while attempting to timely submit a filing. As Spiegel acknowledges, electronic filing will ''often suffice.'' [14] In fact, based on the Commission's experience, eFiling system malfunctions are infrequent and typically resolved on the day of their occurrence. However, as explained below, in the rare instance where a Commission eFiling system malfunction prevents a timely filing, the filer may continue to use the Commission's established practice of contacting the Commission's Office of the Secretary (OSEC) through *ferconlinesupport@ferc.gov* to report the eFiling system malfunction. We outline this practice in detail below to provide clarity.

8. Specifically, should an entity attempt to make a filing during a Commission eFiling system malfunction, the filer shall email OSEC at *ferconlinesupport@ferc.gov* to notify staff of the malfunction. That email shall: (1) Summarize the problem; (2) attach, if feasible, the public version of the filing solely to indicate proof of the filer's attempt to submit a filing; [15] *and* (3) provide any other evidence of timely attempts to file, such as screenshots of error messages. OSEC staff will verify the existence of the reported malfunction and the filer's attempt to make a timely submission. OSEC will also acknowledge and respond to the filer's email.

9. Importantly, however, a filer's email informing OSEC of an eFiling malfunction does not itself constitute a formal submission of the filing and will not be processed as such. If the eFiling system error is not corrected in a manner that permits filing by 5:00 p.m. on the date the filing was attempted, the filer must also comply with the following steps. In addition to notifying OSEC by email, the filer must, at the earliest possible time on the next business day, either: (1) Formally submit the filing electronically through the eFiling system; *or* (2) submit the filing by hard copy to the off-site screening facility. Of the foregoing two options, the filer shall choose the most expedient option.

10. In sum, we note that, should an entity attempt to make a filing during a Commission eFiling system malfunction, in order for a filing to be deemed timely made, the filer must: (i) Notify OSEC by email containing the evidence of a timely attempt to file as outlined in paragraph 8 above; *and* (ii) complete the filing as set forth in paragraph 9 above. If the filer meets each of the requirements set forth herein, the filing will be considered timely filed by the Commission.

11. Given that the process outlined above addresses Spiegel's principal concern, we do not address Spiegel's proposed approaches to ensuring the timely submission of filings in the event of an eFiling system malfunction. For the same reason, we do not address Spiegel's alternative request for rehearing.

III. Document Availability

12. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*). At this time, the Commission has suspended access to the Commission's Public Reference Room due to the President's March 13, 2020 proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19).

13. From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

14. User assistance is available for eLibrary and the Commission's website during normal business hours from the Commission's Online Support at 202–502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

15. *The Commission orders:*

In response to Spiegel's request for clarification or, in the alternative, request for rehearing, Order No. 862 is hereby modified and the result sustained, as discussed in the body of this order.

By the Commission.

Issued: August 18, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–18658 Filed 9–25–20; 8:45 am]

BILLING CODE 6717–01–P

[14] *Id.* at 5.

[15] Any information that the filer believes is subject to privileged treatment under the Commission's regulations shall be redacted from the version emailed to OSEC. If the file is too large to send via email the filer should identify that issue in its email to OSEC through *ferconlinesupport@ferc.gov.*

DEPARTMENT OF STATE

22 CFR Part 126

[Public Notice: 11212]

RIN 1400–AF14

International Traffic in Arms Regulations: Temporary Update to Republic of Cyprus (Cyprus) Country Policy

AGENCY: Department of State.

ACTION: Temporary final rule.

SUMMARY: The Department of State is amending the International Traffic in Arms Regulations (ITAR) to update defense trade policy toward the Republic of Cyprus (Cyprus) by temporarily removing prohibitions on exports, reexports, retransfers, and temporary imports of non-lethal defense articles and defense services destined for or originating in Cyprus. On June 2, 2020 the Secretary of State, exercising authority under section 1250A(d) of the National Defense Authorization Act for Fiscal Year 2020 and section 205(d) of the Eastern Mediterranean Security and Energy Act as delegated from the President, determined that it was essential to the national security interest of the United States to waive the limitations on non-lethal defense articles and defense services destined for or originating in Cyprus. The waiver is effective for one fiscal year. This amendment reflects that waiver.

DATES: This temporary rule is effective on October 1, 2020, and expires on September 30, 2021, unless subsequently extended.

FOR FURTHER INFORMATION CONTACT: Sarah Heidema, Office of Defense Trade Controls Policy, Department of State, telephone (202) 663–2809, or email *deccspmddtc@midatl.service-now.com.* ATTN: Regulatory Change, ITAR Section 126.1 Cyprus Country Policy Update.

SUPPLEMENTARY INFORMATION: Section 1250A(d) of the National Defense Authorization Act for Fiscal Year 2020 (Pub. L. 116–92) and section 205(d) of the Eastern Mediterranean Security and Energy Act (Div. J., Pub. L. 116–94) provide that the policy of denial for exports, reexports, or transfers of defense articles on the United States Munitions List (USML) to Cyprus shall remain in place unless the President determines and certifies to the appropriate congressional committees not less than annually that: (A) Cyprus is continuing to cooperate with the U.S. Government in anti-money laundering reforms; and (B) Cyprus has taken the

steps necessary to deny Russian military vessels access to ports for refueling and servicing. These provisions further provide that the President may waive these limitations for one fiscal year if the President determines that it is essential to the national security interests of the United States to do so. On April 14, 2020, the President delegated to the Secretary of State the functions and authorities vested by section 1250A(d) of the National Defense authorization Act for Fiscal Year 2020 (Pub. L. 116–92) and section 205(d) of the Eastern Mediterranean Security and Energy Partnership Act of 2019 (Div. J., Pub. L. 116–94) (85 FR 35797). On June 2, 2020, utilizing these delegated functions and authorities, the Secretary of State determined that it is essential to the national security interest of the United States to temporarily remove restrictions on the export, reexport, retransfer, and temporary import of non-lethal defense articles and defense services destined for or originating in Cyprus. This determination requires the Department to update ITAR section 126.1(r) to specify the circumstances provided in section 1250A(d) of the National Defense Authorization Act for Fiscal Year 2020 (Pub. L. 116–92) and section 205(d) of the Eastern Mediterranean Security and Energy Act (Div. J., Pub. L. 116–94) in which the policy of denial for exports, reexports, retransfers, and temporary import of non-lethal defense articles and defense services destined for or originating in the Republic of Cyprus will not apply.

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 military or foreign affairs function of the United States Government and that rules implementing this function are exempt from sections 553 (rulemaking) and 554 (adjudications) of the Administrative Procedure Act. Since this temporary rule is exempt from 5 U.S.C. 553, the provisions of section 553(d) do not apply to this rulemaking. Therefore, this temporary rule is effective upon publication.

Regulatory Flexibility Act

Since this temporary rule is exempt from the provisions of 5 U.S.C. 553, there is no requirement for an 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.

Small Business Regulatory Enforcement Fairness Act of 1996

The Department does not believe this rulemaking is a major rule within the definition of 5 U.S.C. 804.

Executive Orders 12372 and 13132

This rulemaking 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, the Department has determined that 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 and 13563

Executive Orders 12866 and 13563 direct agencies to assess 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). These executive orders stress the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Because the scope of this temporary rule implements a governmental policy increasing defense trade with a country, and does not impose additional regulatory requirements or obligations on the public, the Department believes costs associated with this temporary rule will be minimal. The Department also finds that any costs of this rulemaking are outweighed by the national security benefits, as described in the preamble.

Executive Order 12988

The Department of State 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 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.

Executive Order 13771

This temporary rule is exempt from the provisions of E.O. 13771, since it relates to a military or foreign affairs function of the United States.

Paperwork Reduction Act

This temporary 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: 22 U.S.C. 2752, 2778, 2780, 2791, and 2797; 22 U.S.C. 2651a; 22 U.S.C. 287c; Sec. 1225, Pub. L. 108–375; Sec. 7089, Pub. L. 111–117; Pub. L. 111–266; Sections 7045 and 7046, Pub. L. 112–74; E.O. 13637, 78 FR 16129.

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

§ 126.1 Prohibited exports, imports, and sales to or from certain countries.

* * * * *

(r) *Cyprus.* It is the policy of the United States to deny licenses or other approvals for exports or imports of defense articles and defense services destined for or originating in Cyprus, except that a license or other approval may be issued, on a case-by-case basis, for the United Nations Forces in Cyprus (UNFICYP) or for civilian end-users. This policy of denial does not apply to exports, reexports, retransfers, and temporary imports of non-lethal defense articles and defense services destined for or originating in Cyprus if:

(1) The request is made by or on behalf of the Government of the Republic of Cyprus;

(2) The end-user of such defense articles or defense services is the Government of the Republic of Cyprus; and

(3) There are no credible human rights concerns.

* * * * *

Zachary Parker,

Director.

[FR Doc. 2020–20902 Filed 9–25–20; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Parts 199 and 200

[DOD–2018–HA–0059]

RIN 0720–AB74

Civil Money Penalties and Assessments Under the Military Health Care Fraud and Abuse Prevention Program

AGENCY: Office of the Secretary, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: This final rule implements civil money penalties authority provided to all Federal health care programs, including the TRICARE program, under the Social Security Act. This authority allows the Secretary of Defense as the administrator of a Federal health care program to impose civil money penalties (CMPs or penalties) as described in section 1128A of the Social Security Act against providers and suppliers who commit fraud and abuse in the TRICARE program. This final rule establishes a program within the DoD to impose CMPs for certain unlawful conduct in the TRICARE program. To the extent applicable, this final rule adopts the Department of Health and Human Service's (HHS's) well-established CMP rules and procedures. The program to impose CMPs within TRICARE is called the Military Health Care Fraud and Abuse Prevention Program. The Defense Health Agency (DHA) shall be the agency within the DoD responsible for administering the Military Health Care Fraud and Abuse Prevention Program.

DATES: This rule is effective on October 28, 2020.

FOR FURTHER INFORMATION CONTACT: Michael J. Zleit, at 703–681–6012 or *michael.j.zleit.civ@mail.mil*.

SUPPLEMENTARY INFORMATION:

I. Executive Summary and Overview

A. Purpose of the Final Rule

The DHA, the agency of the DoD responsible for administration of the TRICARE Program, has as its primary mission the support and delivery of an integrated, affordable, and high quality health service to all DoD beneficiaries and in doing so, is a responsible steward of taxpayer dollars. In recent years, fraud and abuse has inhibited DHA's mission. The Department of Justice (DOJ) is responsible for the prosecution of all fraud and abuse in all Federal healthcare programs, including Medicare, TRICARE, and the Federal Employees Health Benefits Program, but does not have unlimited resources. DOJ must prioritize cases and is unable to prosecute a large portion of those entities who commit fraud and abuse in the TRICARE Program. Congress has provided Federal departments responsible for a Federal health care program with the authority under section 1128A(m) of the Social Security Act (42 U.S.C. 1320a–7a(m)) to initiate administrative proceedings to impose CMPs against those who commit fraud and abuse in their respective Federal health care program. The HHS implemented this authority many years ago and has a well-developed process for imposition of CMPs penalties against those who commit fraud and abuse in the Medicare Program.

This final rule implements the same authority used by HHS under section 1128A(m) of the Social Security Act (42 U.S.C. 1320a–7a(m)) to establish a program to initiate administrative proceedings to impose CMPs against those who commit fraud and abuse in the TRICARE Program.

The purpose of this final rule implementing CMP authority under section 1128A of the Social Security Act is to ensure the integrity of TRICARE and make the Government whole for funds lost to fraud and abuse, which is necessary to the delivery of an integrated, affordable, and high quality health service for all DoD beneficiaries.

B. Summary of Major Provisions

For the most part, this final rule incorporates the provisions of the May 1, 2019, proposed rule (84 FR 18437). A brief description of the provisions of this final rule follow.

This final rule establishes CMP regulations at 32 CFR part 200 to implement authority provided to the DoD under section 1128A of the Social Security Act, as amended. The CMP regulations follow HHS's process and procedure for imposing CMPs, as well as HHS's methodology for calculating the amount of penalties and assessments. Accordingly, the numerical provisions of 32 CFR part 200 directly correspond to HHS's numerical provisions at 42 CFR part 1003. Following this organizational construct, the rule addresses such matters as: Liability for penalties and assessments, determinations regarding the amount of penalties and assessments, CMPs and assessments for false and fraudulent claims and other similar misconduct, penalties and assessments for unlawful kickbacks, procedures for the imposition of CMPs and assessments, judicial review, time limitations for CMPs and assessments, statistical sampling, and appeals.

C. Legal Authority for This Program

The specific legal authority authorizing the DoD to establish a program to impose CMPs in the TRICARE Program is provided in section 1128A(m) of the Social Security Act [42 U.S.C. 1320a–7a(m)]. This provision of law authorizes Federal departments with jurisdiction over a Federal health care program (as defined in section 1128B(f)) of the Social Security Act), to impose CMPs as enumerated in section 1128A of the Social Security Act. Some of the CMPs enumerated in section 1128A of the Social Security Act limit applicability to conduct only involving Medicare and Medicaid; therefore, this rule implements all CMP authorities under section 1128A that are not specifically limited to Medicare, Medicaid, or other HHS-exclusive authority.

II. Regulatory History

For over 25 years, the HHS Office of Inspector General (OIG) has exercised the authority to impose CMPs, assessments, and exclusions in furtherance of its mission to protect the Federal health care programs and their beneficiaries from fraud and abuse. As those programs have changed over the last two decades, HHS–OIG has received new fraud-fighting CMP authorities in response. Section 231 of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) expanded the reach of CMPs to include Federal health programs other than those funded by HHS. In 1977, Congress first mandated the exclusion of physicians and other practitioners convicted of program-related crimes from participation in Medicare and Medicaid through the Medicare-Medicaid Anti-Fraud and Abuse Amendments, Public Law 95–142 (now codified at section 1128 of the Social Security Act (the SSA)). This was followed in 1981 with Congress enacting the Civil Money Penalties Law (CMPL), Public Law 97–35, section 1128A of the SSA, 42 U.S.C. 1320a–7a, to further address health care fraud and abuse. The CMPL authorized the Secretary of Health and Human Services