

which could cause failure of the engine, and consequent reduced controllability of the airplane.

#### (f) Compliance

You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

#### (g) Repetitive Detailed Inspection

At the applicable compliance time specified in paragraphs (g)(1) and (g)(2) of this AD: Do a tap test inspection of the three inner acoustic panels of each engine air intake cowl for disbonding, in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A330-71-3024, Revision 01, dated September 27, 2011. Repeat the inspection thereafter at intervals not to exceed 24 months, except as required by paragraphs (h) and (i) of this AD.

(1) For an engine air intake cowl that has accumulated less than 5,000 total flight cycles or less than 20,000 total flight hours, whichever occurs first, since its first installation on an airplane as of the effective date of this AD: Within 24 months after the engine air intake cowl has accumulated 5,000 total flight cycles or 20,000 total flight hours, whichever occurs first, since its first installation on an airplane.

(2) For an engine air intake cowl that has accumulated 5,000 or more total flight cycles or 20,000 or more total flight hours, whichever occurs first, since its first installation on an airplane as of the effective date of this AD: Within 24 months after the effective date of this AD.

#### (h) Inspection of Replaced Engine Intake Cowl

For airplanes on which an engine air intake cowl is replaced after the effective date of this AD, at the applicable compliance time specified in paragraph (h)(1) or (h)(2) of this AD: Do a tap test inspection for disbonding of the three inner acoustic panels of the affected engine air intake cowl for disbonding, in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A330-71-3024, Revision 01, dated September 27, 2011. Repeat the inspection thereafter at intervals not to exceed 24 months.

(1) Within 24 months after the engine air intake cowl accumulates 5,000 total flight cycles or 20,000 total flight hours, whichever occurs first, since its first installation on any airplane, except as required by paragraph (h)(2) of this AD.

(2) Before installation, if an engine air intake cowl has accumulated 5,000 or more total flight cycles or 20,000 or more total flight hours, whichever occurs first, since its first installation on any airplane, and which has not been inspected in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A330-71-3024, Revision 01, dated September 27, 2011, within the preceding 24 months.

#### (i) Corrective Actions

(1) If any disbonding is found during any inspection required by this AD, and the findings are within the permitted allowable damage limit (ADL) specified in Rolls-Royce

Alert Service Bulletin RB. 211-71-AG419, including Appendix 1, dated May 10, 2011: Do the actions specified in paragraph (i)(1)(i), (i)(1)(ii), or (i)(1)(iii) of this AD.

(i) Repeat the tap test inspection required by paragraph (g) of this AD at the applicable inspection interval specified in Rolls-Royce Alert Service Bulletin RB. 211-71-AG419, including Appendix 1, dated May 10, 2011, until the actions required by paragraph (i)(1)(ii) or (i)(1)(iii) are accomplished.

(ii) Repair the affected engine air intake cowl before further flight, in accordance with the Accomplishment Instructions of Rolls-Royce Alert Service Bulletin RB. 211-71-AG419, including Appendix 1, dated May 10, 2011. Repeat the inspection specified in paragraph (g) of this AD thereafter at the applicable compliance time specified in paragraph (g) of this AD.

(iii) Replace the affected engine air intake cowl before further flight, in accordance with the Accomplishment Instructions of Rolls-Royce Alert Service Bulletin RB. 211-71-AG419, including Appendix 1, dated May 10, 2011. Repeat the inspection specified in paragraph (g) of this AD thereafter at the applicable compliance time specified in paragraph (g) of this AD.

(2) If any disbonding is found during any inspection required by this AD, and the findings are not within the permitted ADL specified in Rolls-Royce Alert Service Bulletin RB. 211-71-AG419, including Appendix 1, dated May 10, 2011: Before further flight, replace the affected engine air intake cowl, in accordance with the Accomplishment Instructions of Rolls-Royce Alert Service Bulletin RB. 211-71-AG419, including Appendix 1, dated May 10, 2011. Repeat the inspection specified in paragraph (g) of this AD thereafter at the applicable compliance time specified in paragraph (g) of this AD.

#### (j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs)*: The Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057-3356; telephone (425) 227-1138; fax (425) 227-1149. Information may be emailed to: 9-ANM-116-AMOC-REQUESTS@faa.gov. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Airworthy Product*: For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these

actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

#### (k) Related Information

(1) Refer to MCAI European Aviation Safety Agency, Airworthiness Directive 2011-0173, dated September 13, 2011, and the following service information for related information.

(i) Airbus Mandatory Service Bulletin A330-71-3024, Revision 01, dated September 27, 2011.

(ii) Rolls-Royce Alert Service Bulletin RB. 211-71-AG419, including Appendix 1, dated May 10, 2011.

(2) For Airbus service information identified in this AD, contact Airbus SAS—Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email [airworthiness.A330-A340@airbus.com](mailto:airworthiness.A330-A340@airbus.com); Internet <http://www.airbus.com>. For Rolls-Royce service information identified in this AD, contact Rolls-Royce plc, P.O. Box 31, Derby, DE24 8BJ, England; telephone 011 44 1332 242424; fax 011 44 1332 249936; Internet <https://www.aeromanager.com>. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425-227-1221.

Issued in Renton, Washington, on June 12, 2012.

**Kalene C. Yanamura,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2012-15175 Filed 6-20-12; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF STATE

**22 CFR Parts 120, 121, 123, 124, 125, 126, 127, 128, 129, and 130**

[Public Notice: [7927]]

### Export Control Reform Transition Plan

**AGENCY:** Department of State.

**ACTION:** Proposed policy statement, request for comments.

**SUMMARY:** As part of the President's export control reform initiative, the Directorate of Defense Trade Controls (DDTC) seeks public comment on the proposed implementation plan for defense articles and defense services that will transition from the jurisdiction of the Department of State to the Department of Commerce. The intent of this plan is to provide a clear description of DDTC's proposed policies and procedures for the transition of items to the jurisdiction of the Department of Commerce. The revisions

to this rule are part of the Department of State's retrospective plan under E.O. 13563 completed on August 17, 2011. The Department of State's full plan can be accessed at <http://www.state.gov/documents/organization/181028.pdf>.

**DATES:** The Department of State will accept comments on this proposed policy statement until August 6, 2012.

**ADDRESSES:** Interested parties may submit comments within 45 days of the date of publication by one of the following methods:

- *Email:*

*DDTCResponseTeam@state.gov* with the subject line, "ECR Transition Guidance."

- *Internet:* At *www.regulations.gov*, search for this notice by using this notice's docket number, DOS-2012-0020.

Comments received after that date will be considered if feasible, but consideration cannot be assured. Those submitting comments should not include any personally identifying information they do not desire to be made public or information for which a claim of confidentiality is asserted because those comments and/or transmittal emails will be made available for public inspection and copying after the close of the comment period via the Directorate of Defense Trade Controls Web site at *www.pmdtc.state.gov*. Parties who wish to comment anonymously may do so by submitting their comments via *www.regulations.gov*, leaving the fields that would identify the commenter blank and including no identifying information in the comment itself. Comments submitted via *www.regulations.gov* are immediately available for public inspection.

**FOR FURTHER INFORMATION CONTACT:** Ms. Candace M. J. Goforth, Director, Office of Defense Trade Controls Policy, U.S. Department of State, telephone (202) 663-2792, or email *DDTCResponseTeam@state.gov*. ATTN: ECR Transition Guidance.

**SUPPLEMENTARY INFORMATION:** The Directorate of Defense Trade Controls (DDTC), U.S. Department of State, administers the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120-130). The items subject to the jurisdiction of the ITAR, i.e., "defense articles," are identified on the ITAR's U.S. Munitions List (USML) (22 CFR 121.1). With few exceptions, items not subject to the export control jurisdiction of the ITAR are subject to the jurisdiction of the Export Administration Regulations ("EAR," 15 CFR parts 730-774, which includes the Commerce Control List (CCL) in

Supplement No. 1 to part 774), administered by the Bureau of Industry and Security (BIS), U.S. Department of Commerce. Both the ITAR and the EAR impose license requirements on exports and reexports. Items not subject to the ITAR or to the exclusive licensing jurisdiction of any other set of regulations are subject to the EAR.

#### Transition Plan

The Departments of State and Commerce described in their respective Advanced Notices of Proposed Rulemaking (ANPRM) in December 2010 the Administration's plan to make the USML and the CCL positive, tiered, and aligned so that eventually they can be combined into a single control list (see "Commerce Control List: Revising Descriptions of Items and Foreign Availability," 75 FR 76664 (December 9, 2010) and "Revision to the United States Munitions List," 75 FR 76935 (December 10, 2010)). Since that time, DDTC has published proposed revisions to several USML Categories, which, when implemented, will transition a significant number of items to the jurisdiction of the Department of Commerce.

Because an immediate effective date would impose undue compliance burden on the defense industry, DDTC has developed the following phased implementation plan for items that will transition from the USML to the CCL, and will become effective for those items upon publication of each revised USML category. This phased implementation plan is designed to mitigate the impact on U.S. license holders, while assuring that all defense trade that should be licensed remains so. Under the plan U.S. license holders will continue to use their approved licenses at the time the transition takes place.

#### *Licenses (DSP-5, DSP-61, and DSP-73)*

Licenses for items transitioning to the CCL that are issued in the period prior to the date of final rule publication for each revised USML category will remain valid until expired, returned by the license holder, a license amendment is required, or for a period of two years from the effective date, whichever occurs first. Any limitation, proviso or other requirement imposed on the DDTC authorization will remain in effect. The Department of Commerce may be consulted regarding the applicability of the EAR to the subject commodity.

License applications for items transitioning to the CCL that are received by DDTC prior to final rule publication for each revised USML

category will be adjudicated up until the effective date of the rule, unless the applicant requests that the application be Returned Without Action.

License applications received by DDTC within the 45 days following the final rule's publication, but before the rule becomes effective, will be adjudicated only when the applicant provides a written statement certifying that the export or temporary import will be completed within 45 days after the effective date of the final rule. License applications that do not contain this certification will be Returned Without Action. The validity period for licenses issued in this timeframe will be limited to the date 45 days after the effective date of the final rule.

License amendment requests (i.e., DSP-6, DSP-62, and DSP-74) received by DDTC within the 45 days following the final rule's publication, but before the rule becomes effective, will be adjudicated only when the applicant provides a written statement certifying that the export or temporary import will be completed within 45 days after the effective date of the final rule. Amendment requests that do not contain this statement will be Returned Without Action. The validity period for amended licenses issued in this timeframe will be limited to the date 45 days after the effective date of the final rule.

All license requests, including amendments, received after the effective date for items that have transitioned to the CCL will be Returned Without Action with instructions to contact the Department of Commerce.

#### *Technical Assistance Agreements, Manufacturing License Agreements, and Warehouse and Distribution Agreements*

Agreements approved prior to the date of relevant final rule publication will remain valid until expired, unless they require an amendment, or for a period of two years from the effective date of the transition, whichever occurs first. Any activity conducted under an agreement will remain subject to all limitations, provisos and other requirements stipulated in the agreement.

Agreement amendments that incorporate items moving to the CCL prior to the date of publication of the final rule will remain valid until expired or for a period of two years from the effective date of the transition, whichever occurs first.

Agreements and amendments received after the final rule is published, but before it becomes effective, will be Returned Without Action if the agreement contains both USML and CCL

items. The agreement holder will be required to amend the agreement to remove all CCL items. Any agreement in which all items are transitioning to the CCL must be terminated and the applicant must seek a new authorization from the Department of Commerce, as applicable.

Agreements and agreement amendments for items moving to the CCL which are received after the effective date will be Returned Without Action with instructions to contact the Department of Commerce.

#### *Reporting Requirements*

All reporting requirements for Manufacturing License Agreements under ITAR § 124.9(a)(6) and Warehouse and Distribution Agreements under ITAR § 124.14(c)(6) must be complied with and such reports must be submitted to the Department of State while the agreement is relied upon as an export authorization by the exporter.

#### *Commodity Jurisdiction Determinations*

Previously rendered commodity jurisdiction (CJ) determinations for items deemed to be USML, but that are subsequently transitioning to the CCL pursuant to a published final rule, will no longer be valid after the transition date. Exporters are encouraged to review each revised USML category along with its companion CCL category to determine whether their items have transitioned to the jurisdiction of the Department of Commerce. Consistent with the recordkeeping requirements of the ITAR and the EAR, licensees and foreign persons subject to licenses must maintain records reflecting their assessments of the proper regulatory jurisdiction over their items. Licensees who are unable to ascertain the proper jurisdiction of their items may request a CJ determination from DDTC through the current, established procedure.

Licensees who are certain their items have transitioned to the CCL are encouraged to review the appropriate Export Control Classification Number (ECCN) to determine the classification of their item. Licensees who are unsure of the proper ECCN designation may request a Commodity Classification Automated Tracking System (CCATS) determination from the Department of Commerce through the current, established procedure. See 15 CFR 748.3.

#### *Reexport/Retransfer of USML items that have transitioned to the CCL*

Following the effective date of transition, foreign persons (i.e., end-users, foreign consignees, and foreign intermediate consignees) who receive,

via a Department of State authorization, an item that they are certain has transitioned to the CCL (e.g., confirmed in writing by manufacturer or supplier), should treat the item as such and submit requests for post-transition reexports or retransfers to the Department of Commerce, as may be required by the EAR.

Foreign persons or U.S. persons abroad that have USML items in their inventory at the effective date of transition should review both the USML and the CCL to determine the proper jurisdiction. If doubt exists on jurisdiction of the items, the foreign person should contact the original exporter. If the item is clearly controlled by the Department of Commerce, any reexport or retransfer must comply with the requirements of the EAR.

#### *Regulatory Oversight Responsibilities*

For those items transitioning from the USML to the CCL, the Department of Commerce will exercise regulatory oversight, effective on the transition date, for the purposes of licensing and enforcement of exports from the United States where no Department of State authorization is being used. The Department of State will continue to exercise regulatory oversight concerning all Department of State licenses, agreements, and other authorizations, including those where exporters, temporary importers, manufacturers, and brokers continue to use previously issued Department of State licenses and agreements after the effective date of the final rule.

License holders may decide to apply for and use Department of Commerce authorizations for export of the newly transitioned CCL items rather than continue to use previously issued Department of State authorizations. In such cases, license holders must return the Department of State licenses in accordance with ITAR § 123.22, and obtain the required Department of Commerce authorizations.

#### *Violations and Voluntary Disclosures of Possible Violations*

Exporters, temporary importers, manufacturers, and brokers are cautioned to closely monitor ITAR and EAR compliance concerning Department of State licenses and agreements for items transitioning from the USML to the CCL.

On the effective date of each rule that adds an item to the CCL that was previously subject to the ITAR, that item will be subject to the EAR. Authorizations issued by DDTC before the transition date may continue to be used as described above by exporters,

temporary importers, manufacturers, and brokers. The violation of a previously issued DDTC authorization (including any condition of a DDTC authorization) that is continued in use under the ITAR as described above is a violation of the ITAR.

With respect to a transitioned item, should a possible violation of the ITAR, the EAR, or any license or authorization issued thereunder be discovered, the person or persons involved are strongly encouraged to consult with DDTC or BIS as appropriate, to avail themselves of the current, established procedures for submitting voluntary disclosures and for requesting specific authorization to take any further actions in connection with that item.

License holders and foreign persons must obtain Department of State authorization before disposing, reselling, transshipping, or otherwise transferring any item in their possession that remains on the USML.

#### *Registration*

Manufacturers, exporters, and brokers are required to register with the Department of State if their activities involve USML defense articles or defense services.

Registered manufacturers, exporters, temporary importers, defense service providers and brokers ("registrants") are reminded of the requirement to notify DDTC in writing when they are no longer in the business of manufacturing, exporting, or brokering USML defense articles or defense services. Registrants who determine that all of their activities involve articles or services that will transition from the USML to the CCL and therefore are no longer required to register with the Department of State must provide such written notification. Instructions for providing such notification are accessible on the DDTC Web site ([www.pmddtc.state.gov](http://www.pmddtc.state.gov)). Note that DDTC will not cancel or revoke those registrations, but will allow the registration to expire. Registrants who determine that all of their activities will be subject to Department of Commerce jurisdiction as a result of the transition from the USML to the CCL must nevertheless maintain registration with the Department of State until the effective date of the transition.

Registrants who determine they will no longer be required to register with the Department of State after the effective date of transition, and who have registration renewal dates that occur after publication of the final rule but before its effective date, may request to have their registration expiration date extended to the effective date of transition and not be charged a

registration fee. In those cases, registrants must insert the following statement as the first paragraph in the written notification previously mentioned: *“(insert company name) requests DDTC extend our registration expiration date to the effective date of transition to CCL for USML Category (insert Category number) items and waive the registration fee. (insert company name) certifies that no changes in our eligibility from what is represented in our previously submitted DS-2032 Statement of Registration has occurred (otherwise specify change in eligibility status).* Registrants that avail themselves of the opportunity to continue using previously issued Department of State authorizations (licenses and agreements) for items that have transitioned to the CCL must maintain current registration with the Department of State, which includes payment of registration fees.

#### Request for Comments

DDTC requests public consideration and comment on the preceding transition plan, taking into account the following specific questions:

1. Is the transition plan clear and understandable? Is it logical?
2. Does the plan adequately address all regulated scenarios?
3. Will industry compliance with existing export control law be negatively affected by this plan?
4. Recognizing that this regulatory transition will unavoidably create challenges for industry, does the plan as presented effectively minimize these challenges?
5. Does the plan impose undue burden on industry, and if so, are there any suggestions that will help mitigate them?

Dated: June 14, 2012.

**Rose E. Gottemoeller,**

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

[FR Doc. 2012-15070 Filed 6-20-12; 8:45 am]

**BILLING CODE 4710-25-P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[REG-113738-12]

RIN 1545-BK94

#### Amendment of Prohibited Payment Option Under Single-Employer Defined Benefit Plan of Plan Sponsor in Bankruptcy

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of proposed rulemaking and notice of public hearing.

**SUMMARY:** This document contains proposed regulations that would provide guidance under the anti-cutback rules of section 411(d)(6) of the Internal Revenue Code, which generally prohibit plan amendments eliminating or reducing accrued benefits, early retirement benefits, retirement-type subsidies, and optional forms of benefit under qualified retirement plans. These proposed regulations would provide an additional limited exception to the anti-cutback rules to permit a plan sponsor that is a debtor in a bankruptcy proceeding to amend its single-employer defined benefit plan to eliminate a single-sum distribution option (or other optional form of benefit providing for accelerated payments) under the plan if certain specified conditions are satisfied. These proposed regulations would affect administrators, employers, participants, and beneficiaries of such a plan. This document also provides notice of a public hearing on these proposed regulations.

**DATES:** Written or electronic comments must be received by August 20, 2012. Outlines of topics to be discussed at the public hearing scheduled for Friday, August 24, 2012, at 10 a.m. must also be received by August 16, 2012.

**ADDRESSES:** Send submissions to: CC:PA:LPD:PR (REG-113738-12), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:LPD:PR (REG-113738-12), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC, or sent electronically, via the Federal eRulemaking Portal at <http://www.regulations.gov> (IRS REG-113738-12). The public hearing will be held in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC.

#### FOR FURTHER INFORMATION CONTACT:

Concerning the regulations, Neil S. Sandhu or Linda S.F. Marshall at (202) 622-6090; concerning submissions of comments, the hearing, and/or being placed on the building access list to attend the hearing, Oluwafunmilayo (Funmi) Taylor at (202) 622-7180 (not toll-free numbers).

#### SUPPLEMENTARY INFORMATION:

##### Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR part 1) under section 411(d)(6) of the Internal Revenue Code (Code). These proposed regulations would amend § 1.411(d)-4 of the Treasury regulations.

Section 401(a)(7) provides that a trust does not constitute a qualified trust unless its related plan satisfies the requirements of section 411 (relating to minimum vesting standards). Section 411(d)(6)(A) provides that a plan is treated as not satisfying the requirements of section 411 if the accrued benefit of a participant is decreased by an amendment of the plan, other than an amendment described in section 412(d)(2) of the Code or section 4281 of the Employee Retirement Income Security Act of 1974, Public Law 93-406 (88 Stat. 829 (1974)), as amended (ERISA).

Section 411(d)(6)(B) provides that a plan amendment that has the effect of eliminating or reducing an early retirement benefit or a retirement-type subsidy, or eliminating an optional form of benefit, with respect to benefits attributable to service before the amendment is treated as impermissibly reducing accrued benefits. For a retirement-type subsidy, this protection applies only with respect to a participant who satisfies (either before or after the amendment) the preamendment conditions for the subsidy. The last sentence of section 411(d)(6)(B) provides that the Secretary may by regulations provide that section 411(d)(6)(B) does not apply to a plan amendment that eliminates an optional form of benefit (other than a plan amendment that has the effect of eliminating or reducing an early retirement benefit or a retirement-type subsidy).

Section 436(d)(2) provides that a defined benefit plan which is a single-employer plan must provide that, during any period in which the plan sponsor is a debtor in a case under title 11, United States Code, or similar Federal or State law (a “bankruptcy case”), the plan may not pay any “prohibited payment.” However, that limitation does not apply in a plan year