

§ 121.1, Nts.

CATEGORY XXI—ARTICLES, TECHNICAL DATA,
AND DEFENSE SERVICES NOT OTHERWISE
ENUMERATED

* (a) Any article not enumerated on the U.S. Munitions List may be included in this category until such time as the appropriate U.S. Munitions List category is amended. The decision on whether any article may be included in this category, and the designation of the defense article as not Significant Military Equipment, shall be made by the Director, Office of Defense Trade Controls Policy.

(b) Technical data (see § 120.33 of this subchapter) and defense services (see § 120.32 of this subchapter) directly related to the defense articles covered in paragraph (a) of this category.

[58 FR 39287, July 22, 1993]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 121.1, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.govinfo.gov.

EFFECTIVE DATE NOTE 1: At 86 FR 48022, Aug. 27, 2021, § 121.1, under Category XI, paragraph (b) was revised, effective Aug. 30, 2026. For the convenience of the user, the revised text is set forth as follows:

§ 121.1 The United States Munitions List.

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CATEGORY XI—MILITARY ELECTRONICS

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* (b) Electronic systems or equipment, not elsewhere enumerated in this subchapter, specially designed for intelligence purposes that collect, survey, monitor, or exploit the electromagnetic spectrum (regardless of transmission medium), or for counteracting such activities.

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EFFECTIVE DATE NOTE 2: At 88 FR 84074, Dec. 4, 2023, § 121.1, under Category VIII, was amended by revising the note to paragraph (h)(1), effective from Dec. 4, 2023, until Dec. 1, 2024, or when terminated by the Department, whichever occurs first. At 89 FR 93170, Nov. 26, 2024, the effective period was extended to Dec. 1, 2026.

EFFECTIVE DATE NOTE 3: At 90 FR 5601, Jan. 17, 2025, § 121.1 was amended, effective Sept. 15, 2025.

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§§ 121.2–121.16 [Reserved]

PART 122—REGISTRATION OF MANUFACTURERS AND EXPORTERS

Sec.

122.1 Registration: requirements, exemptions, and purpose.

122.2 Registration: submission of registration statement, certification, frequency, renewal, and lapse.

122.3 Registration fees.

122.4 Notification of changes in information furnished by registrants.

122.5 Maintenance of records by registrants.

AUTHORITY: Sections 2 and 38, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778); 22 U.S.C. 2651a; E.O. 13637, 78 FR 16129.

SOURCE: 58 FR 39298, July 22, 1993, unless otherwise noted.

§ 122.1 Registration: requirements, exemptions, and purpose.

(a) *Requirement to register.* Any person who engages in the United States in the business of manufacturing or exporting or temporarily importing defense articles, or furnishing defense services, is required to register with the Directorate of Defense Trade Controls under § 122.2. For the purpose of this subchapter, engaging in such a business requires only one occasion of manufacturing or exporting or temporarily importing a defense article or furnishing a defense service. A manufacturer who does not engage in exporting must nevertheless register. (*See* part 129 of this subchapter for requirements for registration of persons who engage in brokering activities.)

(b) *Exemptions.* The registration requirements of paragraph (a) of this section do not apply to:

(1) Officers and employees of the U.S. Government acting in an official capacity;

(2) Persons whose pertinent business activity is confined to the production of unclassified technical data only;

(3) Persons all of whose manufacturing and export activities are licensed under the Atomic Energy Act of 1954, as amended; or

(4) Persons who engage in the fabrication of articles solely for experimental or scientific purposes, including research and development.

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NOTE TO PARAGRAPH (b): Persons who qualify for the exemptions in paragraphs (b)(2) or (b)(4) of this section remain subject to the requirements for licenses or other approvals for exports of defense articles and defense services and may not receive an export license or approval unless registered under § 122.2.

(c) *Purpose.* Registration is primarily a means to provide the U.S. Government with necessary information on who is involved in certain manufacturing and exporting activities. Registration does not confer any export rights or privileges. It is generally a precondition to the issuance of any license or other approval under this subchapter, unless an exception is granted by the Directorate of Defense Trade Controls.

[78 FR 52686, Aug. 26, 2013, as amended at 89 FR 99084, Dec. 10, 2024]

§ 122.2 Registration: submission of registration statement, certification, frequency, renewal, and lapse.

(a) *Submission of registration statement.* An intended registrant must submit a Statement of Registration (Department of State form DS-2032) to the Office of Defense Trade Controls Compliance by following the electronic filing instructions available on the Directorate of Defense Trade Controls website at www.pmddtc.state.gov. The Statement of Registration may include subsidiaries and affiliates when more than 50 percent of the voting securities are owned by the registrant, or the subsidiaries and affiliates are otherwise controlled by the registrant (see § 120.66 of this subchapter). Registrants may not establish new entities for the purpose of reducing registration fees. The Statement of Registration must:

(1) Be signed by a U.S. person 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; and

(2) Include documentation that demonstrates the registrant is incorporated or otherwise authorized to do business in the United States.

(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 or its parent, subsidiary, or other affiliate listed in the Statement of Registration, or any of its chief executive officers, presidents, vice presidents, secretaries, partners, members, other senior officers or officials (*e.g.*, comptroller, treasurer, general counsel), or any member of the board of directors of the intended registrant, or of any parent, subsidiary, or other affiliate listed in the Statement of Registration:

(i) Has ever been indicted or otherwise charged (*e.g.*, charged by criminal information in lieu of indictment) for or has been convicted of violating any U.S. criminal statutes enumerated in § 120.6 of this subchapter or violating a foreign criminal law on exportation of defense articles where conviction of such law carries a minimum term of imprisonment of greater than 1 year; 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; and

(2) Whether the intended registrant is foreign owned or foreign controlled (see § 120.65 of this subchapter). If the intended registrant is foreign owned or foreign controlled, the certification shall include an explanation of such ownership or control, including the identities of the foreign person or persons who ultimately own or control the registrant. This requirement applies to a registrant who is a U.S. person and is owned or controlled by a foreign person. It also applies to a registrant who is a foreign person and is owned or controlled by a foreign person from the same country or a foreign person from another country.

(c) *Incomplete registration submission.* 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.

(d) *Frequency.* A person who is required to register and pay a registration fee must renew the registration

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and pay a registration fee on an annual basis after initial registration.

(e) *Renewal of registration.* A registrant must submit its request for registration renewal at least 30 days but no earlier than 60 days prior to the expiration date. Notice of the fee due for the next year's registration will be sent to the registrant of record at least 60 days prior to its expiration date.

(f) *Lapse in registration.* A registrant who fails to renew a registration and, after an intervening period, seeks to register again must pay registration fees for any part of such intervening period during which the registrant engaged in the business of manufacturing or exporting defense articles or defense services.

[89 FR 99084, Dec. 10, 2024]

§ 122.3 Registration fees.

(a) *Registration fee.* A person who is required to register must submit payment of a fee following the payment guidelines available on the Directorate of Defense Trade Controls website at www.pmddtc.state.gov. The fee to be paid shall be one of the following:

(1) *Tier 1.* The first tier is a set fee of \$3,000 per year. This applies to new registrants. It also applies to those who are renewing their registrations and for whom the Department did not issue a favorable determination on a license application or other request for authorization during the 12-month period ending 90 days prior to the expiration of the current registration.

(2) *Tier 2.* The second tier is a set fee of \$4,000 for registrants renewing their registrations who have submitted license applications or other requests for authorization and received five or fewer favorable determinations during the 12-month period ending 90 days prior to the expiration of their current registration.

(3) *Tier 3.* The third tier is a calculated fee for registrants who have submitted license applications or other requests for authorization and received more than five favorable determinations during the 12-month period ending 90 days prior to the expiration of their current registration. For these registrants, the fee calculation is \$4,000 plus \$1,100 times the total number of favorable determinations over five.

(b) *Website, discounts, and further guidance.* Information on certain discounts for registrants who are wholly exempt from income tax pursuant to 26 U.S.C. 501(c)(3), and for Tier 3 registrants who are low-value exporters or temporary importers are available on the Directorate of Defense Trade Controls website at www.pmddtc.state.gov by selecting “Conduct Business” on the top heading bar, then selecting “Registration” from the left menu bar, and finally selecting “Payment of Registration” from the subsequent left menu bar. Other guidance and information relevant to the payment of registration fees is also available on the website.

[89 FR 99085, Dec. 10, 2024]

§ 122.4 Notification of changes in information furnished by registrants.

(a) A registrant must, within five days of the event, provide to the Directorate of Defense Trade Controls a written notification, signed by a senior officer (e.g., chief executive officer, president, secretary, partner, member, treasurer, general counsel), if:

(1) Any of the persons referred to in § 122.2(b) is indicted or otherwise charged (e.g., by criminal information in lieu of indictment) for or convicted of violating any of the U.S. criminal statutes enumerated in § 120.6 of this subchapter or violating a foreign criminal law on exportation of defense articles where conviction of such law carries a minimum term of imprisonment of greater than 1 year, or becomes ineligible to contract with, or to receive a license or other approval to export or temporarily import defense articles or defense services from any agency of the U.S. Government; or

(2) There is a change in the following information contained in the Statement of Registration:

- (i) Registrant's name;
- (ii) Registrant's address;
- (iii) Registrant's legal organization structure;
- (iv) Ownership or control;
- (v) The establishment, acquisition, or divestment of a U.S. or foreign subsidiary or other affiliate who is engaged in manufacturing defense articles, exporting defense articles or defense services; or

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(vi) Board of directors, senior officers, partners, or owners.

NOTE 1 TO PARAGRAPH (a): All other changes in the Statement of Registration must be provided as part of annual registration renewal.

NOTE 2 TO PARAGRAPH (a): For one year from the effective date of the rule, “Amendment to the International Traffic in Arms Regulations: Registration and Licensing of Brokers, Brokering Activities, and Related Provisions,” RIN 1400-AC37, the following changes must be provided as part of the annual registration renewal: Pursuant to § 129.3(d) of this subchapter, changes to combine an existing broker registration with an existing manufacturer/exporter registration; and pursuant to § 122.2(a) of this subchapter, changes to an existing registration to remove partially owned and not otherwise controlled subsidiaries or affiliates, which are not the subject of an internal reorganization, merger, acquisition, or divestiture.

(b) A registrant must notify the Directorate of Defense Trade Controls by registered mail at least 60 days in advance of any intended sale or transfer to a foreign person of ownership or control of the registrant or any entity thereof. Such notice does not relieve the registrant from obtaining the approval required under this subchapter for the export of defense articles or defense services to a foreign person, including the approval required prior to disclosing technical data. Such notice provides the Directorate of Defense Trade Controls with the information necessary to determine whether the authority of § 38(g)(6) of the Arms Export Control Act regarding licenses or other approvals for certain sales or transfers of defense articles or data on the U.S. Munitions List should be invoked (see § 126.1(e) of this subchapter).

(c) The new entity formed when a registrant merges with another company or acquires, or is acquired by, another company or a subsidiary or division of another company shall advise the Directorate of Defense Trade Controls of the following:

(1) The new firm name and all previous firm names being disclosed;

(2) The registration number that will survive and those that are to be discontinued (if any);

(3) The license numbers of all approvals on which unshipped balances will be shipped under the surviving registration number, since any license not the

subject of notification will be considered invalid; and

(4) Amendments to agreements approved by the Directorate of Defense Trade Controls to change the name of a party to those agreements. The registrant must provide to the Directorate of Defense Trade Controls a signed copy of such an amendment to each agreement signed by the new U.S. entity, the former U.S. licensor and the foreign licensee, within 60 days of this notification, unless an extension of time is approved by the Directorate of Defense Trade Controls. Any agreement not so amended may be considered invalid.

(d) Prior approval by the Directorate of Defense Trade Controls is required for any amendment making a substantive change.

[58 FR 39298, July 22, 1993, as amended at 71 FR 20540, Apr. 21, 2006; 78 FR 52687, Aug. 26, 2013; 81 FR 87429, Dec. 5, 2016; 87 FR 16423, Mar. 23, 2022]

§ 122.5 Maintenance of records by registrants.

(a) A person who is required to register must maintain records concerning the manufacture, acquisition and disposition (to include copies of all documentation on exports using exemptions and applications and licenses and their related documentation), of defense articles; of technical data; the provision of defense services; brokering activities; and information on political contributions, fees, or commissions furnished or obtained, as required by part 130 of this subchapter. Records in an electronic format must be maintained using a process or system capable of reproducing all records on paper. Such records when displayed on a viewer, monitor, or reproduced on paper, must exhibit a high degree of legibility and readability. (For the purpose of this section, “legible” and “legibility” mean the quality of a letter or numeral that enables the observer to identify it positively and quickly to the exclusion of all other letters or numerals. “Readable” and “readability” means the quality of a group of letters or numerals being recognized as complete words or numbers.) This information must be stored in such a manner that

none of it may be altered once it is initially recorded without recording all changes, who made them, and when they were made. For processes or systems based on the storage of digital images, the process or system must afford accessibility to all digital images in the records being maintained. All records subject to this section must be maintained for a period of five years from the expiration of the license or other approval, to include exports using an exemption (*see* § 123.26 of this subchapter); or, from the date of the transaction (e.g., expired licenses or other approvals relevant to the export transaction using an exemption). The Deputy Assistant Secretary of State for Defense Trade Controls and the Director of the Office of Defense Trade Controls Licensing may prescribe a longer or shorter period in individual cases.

(b) Records maintained under this section shall be available at all times for inspection and copying by the Directorate of Defense Trade Controls or a person designated by the Directorate of Defense Trade Controls (e.g., the Diplomatic Security Service) or U.S. Immigration and Customs Enforcement, or U.S. Customs and Border Protection. Upon such request, the person maintaining the records must furnish the records, the equipment, and if necessary, knowledgeable personnel for locating, reading, and reproducing any record that is required to be maintained in accordance with this section.

[70 FR 50959, Aug. 29, 2005, as amended at 79 FR 8084, Feb. 11, 2014]

PART 123—LICENSES FOR THE EXPORT AND TEMPORARY IMPORT OF DEFENSE ARTICLES

Sec.

- 123.1 Requirement for export or temporary import licenses.
- 123.2 Import jurisdiction.
- 123.3 Temporary import licenses.
- 123.4 Temporary import license exemptions.
- 123.5 Temporary export licenses.
- 123.6 Foreign trade zones and U.S. Customs and Border Protection bonded warehouses.
- 123.7 Exports to warehouses or distribution points outside the United States.

- 123.8 Special controls on vessels, aircraft and satellites covered by the U.S. Munitions List.
- 123.9 Country of ultimate destination and approval of reexports or retransfers.
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- 123.11 Movements of vessels and aircraft covered by the U.S. Munitions List outside the United States.
- 123.12 Shipments between U.S. possessions.
- 123.13 Domestic aircraft shipments via a foreign country.
- 123.14 Import certificate/delivery verification procedure.
- 123.15 Expedited processing of license applications for the export of defense articles and defense services to Australia, the United Kingdom, or Canada.
- 123.16 Exemptions of general applicability.
- 123.17 Exemption for personal protective gear.
- 123.18 [Reserved]
- 123.19 Canadian and Mexican border shipments.
- 123.20 [Reserved]
- 123.21 Duration, renewal, and disposition of licenses.
- 123.22 Filing, retention, and return of export licenses and filing of export information.
- 123.23 Monetary value of shipments.
- 123.24 Shipments by U.S. Postal Service.
- 123.25 Amendments to licenses.
- 123.26 [Reserved]
- 123.27 Special licensing regime for export to U.S. allies of commercial communications satellite components, systems, parts, accessories, attachments and associated technical data.
- 123.28 Scope of a license.

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; 22 U.S.C. 2651a; 22 U.S.C. 2776; Pub. L. 105–261, 112 Stat. 1920; Sec. 1205(a), Pub. L. 107–228; Sec. 520, Pub. L. 112–55; Section 1261, Pub. L. 112–239; E.O. 13637, 78 FR 16129.

SOURCE: 58 FR 39299, July 22, 1993, unless otherwise noted.

§ 123.1 Requirement for export or temporary import licenses.

(a) Any person who intends to export or to import temporarily a defense article must obtain the approval of the Directorate of Defense Trade Controls prior to the export or temporary import, unless the export or temporary import qualifies for an exemption under the provisions of this subchapter. The applicant must be registered with the Directorate of Defense Trade Controls pursuant to part 122 of this subchapter prior to submitting an