanent improvements owned by a decedent that are attached to trust or restricted property owned by the decedent. These changes also affect the purchase of small fractional interests at probate by restricting who may purchase without consent and what interests may be purchased without consent.

The Department stated in the interim final rule that it would address comments received and, by a future publication in the Federal Register, confirm the interim final rule, with or without change, or initiate a proposed rulemaking.

The Department received one comment that expressly indicated it was not a substantive criticism of the rule, but requested a definition for the term “probate.” The regulations being amended by the interim final rule, 25 CFR part 15 and 43 CFR part 30, already contain a definition of “probate.” See 25 CFR 15.2, 43 CFR 4.201, 30.101. Consequently, the Department did not make any change to the interim final rule as a result of this comment. The comment also included a suggestion regarding estate planning that is outside the scope of the interim final rule.

For these reasons, the Department is confirming the interim final rule without change.

#### List of Subjects

25 CFR Part 15

Estates, Indians—law.

43 CFR Part 4

Administrative practice and procedure, Claims, Indians, Lawyers.

43 CFR Part 30

Administrative practice and procedure, Claims, Estates, Indians, Lawyers.