

that qualifies for an exemption under this subchapter, the U.S. importer will not be able to claim the exemption and is required to obtain a DSP-61 Application/License for Temporary Import of Unclassified Defense Articles or, for classified defense articles, a DSP-85 Application for Permanent/Temporary Export or Temporary Import of Classified Defense Articles and Related Classified Technical Data.

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Dated: July 6, 2011.

**Ellen O. Tauscher,**

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

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## DEPARTMENT OF STATE

### 22 CFR Part 123

**RIN 1400-AC91**

**[Public Notice 7523]**

#### **International Traffic in Arms Regulations: Filing, Retention, and Return of Export Licenses and Filing of Export Information**

**AGENCY:** Department of State.

**ACTION:** Proposed rule.

**SUMMARY:** The Department of State proposes to amend the International Traffic in Arms Regulations (ITAR) to reflect changes in the requirements for the return of licenses. Applicants will no longer be required to return certain expired or exhausted DSP-5s. This change will reduce administrative burden on applicants.

**DATES:** *Effective Date:* The Department of State will accept comments on this proposed rule until August 29, 2011.

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

- *E-mail:*

*DDTCResponseTeam@state.gov* with the subject line, "ITAR Amendment—License Return."

- *Internet:* View this notice by searching for its RIN on the U.S. Government regulations Web site at <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Nicholas Memos, Office of Defense Trade Controls Policy, Bureau of Political-Military Affairs, Department of State, (202) 663-2804 or FAX (202) 261-8199; E-mail *memosni@state.gov*, Attn: ITAR Amendment—License Return.

**SUPPLEMENTARY INFORMATION:** The Department of State proposes to amend

§ 123.22(c) to institute changes in the requirements for the return of licenses. With this proposed change, applicants with DSP-5 licenses that have been issued electronically by the Directorate of Defense Trade Controls (DDTC) and decremented electronically by the U.S. Customs and Border Protection through the Automated Export System (AES) will no longer need to return them to DDTC. The return of these licenses is redundant and unnecessary as all of the export information has been captured and saved electronically.

All other DSP-5 licenses that do not meet the criteria described above must be returned by the applicant to DDTC. All DSP-61, DSP-73, and DSP-85 licenses, and DSP-94 authorizations, are to be returned by the applicant to DDTC as these licenses and authorizations are not decremented electronically, even if an Electronic Export Information is filed via AES.

Proposed § 123.22(c)(4) provides that licenses issued but not used by the applicant do not need to be returned to DDTC.

Proposed § 123.22(c)(5) provides that licenses which have been revoked by DDTC are considered expired.

Section 123.21(b) is to be amended to conform to the proposed changes to § 123.22(c).

#### **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 is publishing this rule with a 45-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 rule 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 rule.

##### *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*

This rule does not impose any new reporting or recordkeeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

#### **List of Subjects in 22 CFR Part 123**

Arms and munitions, Exports.

Accordingly, for the reasons set forth above, Title 22, Chapter I, Subchapter M, part 123 is proposed to be amended as follows:

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

1. 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.

2. Section 123.21 is amended by revising the heading and paragraph (b) to read as follows:

##### **§ 123.21 Duration, renewal, and disposition of licenses.**

\* \* \* \* \*

(b) Unused, expired, suspended, or revoked licenses must be handled in accordance with § 123.22(c) of this subchapter.

3. Section 123.22 is amended by revising paragraph (c) to read as follows:

##### **§ 123.22 Filing, retention, and return of export licenses and filing of export information.**

\* \* \* \* \*

(c) *Return of licenses.* Per § 123.21 of this subchapter, all DSP licenses issued by the Directorate of Defense Trade Controls (DDTC) must be disposed of in accordance with the following:

(1) DSP–5 licenses issued electronically by DDTC and decremented electronically by the U.S. Customs and Border Protection through the Automated Export System (AES) are not required to be returned to DDTC. The DSP–5 licenses, when fully decremented or expired, must be maintained by the applicant in accordance with § 122.5 of this subchapter.

(2) DSP–5, DSP–61, DSP–73, and DSP–85 licenses issued by DDTC but not decremented electronically by the U.S. Customs and Border Protection through AES (e.g., oral or visual technical data releases or temporary import and export licenses retained in

accordance with paragraph (a)(2) of this section), must be returned by the applicant to DDTC upon expiration, to include when the total value or quantity has been shipped. A copy must be maintained by the applicant in accordance with § 122.5 of this subchapter. AES does not decrement the DSP–61, DSP–73, and DSP–85 licenses. Submitting the Electronic Export Information is not considered to be decremented electronically for these licenses.

(3) A DSP–94 authorization filed with the U.S. Customs and Border Protection must be returned by the applicant to DDTC upon expiration, to include when the total value or quantity has been shipped. AES does not decrement the DSP–94 authorization. Submitting the Electronic Export Information is not considered to be decremented electronically for the DSP–94. A copy of the DSP–94 must be maintained by the applicant in accordance with § 122.5 of this subchapter.

(4) Licenses issued but not used by the applicant do not need to be returned to DDTC, even when expired.

(5) Licenses which have been revoked by DDTC are considered expired and must be handled in accordance with paragraphs (c)(1) and (2) of this section.

Dated: July 7, 2011.

**Ellen O. Tauscher,**

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

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#### **DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

##### **24 CFR Part 200**

**[Docket No. FR–5458–P–01]**

**RIN 2502–AI96**

#### **Federal Housing Administration (FHA) Appraiser Roster: Appraiser Qualifications for Placement on the FHA Appraiser Roster**

**AGENCY:** Office of the Assistant Secretary of Housing—Federal Housing Commissioner, HUD.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule updates HUD's regulations to conform to the statutory requirement that appraisers must be certified, rather than licensed, by a state appraisal licensing board in order to appear on the FHA Appraiser Roster. This requirement was established by the Housing and Economic Recovery Act of 2008. Although current HUD practice is in

compliance with the statutory mandate, the regulations reflect outdated prior policy of permitting state-licensed appraisers to be listed on the FHA Appraiser Roster. In addition, HUD has taken this opportunity to update the FHA Appraiser Roster by replacing the obsolete references to the Credit Alert Interactive Voice Response System with references to its successor, the online-based Credit Alert Verification Reporting System.

**DATES:** *Comment Due Date:* September 12, 2011.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposed rule to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW., Room 10276, Washington, DC 20410–0500. Communications must refer to the above docket number and title. There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

1. *Submission of Comments by Mail.* Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW., Room 10276, Washington, DC 20410–0001.

2. *Electronic Submission of Comments.* Interested persons may submit comments electronically through the Federal eRulemaking Portal at <http://www.regulations.gov>. HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the <http://www.regulations.gov> Web site can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

**Note:** To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the rule. *No Facsimile Comments.* Facsimile (FAX) comments are not acceptable.

*Public Inspection of Public Comments.* All properly submitted comments and communications submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance