

[Billing Code 4701-25]

**DEPARTMENT OF STATE**

**22 CFR Parts 122 and 129**

[Public Notice 6246 ]

**RIN 1400-AC50**

**Amendment to the International Traffic in Arms Regulations:  
Registration Fee Change**

**AGENCY:** Department of State.

**ACTION:** Proposed Rule.

---

**SUMMARY:** The Department of State is proposing to amend the International Traffic in Arms Regulations (ITAR) by increasing the registration fees, changing the registration renewal period, and making other minor administrative changes.

**DATES:** *Effective Date:* The Department of State will accept comments on this proposed rule until [insert date 30 days from publication in the Federal Register].

**ADDRESSES:** Interested parties may submit comments within 30 days of the date of publication by any of the following methods:

E-mail: [DDTCResponseTeam@state.gov](mailto:DDTCResponseTeam@state.gov) with the subject line: ITAR Regulatory Change, 22 CFR Parts 122 and 129.

Mail: Department of State, Directorate of Defense Trade Controls, ATTN: Regulatory Change, ITAR Sections 122 and 129, SA-1, 12<sup>th</sup> floor, Washington, DC 20522-0112.

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

**FOR FURTHER INFORMATION CONTACT:** Patricia Slygh, Directorate of Defense Trade Controls, Bureau of Political-Military Affairs, Department of State (202) 663-2830 or FAX (202) 261-8199; E-mail DDTCTeam@state.gov, ATTN: Regulatory Change, ITAR Parts 122 and 129.

**SUPPLEMENTARY INFORMATION:** The President has required that the U.S. Department of State initiate a self-financing mechanism so that up to 75% of the Directorate of Defense Trade Controls' (DDTC) mission will eventually be self-financed.

This proposed rule increases the fee charged to those persons required to register with DDTC in accordance with Section 38 of the Arms Export Control Act (AECA) (22 U.S.C. 2778). ITAR registration fees are set forth at 22 CFR 122.3 and were last adjusted in 2004.

To better align registration fees with the cost of licensing, compliance and other related activities, the Department is adopting a three-tier registration fee schedule. The first tier will be a set fee of \$2,250 per year for registrants who are renewing a registration, required to register by law and who have not submitted any applications during the twelve month period ending 90 days prior to the expiration of their current registration. This tier includes those registering with the Department for the first time.

The second tier is for registrants who have submitted ten or fewer applications during the twelve month period ending 90 days prior to the expiration of their current registration. For this tier, registrants will pay a set fee of \$2,750 per year.

The third tier is for registrants who have submitted more than ten applications during the twelve month period ending 90 days prior to the expiration of their current registration. For this tier, registrants will pay a fee of \$2,750 plus an additional fee that is based on the number of applications they submitted during the twelve months ending 90 days prior to the expiration of their current registration. The additional fee will be determined by multiplying \$250 times the number of applications over ten submitted during the twelve month period ending 90 days prior to the expiration of the current registration.

Fees for registrants whose total registration fee is greater than 3% of the total value of applications submitted during the 12-month period ending 90 days prior to expiration of the current registration will be reduced to 3% of such total application value or \$2,750, which ever is greater. Fees for universities and other registrants who are exempt from income taxation pursuant to 26 U.S.C.501(c)(3) may be reduced to the first tier registration fee provided proof of such status is submitted with their registration package.

In addition, 22 CFR 129.4(a) and 22 CFR 129.4(b) is revised to reflect the new registration fee schedule.

### **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 contained in 5 U.S.C. 553 and 554.

*Regulatory Flexibility Act:* Because this proposed rule is exempt from notice and comment rulemaking under 5 U.S.C. 553, it is exempt from the regulatory flexibility analysis requirements set forth in sections 603 and 604 of the Regulatory Flexibility Act (5 U.S.C. 603 and 604).

*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.

*Small Business Regulatory Enforcement Fairness Act of 1996:* This amendment has been found 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 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. Executive Order 12372, regarding intergovernmental consultation on Federal programs and activities, does not apply to this amendment.

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

*Executive Order 12988:* The Department of State has reviewed the proposed regulations 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**

#### **22 CFR Part 122**

**Arms and munitions, Exports, Reporting and recordkeeping requirements.**

#### **22 CFR Part 129**

**Arms and munitions, Exports, Technical assistance.**

Accordingly, for the reasons set forth above, Title 22, Chapter I, Subchapter M, Parts 122 and 129 are proposed to be amended as follows:

### **PART 122 – REGISTRATION OF MANUFACTURERS AND EXPORTERS**

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

**Authority:** Secs. 2 and 38, Public Law 90-629, 90 Stat. 744 (22 U.S.C. 2752, 2778); E.O. 11958, 42 FR 4311, 1977 Comp. p. 79, 22 U.S.C. 2651a.

2. Section 122.2 is amended by revising paragraph (a) to read as follows:

**§ 122.2 Submission of registration statement.**

(a) *General.* The Department of State Form DS-2032 (Statement of Registration) and the transmittal letter required by paragraph (b) of this section must be submitted by an intended registrant with a payment (by check or money order) payable to the Department of State of the fee prescribed in § 122.3(a) of this subchapter. Checks and money orders must be in U.S. currency, and checks must be payable through a U.S. financial institution. In addition, the Statement of Registration and transmittal letter must be signed by a senior officer who has been empowered by the intended registrant to sign such documents. The intended registrant also shall submit documentation that demonstrates that it is incorporated or otherwise authorized to do business in the United States. 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. Registrants may not establish new entities for the purpose of reducing registration fees.

\* \* \* \* \*

3. Section 122.3 is amended by revising paragraph (a) to read as follows:

**§ 122.3 Registration fees.**

(a) A person who is required to register must do so on an annual basis upon submission of a completed Form DS-2032, transmittal letter, and payment of a fee as follows:

(1) Tier 1: A set fee of \$2,250 per year is required for new registrants or registrants who have not submitted any applications during a 12-month period ending 90 days prior to expiration of the current registration.

(2) Tier 2: A set fee of \$2,750 per year is required for registrants who have submitted ten or fewer applications during a 12-month period ending 90 days prior to expiration of the current registration.

(3) Tier 3: The third tier is for registrants who have submitted more than ten applications during a 12-month period ending 90 days prior to expiration of the current registration. For this tier, registrants will pay a fee of \$2,750 plus an additional fee based on the number of applications submitted. The additional fee will be determined by multiplying \$250 times the number of applications over ten submitted during a 12-month period ending 90 days prior to expiration of the current registration.

(4) For universities and other registrants exempt from income taxation pursuant to 26 U.S.C.501(c)(3), their fee may be reduced to the Tier 1 registration fee provided proof of such status is submitted with their registration package.

(5) The fee for registrants whose total registration fee is greater than 3% of the total value of applications submitted during the 12-month period ending 90 days prior to expiration of the current registration will be reduced to 3% of such total application value or \$2,750, whichever is greater.

(6) For those renewing a registration, notice of the fee due for the next year's registration will be sent to the Senior Officer signing the previous DS2032 at least 60 days prior to its expiration date.

(7) For purposes of this subsection, “*applications*” refers to the actions enumerated within Sections 123 through 125 of the ITAR that require DDTC to review, adjudicate and issue responses to.

\* \* \* \* \*

## **PART 129 – REGISTRATION AND LICENSING OF BROKERS**

4. The authority citation for Part 129 continues to read as follows:

**Authority:** Sec. 38, Pub. L. 104-164, 110 Stat. 1437 (22 U.S.C. 2778).

5. Section 129.4 is amended by revising paragraph (a) to read as follows:

### **§ 129.4 Registration statement and fees.**

(a) *General.* The Department of State Form DS-2032 (Statement of Registration) and the transmittal letter meeting the requirements of § 122.2(b) of this subchapter must be submitted by an intended registrant with a payment by check or money order payable to the Department of State of the fees prescribed in Section 122.3(a) of this subchapter. The Statement of Registration and transmittal letter must be signed by a senior officer who has been empowered by the intended registrant to sign such documents. The intended registrant shall also submit documentation that demonstrates that it is incorporated or otherwise authorized to do business in the United States. The requirement to submit a Department of State Form DS–2032 and to submit documentation demonstrating incorporation or authorization to do business in the United States does not exclude foreign persons from the requirement to register. Foreign persons who are required to register shall provide information that is substantially similar in content as that which a U.S. person would provide under this provision (e.g., foreign business

license or similar authorization to do business). 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 with payment. Registrants may not establish new entities for the purpose of reducing registration fees.

\* \* \* \* \*

          
Dated: July 3, 2008.

---

John C. Rood, Acting  
Under Secretary for Arms Control  
and International Security,  
Department of State.

[FR Doc. 2008-17232 Filed 07/25/2008 at 8:45 am; Publication Date:  
07/28/2008]