

# Rules and Regulations

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## DEPARTMENT OF STATE

### 22 CFR Part 126

[Public Notice: 6027]

#### Amendment to the International Arms Traffic in Arms Regulations: UN Embargoed Countries

AGENCY: Department of State.

ACTION: Final rule.

**SUMMARY:** The Department of State is amending the text of the International Traffic in Arms Regulations (ITAR), Exports and Sales Prohibited by United Nations Security Council Embargoes, to add a list of the countries subject to such United Nations embargoes.

**EFFECTIVE DATE:** This rule is effective December 18, 2007.

**ADDRESSES:** Interested parties may submit comments at any time by any of the following methods:

- *E-mail:*

*DDTCResponseTeam@state.gov* with an appropriate subject line.

- *Mail:* Department of State,

Directorate of Defense Trade Controls, Office of Defense Trade Controls Policy, ATTN: Regulatory Change, ITAR § 126.1(c), SA-1, 12th Floor, Washington, DC 20522-0112.

- *Hand Delivery or Courier (regular work hours only):* Department of State, Directorate of Defense Trade Controls, Office of Defense Trade Controls Policy, ATTENTION: Regulatory Change, ITAR § 126.1(c), SA-1, 12th Floor, 2401 E Street, NW., Washington, DC 20037.

Persons with access to the Internet may also view this notice by going to the regulations.gov Web site at <http://regulations.gov/index.cfm>.

**FOR FURTHER INFORMATION CONTACT:**

Director Ann Ganzer, Office of Defense Trade Controls Policy, Department of State, Telephone (202) 663-2792 or Fax (202) 261-8199; E-mail *DDTCResponseTeam@state.gov*. ATTN: Regulatory Change, ITAR § 126.1(c)

#### SUPPLEMENTARY INFORMATION:

Regulations concerning exports and sales prohibited by United Nations Security Council embargoes are amended to add a list of the countries subject to such United Nations embargoes. United Nations Arms Embargoes include, but are not necessarily limited to the following countries: Cote d'Ivoire, Democratic Republic of Congo, Iraq, Iran, Lebanon, Liberia, North Korea, Rwanda, Sierra Leone, Somalia, and Sudan.

#### Regulatory Analysis and Notices

##### *Administrative Procedure Act*

This amendment involves a foreign affairs function of the United States and, therefore, is not subject to the procedures required by 5 U.S.C. 553 and 554.

##### *Regulatory Flexibility Act*

This rule does not require analysis under the Regulatory Flexibility Act.

##### *Unfunded Mandates Act of 1995*

This rule does not require analysis under the Unfunded Mandates Reform Act.

##### *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. It will not have substantial direct effects on the States, the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

##### *Executive Orders 12372 and 13132*

It is determined that this rule does not have sufficient federalism implications to warrant application of the consultation provisions of Executive Orders 12372 and 13132.

##### *Executive Order 12866*

This amendment is exempt from review under Executive Order 12866, but has been reviewed internally by the Department of State to ensure consistency with the purposes thereof.

##### *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 126

Arms and munitions, Exports.

■ Accordingly, for the reasons set forth above, Title 22, Chapter I, Subchapter M, part 126 is amended as follows:

#### PART 126—GENERAL POLICIES AND PROVISIONS

■ 1. The authority citation for part 126 continues to read as follows:

**Authority:** Secs. 2, 38, 40, 42, and 71, Pub. L. 90-629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2780, 2791, and 2797); E.O. 11958, 42 FR 4311; 3 CFR, 1977 Comp., p. 79; 22 U.S.C. 2651a; 22 U.S.C. 287c; E.O. 12918, 59 FR 28205, 3 CFR, 1994 Comp., p. 899; Sec. 1225, Pub. L. 108-375.

■ 2. Section 126.1 is amended by revising paragraph (c) to read as follows:

##### § 126.1 Prohibited exports and sales to certain countries.

\* \* \* \* \*

(c) *Exports and sales prohibited by United Nations Security Council embargoes.* Whenever the United Nations Security Council mandates an arms embargo, all transactions that are prohibited by the embargo and that involve U.S. persons anywhere, or any person in the United States, and defense articles or services of a type enumerated on the United States Munitions List (22 CFR part 121), irrespective of origin, are prohibited under the ITAR for the duration of the embargo, unless the Department of State publishes a notice in the **Federal Register** specifying different measures. This would include, but is not limited to, transactions involving trade by U.S. persons who are located inside or outside of the United States in defense articles or services of U.S. or foreign origin that are located inside or outside of the United States. United Nations Arms Embargoes include, but are not necessarily limited to, the following countries:

- (1) Cote d'Ivoire
- (2) Democratic Republic of Congo (see also paragraph (i) of this section)
- (3) Iraq
- (4) Iran
- (5) Lebanon
- (6) Liberia
- (7) North Korea
- (8) Rwanda (see also paragraph (h) of this section)
- (9) Sierra Leone
- (10) Somalia
- (11) Sudan

\* \* \* \* \*

Dated: November 30, 2007.

**John C. Rood,**

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

[FR Doc. E7-24352 Filed 12-17-07; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 97

[EPA-R03-OAR-2007-0448; FRL-8506-4]

#### Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Clean Air Interstate Rule

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a revision to the West Virginia State Implementation Plan (SIP) submitted on June 8, 2007. This revision incorporates provisions related to the implementation of EPA's Clean Air Interstate Rule (CAIR), promulgated on May 12, 2005 and subsequently revised on April 28, 2006 and December 13, 2006, and the CAIR Federal Implementation Plan (CAIR FIP) concerning sulfur dioxide (SO<sub>2</sub>), nitrogen oxides (NO<sub>x</sub>) annual, and NO<sub>x</sub> ozone season emissions for the State of West Virginia, promulgated on April 28, 2006 and subsequently revised on December 13, 2006. West Virginia is subject to the CAIR FIP that implements the CAIR requirements by requiring certain EGUs to participate in the EPA-administered Federal CAIR SO<sub>2</sub>, NO<sub>x</sub> annual, and NO<sub>x</sub> ozone season cap-and-trade programs. In accordance with the Clean Air Act, EPA is approving this West Virginia SIP revision as an abbreviated SIP revision which addresses the methodology to be used to allocate annual and ozone season NO<sub>x</sub> allowances under the CAIR FIPs. In this action, EPA is not making any changes to the CAIR FIP, but is amending the appropriate appendices in the CAIR FIP trading rules simply to note that approval.

**EFFECTIVE DATE:** The final rule is effective on December 18, 2007.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2007-0448. All documents in the electronic docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on

the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the West Virginia Department of Environmental Protection, Division of Air Quality, 601 57th Street, SE., Charleston, West Virginia 25304.

**FOR FURTHER INFORMATION CONTACT:** Marilyn Powers, (215) 814-2308 or by e-mail at [powers.marilyn@epa.gov](mailto:powers.marilyn@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On June 1, 2006, West Virginia submitted a full SIP revision to meet the requirements of CAIR as promulgated on May 12, 2005. The SIP revision is comprised of three regulations: 45CSR39 (NO<sub>x</sub> annual trading program); 45CSR40 (NO<sub>x</sub> ozone season trading program); and 45CSR41 (SO<sub>2</sub> annual trading program). The regulations adopted the 40 CFR part 96 model rules as set forth in the May 12, 2005 rulemaking, however, because revisions to 40 CFR part 96 were finalized after the State had started its rulemaking process, did not include the changes to the model rules that were made as part of the April 28, 2006 CAIR FIP. Consistent with the provisions of the CAIR, West Virginia submitted a letter on June 8, 2007, requesting that portions of its June 1, 2006 SIP revision be considered as an abbreviated SIP revision. The June 8, 2007 letter designated the NO<sub>x</sub> allocation methodology provisions applicable to EGUs under the CAIR FIP and originally submitted as part of its June 1, 2006 CAIR SIP revision as replacing the corresponding provisions of the CAIR FIPs. Consistent with this request, EPA is treating the following provisions of West Virginia's CAIR rules as an abbreviated SIP revision: §§ 45-39-40, 45-39-41, and 45-39-42; and §§ 45-40-40, 45-40-41, and 45-40-42, except for paragraphs 40.3, 42.2.c, 42.2.d, 42.2.e, 42.3.a.2, and 42.4.b. The NO<sub>x</sub> allowance allocation methodology in these provisions of West Virginia's June 1, 2006 SIP revision is consistent with the methodology in part 96 and the FIP.

On September 13, 2007 (72 FR 52289), EPA published a direct final rulemaking notice (DFRN) to approve the June 8, 2007 revision to West Virginia's SIP. The DFRN approved, as an abbreviated SIP, West Virginia's methodology for

allocating NO<sub>x</sub> allowances for the NO<sub>x</sub> annual and NO<sub>x</sub> ozone season trading programs, which will be used to allocate NO<sub>x</sub> allowances to sources in West Virginia, instead of the federal allocation methodology otherwise provided in the FIP. A detailed discussion of the CAIR requirements, West Virginia's CAIR submittals, and EPA's rationale for approval of the West Virginia's abbreviated SIP may be found in the DFRN and will not be repeated here. In the DFRN, EPA stated that if adverse comment was received, it would publish a timely withdrawal in the **Federal Register** informing the public that the rule would not take effect. On October 12, 2007, EPA received an adverse comment from the State of Connecticut Department of Environmental Protection. EPA therefore withdrew the DFRN on November 7, 2007 (72 FR 62788).

##### II. Public Comments and EPA Responses

*Comment:* On October 12, 2007, the Connecticut Department of Environmental Protection (CTDEP) submitted adverse comments on EPA's DFR notice approving West Virginia's abbreviated CAIR SIP. CTDEP encourages EPA to approve state programs adopted to meet the emission reduction requirements of CAIR. However, it argues that before approving state CAIR plans, EPA should evaluate individually and in the aggregate each state's clean air programs. They argue such evaluation is necessary to ensure that each state's emissions do not significantly contribute to downwind nonattainment. CTDEP asserts its belief that the CAIR program does not ensure that the CAA section 110(a)(2)(D)(i) requirements to prohibit transported emissions that significantly contribute to nonattainment in Connecticut and other states will be met. CTDEP expresses concern that EPA is determining through this and other similar rulemakings that CAIR programs are sufficient to meet States' section 110(a)(2)(D)(i) obligations. CTDEP asserts, based on EPA and State modeling for CAIR, that the levels of transported pollution remaining after CAIR implementation are large enough that, even with local controls, it may be difficult for Connecticut to attain the 8-hour ozone NAAQS by 2010. Finally, CTDEP questions EPA's determination that highly cost effective controls are adequate to address States' section 110(a)(2)(D)(i) obligations as compared to "reasonable cost" controls that could be achieved to effect more stringent NO<sub>x</sub> reductions.