

the requirements of § 123.22 of this subchapter, include the following information: A description of the defense article, including technical data, or defense service; the name and address of the end-user and other available contact information (e.g., telephone number and electronic mail address); the name of the natural person responsible for the transaction; the stated end-use of the defense article or defense service; the date of the transaction; the Electronic Export Information (EEI) Internal Transaction Number (ITN); and the method of transmission. The person using or acting in reliance upon the exemption shall also comply with any additional recordkeeping requirements enumerated in the text of the regulations concerning such exemption (e.g., requirements specific to the Defense Trade Cooperation Treaties in §§ 126.16 and 126.17 of this subchapter).

(f) To claim an exemption for the export of technical data under the provisions of this subchapter (e.g., §§ 125.4 and 125.5 of this subchapter), the exporter must certify that the proposed export is covered by a relevant section of this subchapter, to include the paragraph and applicable subordinate paragraph. Certifications consist of clearly marking the package or letter containing the technical data “22 CFR [insert ITAR exemption] applicable.” This certification must be made in written form and retained in the exporter’s files for a period of 5 years. For exports that are oral, visual, or electronic the exporter must also complete a written certification and retain it for a period of 5 years.

**§ 120.16 Eligibility for approvals.**

(a) A U.S. person may receive a license or other approval pursuant to this subchapter. A foreign person may not receive such a license or other approval, except as follows:

(1) A foreign governmental entity in the U.S. may receive a license or other approval;

(2) A foreign person may receive a re-export or retransfer approval; or

(3) A foreign person may receive an approval for brokering activities.

(b) A request for a license or other approval by a U.S. person or by a person referred to in paragraphs (a)(1) and

(3) of this section will be considered only if the applicant has registered with the Directorate of Defense Trade Controls pursuant to part 122 or 129 of this subchapter, as appropriate.

(c) Persons who have been convicted of violating the U.S. criminal statutes enumerated in § 120.6, who have been debarred pursuant to part 127 or 128 of this subchapter, who are subject to indictment or are otherwise charged (e.g., charged by criminal information in lieu of indictment) with violating the U.S. criminal statutes enumerated in § 120.6, who are ineligible to contract with or to receive a license or other form of authorization to import defense articles or defense services from any agency of the U.S. Government, who are ineligible to receive an export license or other approval from any other agency of the U.S. Government, or who are subject to a publicly announced Department of State policy of denial, suspension, or revocation under § 120.18(a), are generally ineligible to be involved in activities regulated under this subchapter.

**§ 120.17 End-use monitoring.**

(a) Pursuant to section 40A of the Arms Export Control Act (22 U.S.C. 2785) and related delegations of authority, the Department of State is required to establish a monitoring program in order to improve accountability with respect to defense articles and defense services, sold, leased, or exported under Department of State licenses or other approvals under section 38 of the Arms Export Control Act and this subchapter.

(b) All exports of defense articles, technical data, services, and brokering activities made pursuant to this subchapter are subject to end-use monitoring by the Department of State through the Blue Lantern program.

**§ 120.18 Denial, revocation, suspension, or amendment of licenses and other approvals.**

(a) *Policy.* Licenses or approvals shall be denied or revoked whenever required by any statute of the United States. Any application for an export license or other approval under this subchapter may be disapproved, and any license or other approval or exemption