

C. Additional Guidance

The issuance of guidance in this area has been a long-standing agency practice to assist credit unions with their record preservation obligations. As noted in an earlier rulemaking on part 749, “there is a need for guidance in the area of record retention based on the frequency of requests for assistance from credit unions.”⁹ Additionally, clearer guidance in this area would also allow NCUA to better execute its supervisory duties. As part of meeting this need, the agency has taken steps over the years to clearly state the difference between regulations and guidance. In a prior rulemaking on part 749, the Board attempted to clarify this issue by stating, “The Board has weighed the fact that guidance is available from other sources and the potential for confusion regarding enforceability of a regulation versus guidance. The Board believes the benefit to credit unions in having the guidance in the appendix to the regulatory requirement will enhance access to the guidance and will facilitate compliance.”¹⁰ In the part 749 rulemaking, the Board further noted that “including specific words like ‘recommended’ and ‘guidance’ means, as a legal matter, that the guidance is just that—guidance—and is not enforceable as a regulation. These words clarify and minimize, to the extent linguistically possible, the potential for misinterpretation.”¹¹ The NCUA recently codified this position in an interagency rulemaking clarifying the distinction between a rule and guidance whereby the former creates binding legal obligations, and the latter does not.¹²

Questions:

(16) What provisions of appendix A or appendix B do not align with the requirements of part 749, or are otherwise outdated or unclear examples of the types of records that should be retained? For records you consider outdated, please explain why.

(17) In terms of the content of any future guidance, what guidance would be helpful to better reflect the types of records that must be retained under part 749?

(18) What guidance would be helpful for catastrophic act or other disaster preparedness?

(19) Is there confusion among stakeholders regarding the enforceability of regulation versus guidance concerning part 749? If so, what should be revised?

D. Other NCUA Regulations

Questions:

(20) Are there other provisions in the NCUA’s regulations that contain record retention requirements that should be incorporated into part 749?

III. Legal Authority

The Board issues this ANPR pursuant to its authority under the Federal Credit Union Act (FCUA) to prescribe rules and regulations as it deems appropriate for administering the FCUA, including its recordkeeping requirements for Federal credit unions.¹³ Maintaining vital records is central to a credit union’s ability to properly service its members and to the NCUA’s ability to fulfill its supervisory and enforcement duties. Section 209 of the FCUA is a plenary grant of regulatory authority to the Board to examine and require information and reports from credit unions as well as issue rules and regulations necessary or appropriate to carry out its roles as regulator and share insurer.¹⁴ Section 206 of the FCUA requires the agency to impose corrective measures whenever, in the opinion of the Board, any credit union is engaged in or has engaged in unsafe or unsound practices in conducting its business.¹⁵ Accordingly, the FCUA grants the Board broad rulemaking authority to ensure that credit unions, their member owners, and the National Credit Union Share Insurance Fund remain safe, sound and protected.

By the National Credit Union Administration Board.

Melane Conyers-Ausbrooks,
Secretary of the Board.

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DEPARTMENT OF STATE

22 CFR Parts 122 and 129

[Public Notice: 12236]

RIN 1400–AF78

International Traffic in Arms Regulations: Registration Fees

AGENCY: Department of State.

ACTION: Proposed rule.

SUMMARY: The Department of State proposes to amend the International

¹³ 12 U.S.C. 1766(e).

¹⁴ 12 U.S.C. 1789(a)(8) and (11).

¹⁵ 12 U.S.C. 1786(b)(1). There are several references to “safety and soundness” in the FCUA. See 12 U.S.C. 1757(5)(A)(vi)(I), 1759(d & f), 1781(c)(2), 1782(a)(6)(B), 1786(b), 1786(e), 1786(f), 1786(g), 1786(k)(2), 1786(r), 1786(s), and 1790d(h).

Traffic in Arms Regulations (ITAR) by increasing and specifying the fees required for registration with the Directorate of Defense Trade Controls (DDTC).

DATES: Send comments on or before June 10, 2024.

ADDRESSES: Interested parties may submit comments by one of the following methods:

- *Email:* DDTCCPublicComments@state.gov. Include the subject line: “Registration Fees—RIN 1400–AF78”
- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Identify by the Department docket number DOS–2023–0034 or RIN 1400–AF78. Follow the instructions for sending comments.

Comments received after that date may 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 any such claim will be deemed waived and comments and/or transmittal emails may be made publicly available. 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. Per 5 U.S.C. 553(b)(4), a concise summary of this proposed rule may be found at <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

Allison Smith, PM/DDTC Director of Management, Bureau of Political-Military Affairs, U.S. Department of State, telephone 202–647–1282; email: DDTCCustomerService@state.gov. Subject: Registration Fee Change.

SUPPLEMENTARY INFORMATION:

Overview

For the first time in fifteen years, the State Department proposes to revise and increase the registration fees (also referred to as “fees”) charged to those required to register with DDTC. In accordance with section 38(b) of the Arms Export Control Act (AECA) (22 U.S.C. 2778(b)), every person who engages in the business of manufacturing, exporting, temporarily importing, or brokering any defense articles or defense services is required to register with DDTC, the agency charged with administering the relevant sections of the AECA. Section 38(b) of the AECA also requires that every person required to register pay a registration fee. As the ITAR implements section 38 of the AECA, and as its parts 122 and 129 (22

⁹ 66 FR 11239 (Feb. 23, 2001).

¹⁰ 72 FR 42271 (Aug. 2, 2007).

¹¹ 12 U.S.C. 1766(e).

¹² 12 U.S.C. 1766(e).

CFR parts 122 and 129) address registration, the Department proposes to revise those provisions to restate registration requirements without substantive change, to revise the Department's methodology for determining the fees paid by certain registrants, to increase registration fees, and to reinsert the actual amount of fees within the ITAR itself.

Uses of Registration Fees

Registration fees required under section 38 of the AECA are, by a separate statute (22 U.S.C. 2717), used to fund a large share of DDTC and the many functions it provides to exporters, importers, brokers, manufacturers, and the general public. The Department briefly outlines some of these functions here so that registrants can have more context for how their fees help DDTC's mission. Services like the DDTC Response Team, Help Desk, commodity jurisdiction determinations, advisory opinions, guidance on brokering, and support for registration all offer assistance for the approximately 14,500 current DDTC registrants and the general public. Moreover, DDTC often conducts outreach, visits, webinars, speaking engagements and other educational services to help people understand the ITAR and its requirements and exemptions. For fiscal year 2022, for example, DDTC experts attended over 60 outreach events and engaged with over 6,000 industry attendees in online webinars.

Issuing licenses or other authorizations under the ITAR is also a core and large part of DDTC's work. In fiscal year 2022, DDTC received approximately 22,500 license applications and issued authorizations that were valued at just over \$153.7 billion. Although licensing officials currently are some of the only DDTC officials paid through congressional appropriations, contractor support and other technologies impacting the processing, adjudication, and monitoring of licenses are funded by fees.

DDTC also provides crucial public services in investigating possible ITAR violations to maintain U.S. foreign policy and national security imperatives. Again, using the last fiscal year as an illustrative example, DDTC received over 600 disclosures, either voluntary or directed, and conducted over 300 end-use monitoring checks. Because investigations and compliance actions can be complex and span several months or years, the monetary value that DDTC's Compliance office secured is best viewed as a three-year rolling average for FY 2020–2023, where an

average of over \$7.6M per year in settlement funds were obtained for alleged ITAR violations, all of which was deposited into the Treasury Department's General Fund and does not go to DDTC. DDTC also assists Department of Justice (DOJ) officials in certain criminal proceedings related to the ITAR, including by providing testimony.

These services provide broad protection to industry and the public alike, ensuring that a uniform set of rules are enforced for all, that one business or exporter does not have an unfair advantage over the other, and that exports, temporary imports, or brokering of defense articles and defense services are consistent with the national security and foreign policy of the United States.

Apart from these ongoing crucial services, DDTC has also recently made significant advancements in processes for registration statements and license applications, and for those members of the public seeking advisory opinions or commodity jurisdiction determinations. One of those is the creation, maintenance, and enhancement of the Defense Export Control and Compliance System (DECCS). Launched in February 2020, DECCS simplifies the submission processes for applicants and allows applicants to track electronic forms submitted to DDTC. DDTC's Information Technology Modernization Team also supports enhanced security and operations features and regularly connects with DECCS users through the DECCS Users Group where industry users can provide direct feedback and suggest enhancements to DECCS. In the area of improved customer service and response, since February 2020, DDTC has used DECCS to implement a fully electronic case-management system, receiving and resolving 81,604 Help Desk tickets and 29,653 Response Team tickets. DECCS users can engage directly with DDTC Help Desk and Response Team customer service experts to resolve their issue. DDTC also implemented a customer satisfaction survey to engage with industry, and DDTC's average survey rating is 4.6 out of 5.

Other enhancements and improvements have also been made specifically to the registration processes. Since 2022, registration processing times have dropped from an average of around 45 days to 30 days. DDTC implemented automated email reminders and status updates for industry to track registration applications. The DECCS application also automatically calculates the registration fee for all registrants, and now registrants can download their

renewal fees calculation letter. Additionally, there is enhanced communication between industry and DDTC through DECCS. DDTC has instituted additional improvements, including providing a list of approved licenses and other authorizations and registration guides for DECCS and FAQs.

How DDTC Calculated the New Proposed Registration Fees

The Department assessed that after fifteen years of inflation, increasing technological improvements, and improved services (which are described in further detail below), that an increase in the amount of registration fees is necessary for the continued and modernized operations of DDTC. DDTC has engaged in some public engagement on this issue, previewing that it was considering increasing its registration fees in multiple industry engagement events over the last twelve months. No questions or comments on the topic were raised by the public at those events. Separately, different industry representatives have suggested to DDTC that increased fees would be worthwhile to continue receiving improved services.

To compute the new fees proposed here, the Department looked at DDTC's past and projected fee collections projected against future operating costs. It found that although DDTC's operating budget has remained mostly the same over the past few years, apart from inflation, increasing expenses are resulting in operating costs that currently exceed the amount of revenue generated by fees. While DDTC has been able to draw from its collections over the past few years to meet its costs, these funds and the current registration fee amounts will not cover DDTC's increased operational expenses. The need to increase fees to keep up with inflation and increased costs related to enhanced services has therefore become particularly pressing and DDTC would have to cut back on certain services if registration fees are not adjusted in the near future. Similarly, obtaining more funds from other sources may not be feasible. DDTC operates with only limited congressionally appropriated funds, comprising under 17% of its total operating costs, and the congressional sense and presidential national security directive is that DDTC be mostly fee funded.

Since 2008, the time of the last registration fee increase, DDTC has structured registration fees into three basic tiers, based on groupings of registrants that approximate their potential interactions with DDTC. The tier groupings also turn on whether

persons have submitted a license application or other request for authorization and have received any favorable determinations in response during a look-back period prescribed in the regulations. Although the DDTC website's section on registration fees and tier groups currently makes reference to "favorable authorizations," DDTC aims to use the term "favorable determinations" in the future to more accurately reflect that its licensing officials adjudicate and make determinations on license applications and other authorization types described in § 120.57. There is no practical change intended in using the updated term. Favorable determinations include an approval, an approval with provisos (sometimes also referred to as an approval with conditions), or written authorization from DDTC to conduct an activity regulated by the ITAR. An application that is returned without action or denied, on the other hand, is not a type of favorable determination. Persons who do not submit a license application or other request for authorization during the look-back period are included in the first tier at the lowest amount.

Tier 1 registrants are currently comprised of persons in the business of manufacturing who either do not export, or who rely on ITAR exemptions for export authorizations. Persons who have submitted a license application or other request for an authorization, but who did not receive any favorable determination qualify for this tier. Additionally, persons engaged in the business of brokering activities also register under Tier 1, regardless of the number of brokering authorizations sought or obtained; however, if these persons have already registered with DDTC and obtained an M-code as a manufacturer, exporter, or temporary importer, and if these persons are identified as a broker within that registration, a separate registration fee for brokering activities is not currently required. In contrast, if brokers register separately (sometimes referred to as "stand-alone brokers"), then they are required to pay the Tier 1 fee.

Tier 2 registrants currently include those who have submitted and received a favorable determination on ten or fewer license applications or requests for authorization during the twelve-month period ending 90 days prior to the expiration of their current registration.

Tier 3 registrants have more frequent interactions with DDTC and thus require more DDTC services. These are registrants who have submitted and received a favorable determination on

more than ten license applications or requests for authorization during the twelve-month period ending 90 days prior to the expiration of their current registration.

The Department now proposes to increase the existing fees of Tier 1 and Tier 2 roughly in line with inflation over the last fifteen years. This represents the Department's goal of not asking these registrants to pay an increased amount relative to 2008 costs adjusted to today's dollars. As detailed more below, the Tier 1 annual flat fee would increase from \$2,250 to \$3,000. This would be a 33% increase over current amounts, but just below the amount of inflation over that same period, which was approximately 40.1%, as calculated by the Department of Labor's Consumer Price Index (CPI). Using the CPI calculator on the Department of Labor's Bureau of Labor Statistics website (https://www.bls.gov/data/inflation_calculator.htm), \$2,250 in August 2008 would have the same buying power today as around \$3,153.40.

Similarly, the Tier 2 annual flat fee would increase from \$2,750 to \$4,000. This would be about a 45% increase over current amounts, just over the roughly 40% inflation since the amount was last adjusted. The CPI calculator shows that \$2,750 in August 2008 would be about \$3,854.15 today. Tier 2 registrants are proposed to have a slightly higher percentage increase than Tier 1 registrants because Tier 2 registrants receive additional services and benefits, and because they actually submit license applications or requests for authorization that require review. Whereas Tier 1 registrants do not interact as often with DDTC, and generally require less direct services, and may not engage in as much exporting or temporarily importing of defense articles or defense services.

The conditions for Tier 2, however, are proposed to be adjusted. Whereas currently, this tier is for registrants who have submitted and received a favorable determination on ten or fewer license applications or requests for authorization, the Department now proposes that the number of favorable determinations decreases from ten to five. This change was based in part on an analysis of DDTC data over the last five years, which found that the average Tier 2 registrant received three favorable determinations on license applications or requests for authorization.

Consequently, the majority of registrants previously in Tier 2 would remain in this tier under the newly proposed conditions. However, those registrants who have received more than five

favorable determinations in the look-back period would become Tier 3 registrants under this proposal.

Tier 3 registrants, in contrast to the other tiers, would see an increase beyond the adjusted amount of inflation. Both the calculated fee and the baseline for that fee would increase. The baseline would rise from \$2,750 to \$4,000, and the additional fee multiplier for favorable determinations, proposed to now be over five instead of over ten, would rise from \$250 to \$1,100 for each. Thus, as an example, if an exporter has applied for and obtained seven licenses or other authorizations within the look-back period, this exporter would pay the registration fee prescribed in Tier 3, which would be a baseline of \$4,000, plus \$2,200 (because there were two favorable determinations obtained above the baseline of five), for a total fee of \$6,200.

The Department has concluded that Tier 3 registrants have benefited the most from DDTC's improvements, specifically DECCS and customer service improvements, they are best positioned to contribute from their export-derived revenue to continue and improve DDTC's services.

Because these improvements would primarily benefit Tier 3 registrants, it is those registrants that will be asked to contribute more.

DDTC currently has discounts available for exporters and temporary importers of low-value items who fall under Tier 3. This low-value discount formula is currently available on the DDTC website. Under this proposed change, this discount would remain as currently structured and would be referenced in a new paragraph (b) in § 122.3, directing the public to the DDTC website for the conditions and formula. Similarly, registrants who fall under Tier 2 and Tier 3, but who are wholly exempt from income taxation pursuant to 26 U.S.C. 501(c)(3) may be eligible for a discount to the Tier 1 fee. The DDTC website has and will continue to have information relevant to this non-profit discount as well. The new paragraph (b) would include mention of the non-profit discount alongside the Tier 3 low-value discount and direct the public to the DDTC website for more information on both. Once on the DDTC website at <https://www.pmdtcc.state.gov>, relevant information can be found by clicking on the "Conduct Business" link on the top menu bar, and then by clicking "Registration" on the next page's left-hand menu.

New Proposed Registration Fees

Accordingly, the Department proposes amendments to the three registrant tiers as follows:

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 registration and for whom the Department did not issue a favorable determination on a license application or other request for authorization, or who did not submit a license application or other request for authorization, during the twelve-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 those who are renewing their registration and have submitted license applications or other requests for authorization and received five or fewer favorable determinations during the twelve-month period ending 90 days prior to the expiration of their current registration.

3. *Tier 3*: The third tier is a calculated fee for those who are renewing their registration and have submitted license applications or other requests for authorization and received more than five favorable determinations during the twelve-month period ending 90 days prior to the expiration of their current registration. For these registrants, the fee calculation is \$4,000 plus \$1,110 times the total number of favorable authorizations above five.

Registration fees for persons who engage in brokering activities would remain tied to Tier 1, regardless of authorizations submitted or determinations received. If a person has already registered with DDTC as a manufacturer or exporter, and if that person is listed and identified as a broker within their manufacturer or exporter registration, then no additional fee is currently required to also register as a broker. But if a broker registers separately (*i.e.*, as a “stand-alone broker”), then they are required to pay the Tier 1 fee, as is the case for the current registration fee structure.

DDTC has also maintained a discount for registrants who would otherwise fall in Tiers 2 or 3, but who are wholly exempt from income taxation pursuant to 26 U.S.C. 501(c)(3). The discount is proposed to still be available; however, guidance on how to apply for the discount will remain on the DDTC website. Currently, and with no proposed change, the qualifying registrant must attach proof of such status (*i.e.*, IRS certification form) for their fee to be reduced to the Tier 1 amount. Importantly, for this discount, the IRS certification must apply to all

entities/subsidiaries/affiliates listed in the registration submission.

DDTC will be prepared to assist registrants with the proposed change to registration fees. If adopted in a final rule, the DECCS application will be updated to auto-calculate the revised fees once they go into effect. The DDTC public website will also have up-to-date information, and the Help Desk and the Response Team will be available to field questions. As is the case now, approximately 90 days prior to the expiration of a registration, DECCS will calculate the registration’s renewal fee and post it to the DECCS Registration Dashboard. DDTC will also continue to send registration renewal notification emails 90 days and 30 days prior to a registration expiration date. And registrants will still be able to view a “Renewal Fee Details” button on their Registration Dashboard, which will display the total number of favorable determinations in the look-back period used to calculate the registrant’s upcoming tier and total registration fee. Finally, as always, if a registrant feels the amount calculated is incorrect, they may submit a written request to DDTC explaining the basis for their request. Other frequently asked questions (FAQs) about registration fees and the registration process are available on the DDTC website, including by searching for “registration fee” and will be updated after any changes to the registration fees occur.

Returning the Registration Fee Amounts to the ITAR

Prior to October 2013, registration fees were outlined within the regulations themselves. Effective October 25, 2013 (78 FR 52680), the amounts of the registration fees and the tier groupings were removed from the ITAR and placed on the DDTC website. To ensure that the registration fees amounts are easily available, the Department proposes to return them to the text of the regulations in § 122.3, entitled “Registration fees.” Similarly, with respect to registration fees for stand-alone brokering registrations (*i.e.*, brokers who are not otherwise registered as a manufacturer or exporter, see § 129.3(d)), the Department proposes to amend § 129.8 to specify the fee amount for stand-alone broker registrations by specific reference to the Tier 1 amount prescribed in § 122.3(a)(1). Registration fee amounts and related guidance would still also remain available on the DDTC website.

ITAR Reorganization

In addition to the registration-fee-specific proposals discussed above, the

Department takes this opportunity to propose additional revisions in keeping with the Department’s ITAR reorganization efforts initiated by 87 FR 16396, Mar. 23, 2022. That rule restructured part 120 of the ITAR to better organize the definitions previously found in that part and other locations throughout the ITAR and consolidated provisions that provide background information or otherwise apply throughout the regulations. In keeping with those aims, the Department further proposes to remove those parts of § 122.3 that are not specific to fees, but are more generally related to registration (*i.e.*, paragraphs (b) and (c) regarding frequency and lapse of registration, respectively), and relocate them to § 122.2, which more generally describes registration. The changes proposed would not substantively alter registration requirements, but rather would reword existing provisions for clarity and relocate them from one adjoining section of the ITAR to another. The Department proposes to make related, non-substantive, changes to § 122.1 through § 122.3. The ITAR Reorganization proposed changes are as follows:

- In § 122.1:
 - Revising the section heading to better describe the content from “Registration requirements” to “Registration: requirements, exemptions, and purpose.”
 - Adding a paragraph heading to paragraph (a) to read: “*Requirement to register.*”
- In § 122.2:
 - Revising the section heading to better describe the content from “Submission of registration statement.” to “Registration: submission of registration statement, certification, frequency, renewal, and lapse.”
 - In paragraph (a), revising the introductory heading to read “*Submission of registration statement.*” and streamlining the remaining text by breaking out of the introductory text, and placing into level 2 paragraphs, the two required elements of the statement: that it be signed by a U.S. person officer, and that it include documentation of incorporation or authorization.
 - Adding new paragraph (c) to provide greater clarity regarding incomplete submissions, by removing and relocating text from the general requirement in paragraph (a).
 - Adding new paragraph (d) by relocating text from § 122.3 regarding frequency of registration.

—Adding new paragraph (e) by relocating and revising text from § 122.3 regarding renewal of registration.

—Adding new paragraph (f) by relocating and revising text from § 122.3 regarding lapses in registration.

Because the Department proposes to remove all non-fee related text from § 122.3 by revising and relocating the text of current paragraphs § 122.3(b) and (c), it proposes to limit registration fee related text to paragraph (a) of § 122.3 and to revise paragraph (b) to direct readers to the DDTC website for certain discounts and for further guidance on the process of registration.

Regulatory Analysis and Notices

Administrative Procedure Act

The Department has historically determined that rulemakings implementing the Arms Export Control Act or amending the ITAR involve a military or foreign affairs function of the United States under 5 U.S.C. 553(a). However, due to Department's interest in seeking public comment on this rule, the Department is soliciting comments during a 45-day comment period, to which it will respond in a final rule, should the Department choose to finalize all or part of this proposal.

Regulatory Flexibility Act

Since this rule is exempt from the notice-and-comment rulemaking provisions of 5 U.S.C. 553, it does not require analysis under the Regulatory Flexibility Act.

Unfunded Mandates Reform Act of 1995

This rulemaking 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 Orders 12372 and 13132

This rulemaking 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 rulemaking.

Executive Orders 12866, 14094, and 13563

Executive Orders 12866 (as amended by Executive Order 14094) and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributed impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been designated as a significant regulatory action by the Office of Information and Regulatory Affairs under Executive Order 12866, as amended.

In FY 2023, roughly 14,500 registrants contributed registration fees to DDTC's FY23 collections amounting to \$33.8 million. Based on projections made from registrant data from recent years, the new registration structure, which presumes roughly the same number of registrants, is expected to bring in an overall total of roughly \$67.2 million per year, which would be an overall increase of \$33.4 million per year. Although this is a 99% projected increase in collections overall from current registration fees, the largest increase, on a per-registrant basis, would fall on Tier 3 registrants. On average, Tier 3 registrants would see their individual fee amounts increase by over 250%. The Department believes this increase is justified for the reasons discussed previously in the preamble, but specifically due to the fact that more than fifteen years have passed since DDTC last adjusted fees, and Tier 3 registrants derive greater benefits from engaging in regulated activities while also consuming a disproportionate amount of DDTC support services. Because we project registrants in Tier 3 to account for over 22,000 of the roughly 26,000 applications expected to be favorably determined by DDTC, the Department believes that this would be a more equitable distribution of financial costs. Tier 1 and Tier 2 registrants, on the other hand, will see a 33% and 45% increase, respectively, not far from the near 40% inflation rate in the over fifteen years since the registration fees were last adjusted. For FY 2025, DDTC's projected operational budget will be nearly \$60 million, and that amount is expected to increase based on inflation and other increases in expenses. Setting a registration fee structure that aims to offer a stable price for a number of years is also expected

to be a benefit to registrants, so that they may better know what fees to expect for future years. Additionally, the proposed registration fee structure benefits DDTC by meeting its budget demands in a way that also reasonably accounts for unknown variables such as changes in the number of registrants, or potential exemptions that would not require specific license applications or approvals and would therefore decrease the expected collections from Tiers 2 and 3. It also allows for DDTC to address unexpected contingencies as it did in 2020, when it temporarily lowered registration fee amounts as a relief measure during the pandemic. DDTC welcomes public comment on the impact of this proposed rule.

Executive Order 12988

The Department of State has reviewed this rulemaking in light of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

Executive Order 13175

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

Paperwork Reduction Act

This rulemaking does not impose or revise any information collections subject to 44 U.S.C. Chapter 35.

List of Subjects

22 CFR Part 122

Arms and munitions, Exports, Reporting and recordkeeping requirements.

22 CFR Part 129

Arms and munitions, Brokers, Exports, Technical assistance.

Amendatory Instructions

For the reasons discussed in the preamble and under the authority of 22 U.S.C. 2778, the Department of State proposes to revise title 22, chapter I, subchapter M, parts 122 and 129 to read as follows:

PART 122—REGISTRATION OF MANUFACTURERS AND EXPORTERS

■ 1. The authority citation for part 122 continues to read as follows:

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.

■ 2. Amend § 122.1 by revising the section heading and adding a heading to paragraph (a) to read as follows:

§ 122.1 Registration: requirements, exemptions, and purpose.

(a) *Requirement to register.* * * *

■ 3. Revise § 122.2 to read as follows:

§ 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 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.

■ 4. Revise § 122.3 to read as follows:

§ 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 twelve-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 twelve-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 twelve-month period ending 90 days prior to the expiration of their current registration. For these registrants, the fee calculation is \$4,000 plus \$1,110 times the total number of favorable authorizations 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.

PART 129—REGISTRATION AND LICENSING OF BROKERS

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

Authority: Section 38, Pub. L. 104–164, 110 Stat. 1437, (22 U.S.C. 2778); E.O. 13637, 78 FR 16129.

§ 129.8 [Amended]

■ 6. Amend § 129.8(b)(1), in the first sentence, by removing the phrase “and a fee following the fee guidelines available on the Directorate of Defense Trade Controls website at www.pmddtc.state.gov.” and adding in its place “and the Tier 1 fee specified in § 122.3(a)(1) of this subchapter, regardless of how many favorable determinations the person received during the twelve-month period ending 90 days prior to the expiration of their current registration.”

The Under Secretary, Arms Control and International Security, Bonnie D. Jenkins, having reviewed and approved this document, has delegated the authority to electronically sign this document to Jessica Lewis, Assistant Secretary, Bureau of Political-Military Affairs, for purposes of publication in the **Federal Register**.

Jessica A. Lewis,

Assistant Secretary, Bureau of Political-Military Affairs, Department of State.

[FR Doc. 2024–08627 Filed 4–23–24; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 24–112; RM–11981; DA 24–358; FR ID 215164]

Television Broadcasting Services Jacksonville, Florida

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Video Division, Media Bureau (Bureau), has before it a petition for rulemaking filed January 19, 2024 and amended on January 30, 2024, by Multimedia Holdings Corporation (Petitioner). The Petitioner requests the substitution of channel 33 for channel 13 at Jacksonville, Florida (Jacksonville), in the Table of TV Allotments.

DATES: Comments must be filed on or before May 24, 2024 and reply comments on or before June 10, 2024.

ADDRESSES: Federal Communications Commission, Office of the Secretary, 45 L Street NE, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for the Petitioner as follows: Michael Beder, Esq., Associate General Counsel, TEGNA Inc., 8350 Broad Street, Suite 2000, Tysons, Virginia 22102.

FOR FURTHER INFORMATION CONTACT: Joyce Bernstein, Media Bureau, at (202) 418–1647; or Joyce Bernstein, Media Bureau, at Joyce.Bernstein@fcc.gov.

SUPPLEMENTARY INFORMATION: In support of its channel substitution request, the Petitioner states that its proposed channel substitution would serve the public interest by resolving persistent

reception complaints it has received from viewers, and substantially improve the Jacksonville community's access to the Station's local news, emergency, NBC network, and other programming. The Petitioner states that the Commission has recognized that VHF channels have certain characteristics that pose challenges for their use in providing digital television service, including propagation characteristics that allow undesired signals and noise to be receivable at relatively far distances.

Additionally, the Petitioner notes that the Commission has observed "large variability in the performance (especially intrinsic gain) of indoor antennas available to consumers, with most antennas receiving fairly well at UHF and the substantial majority not so well to very poor at high-VHF." Petitioner further states that the Commission has recognized that although VHF reception issues are not universal, environmental noise blockages affecting VHF signal strength and reception exist and vary widely from service area to service area.

An engineering statement provided by the Petitioner confirms that the proposed channel *33 contour would provide full principal community coverage to Jacksonville and would not cause impermissible interference to any station. Although an analysis provided by the Petitioner using the Commission's *TVStudy* software tool indicates that the Station's move to channel 33 will result in 274,303 persons no longer being located within the station's noise limited service contour (NLSC), there are three other NBC affiliated TV stations whose NLSC overlaps with WTLV's proposed NLSC. These stations serve all but 16,737 persons in the predicted loss area. Furthermore, according to the Petitioner, when the Commission's *TVStudy* software is run for the Station's licensed and proposed facilities with the Study Area Mode set to unrestricted to predict coverage outside the proposed NLSC, all viewers in the predicted loss area would continue to receive over-the-air NBC network programming. Thus, according to the Petitioner, although the proposed channel 33 facility would result in a reduction in the predicted population served, once service provided by other NBC stations and terrain-limited coverage predictions are taken into account, the proposed channel 33

facility will result in no loss of NBC service.

We believe that the Petitioner's channel substitution proposal for WTLV warrants consideration. Channel 33 can be substituted for channel 13 at Jacksonville as proposed, in compliance with the principal community coverage requirements of § 73.618(a) of the Commission's Rules, at coordinates 30-16'-25" N and 81-33'-12" W. In addition, we find that this channel change meets the technical requirements set forth in § 73.622(a) of the rules. Although the proposal is predicted to result in a loss of service to 274,303 persons, all of those persons would continue to receive over-the-air NBC network service either from other existing stations or while being located outside of WTLV's NLSC.

This is a synopsis of the Commission's *Notice of Proposed Rulemaking* (NPRM), MB Docket No. 24–112; RM–11981; DA 24–358, adopted April 16, 2024, and released April 16, 2024. The full text of this document is available for download at <https://www.fcc.gov/edocs>. To request materials in accessible formats (braille, large print, computer diskettes, or audio recordings), please send an email to FCC504@fcc.gov or call the Consumer & Government Affairs Bureau at (202) 418–0530 (VOICE), (202) 418–0432 (TTY).

This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4). Provisions of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, do not apply to this proceeding.

Members of the public should note that all *ex parte* contacts are prohibited from the time a Notice of Proposed Rulemaking (NPRM) is issued to the time the matter is no longer subject to Commission consideration or court review, *see* 47 CFR 1.1208. There are, however, exceptions to this prohibition, which can be found in § 1.1204(a) of the Commission's rules, 47 CFR 1.1204(a).

See §§ 1.415 and 1.420 of the Commission's rules for information regarding the proper filing procedures for comments, 47 CFR 1.415 and 1.420.