

for the Section 2 structural inspections specified in paragraph 2.B.(2)(a) of the Accomplishment Instructions of MHI RJ Service Bulletin 670BA-05-001, dated August 27, 2020.

(2) The task number, part number, model effectivity, and discard time for the Section 3 safe life components specified in paragraph 2.B.(3)(a) of the Accomplishment Instructions of MHI RJ Service Bulletin 670BA-05-001, dated August 27, 2020.

#### (h) No Alternative Actions and Intervals

After the existing maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (e.g., inspections) or intervals may be used unless the actions and intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (i)(1) of this AD.

#### (i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs)*: The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the certification office, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516-228-7300; fax 516-794-5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer*: For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, New York ACO Branch, FAA; or Transport Canada Civil Aviation (TCCA); or MHI RJ Aviation ULC's TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

#### (j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) TCCA AD CF-2020-53, dated December 7, 2020, for related information. This MCAI may be found in the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-0382.

(2) For more information about this AD, contact Antarikh Shetty, Aerospace Engineer, Airframe and Propulsion Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516-228-7300; fax 516-794-5531; email [9-avs-nyaco-cos@faa.gov](mailto:9-avs-nyaco-cos@faa.gov).

(3) For service information identified in this AD, contact MHI RJ Aviation ULC, 12655 Henri-Fabre Blvd., Mirabel, Québec J7N 1E1 Canada; Widebody Customer Response Center North America toll-free telephone +1-844-272-2720 or direct-dial telephone +1-

514-855-8500; fax +1-514-855-8501; email [thd.crj@mhirj.com](mailto:thd.crj@mhirj.com); internet <https://mhirj.com>. You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195.

Issued on May 21, 2021.

**Gaetano A. Sciortino,**

*Deputy Director for Strategic Initiatives,  
Compliance & Airworthiness Division,  
Aircraft Certification Service.*

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**BILLING CODE 4910-13-P**

## DEPARTMENT OF STATE

### 22 CFR Part 120

[Public Notice: 11406]

RIN 1400-AF17

#### International Traffic in Arms Regulations: Regular Employee

**AGENCY:** Department of State.

**ACTION:** Proposed rule.

**SUMMARY:** The Department of State proposes to amend the International Traffic in Arms Regulations (ITAR) to update the definition of regular employee to allow subject persons to work remotely, and to clarify the contractual relationships that meet the definition of regular employee.

**DATES:** Send comments on or before July 26, 2021.

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

- *Email:* [DDTCCustomerService@state.gov](mailto:DDTCCustomerService@state.gov), with the subject line "ITAR Amendment: Regular Employee"
- *Internet:* At [www.regulations.gov](http://www.regulations.gov), search for this document using Docket DOS-2021-0009.

Comments received after the acceptance date may be considered if feasible. 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. Comments and/or transmittal emails will be made available for public inspection and copying after the close of the comment period via the Directorate of Defense Trade Controls website at [www.pmdtcc.state.gov](http://www.pmdtcc.state.gov). Parties who wish to comment anonymously may submit comments via [www.regulations.gov](http://www.regulations.gov), leaving identifying fields blank.

**FOR FURTHER INFORMATION CONTACT:** Ms. Engda Wubneh, Foreign Affairs Officer, Office of Defense Trade Controls Policy,

U.S. Department of State, telephone (202) 663-1809; email [DDTCCustomerService@state.gov](mailto:DDTCCustomerService@state.gov). ATTN: Regulatory Change, ITAR Section 120.39: Regular Employee.

**SUPPLEMENTARY INFORMATION:** In March 2020, the President declared a national emergency as a result of the COVID-19 pandemic. Subsequently, the Department announced a temporary suspension, modification, and exception through July 31, 2020, of the requirement that a regular employee, for purposes of ITAR § 120.39(a)(2), work at a company's facilities. The temporary measure allowed individuals to work remotely provided they are not located in Russia or a country listed in ITAR § 126.1 (85 FR 25287, May 1, 2020), and still be considered regular employees under the ITAR. The Department requested and received comments regarding the efficacy and duration of this temporary measure (85 FR 35376, June 10, 2020). Many commenters, one industry association, and several individual entities endorsed the telework provisions and requested that this measure be effective until the end of the year, if not extended indefinitely. Additionally, many commenters mentioned that this temporary measure allowed industry to continue their business activities despite COVID-19 as many employees could work remotely. In response, this temporary measure was extended until December 31, 2020 (85 FR 45513, July 29, 2020).

The Department is proposing to amend ITAR § 120.39 permanently to allow certain individuals to work remotely, and further proposes to clarify the contractual relationships that meet the definition of regular employee. The Department recognizes that the workplace environment is evolving, therefore, the current "regular employee" criterion that an individual must work at a company's facilities will be removed in the revised definition to allow for remote work. The Department also proposes to set forth clear criteria that will allow regulated entities to treat certain contractual staff as regular employees for the purposes of the ITAR, provided those individuals are sufficiently subject to the employer's control such that the Department can hold the regulated employer responsible for the individual's actions.

Further, the Department proposes to codify the meaning of a "long term contractual relationship" in ITAR § 120.39(a)(2) by clarifying in the regulations that individuals must be providing services to an entity under a contract for a term of one year or more (ITAR § 120.39(a)(2)(i)). The goal of this

provision is to minimize the risk of diversion of U.S. defense articles. The delineation of a contract for one year or more was selected in part based on the Department's expectation that a long-term contractor will receive superior orientation and training from a regulated entity upon onboarding, and the ability to absorb and apply training materials and adhere to compliance policies and procedures (*e.g.*, ITAR-related training) is more likely to occur with at least a year of experience on the job. For those individuals not in a "long term contractual relationship" with a regulated entity (*i.e.*, where the contract is less than one year), the Department will allow such individuals to be treated as regular employees provided that, in addition to the control and non-disclosure considerations described in ITAR § 120.39(a)(3), the individual also maintains an active security clearance approved by the United States or by the government of the entity to which the individual's services are provided. Lastly, although employment type is not explicitly referenced in the definition, individuals providing services pursuant to a contractual relationship can include independent contractors, seconded employees, individuals provided by a staffing agency, or contractors provided by a contracting agency.

### Regulatory Analysis and Notices

#### *Administrative Procedure Act*

The Department of State is of the opinion that controlling the import and export of defense articles and services is a foreign affairs function of the United States Government and that rules implementing this function are exempt from sections 553 (rulemaking) and 554 (adjudications) of the Administrative Procedure Act (APA), pursuant to 5 U.S.C. 553(a)(1). Since the Department is of the opinion that this rule is exempt from 5 U.S.C 553, it is the view of the Department that the provisions of Section 553(d) do not apply to this rulemaking.

#### *Regulatory Flexibility Act*

Since this rule is exempt from the notice-and-comment provisions of 5 U.S.C. 553(b), 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 are deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

#### *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, it is determined that this proposed amendment does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this rulemaking.

#### *Executive Orders 12866 and 13563*

Executive Orders 12866 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). This rule's scope does not impose additional regulatory requirements or obligations; therefore, the Department believes costs associated with this rule will be minimal. Although the Department cannot determine based on available data how many fewer licenses will be submitted as a result of this rule, the amendment to the definition will inherently relieve the licensing burden for any exporter utilizing it in a qualifying scenario. 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 not been designated a "significant regulatory action" by the Office and Information and Regulatory Affairs under Executive Order 12866.

#### *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, Executive Order 13175 does 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 in 22 CFR Part 120

Arms and munitions, Classified information, Exports.

For the reasons set forth above, title 22, chapter I, subchapter M, part 120 of the Code of Federal Regulations is proposed to be amended as follows:

### PART 120—PURPOSE AND DEFINITIONS

■ 1. The authority citation for part 120 continues to read as follows:

**Authority:** Secs. 2, 38, and 71, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2797); 22 U.S.C. 2794; 22 U.S.C. 2651a; Pub. L. 105–261, 112 Stat. 1920; Pub. L. 111–266; Section 1261, Pub. L. 112–239; E.O. 13637, 78 FR 16129.

■ 2. Section 120.39 is revised to read as follows:

#### § 120.39 Regular employee.

- (a) *Regular employee* means:
- (1) An individual permanently and directly employed by an entity; or
  - (2) An individual providing services to an entity:
    - (i) Under a contract with a term of one year or more;
    - (ii) Who works under the entity's direction and control;
    - (iii) Who works full time for the entity;
    - (iv) Who is subject to the entity's compliance policies and procedures; and
    - (v) Who executes a nondisclosure agreement with the entity that provides assurances that the individual will not transfer any defense articles to persons or entities unless specifically authorized by the entity; or
  - (3) An individual providing services to an entity:
    - (i) Under a contract with a term of less than one year;
    - (ii) Who maintains an active security clearance approved by the United States or by the government of the entity to which the individual is providing services;
    - (iii) Who works under the entity's direction and control;
    - (iv) Who works full time for the entity;
    - (v) Who is subject to the entity's compliance policies and procedures; and

(vi) Who executes a nondisclosure agreement with the entity that provides assurances that the individual will not transfer any defense articles to persons or entities unless specifically authorized by the entity.

(4) A secondment from one entity to another meets the definitions described in paragraphs (a)(2) and (3) of this section.

(b) Nothing in this section shall be construed to provide authorization for the export, retransfer, or reexport of defense articles or defense services.

**Choo S. Kang,**

*Acting Assistant Secretary, Bureau of International Security and Nonproliferation, Department of State.*

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**BILLING CODE 4710-05-P**

## DEPARTMENT OF LABOR

### Office of Labor-Management Standards

#### 29 CFR Parts 403 and 408

RIN 1245-AA12

#### Rescission of Labor Organization Annual Financial Report for Trusts in Which a Labor Organization Is Interested, Form T-1

**AGENCY:** Office of Labor-Management Standards, Department of Labor.

**ACTION:** Notice of proposed rulemaking; request for comments.

**SUMMARY:** This document proposes to withdraw the final rule published in the *Federal Register* on March 6, 2020, 85 FR 13414 (Mar. 6, 2020) (2020 Form T-1 rule), which established the Form T-1, Trust Annual Report, required to be filed by labor organizations about certain trusts in which they are interested pursuant to the Labor-Management Reporting and Disclosure Act (LMRDA). Upon further review of the 2020 Form T-1 rule, including the pertinent facts and legally relevant policy considerations surrounding that rulemaking, the Department of Labor (Department) proposes to withdraw the rule implementing the Form T-1, because it believes that the trust reporting required under the rule is overly broad and is not necessary to prevent the circumvention and evasion of the Title II reporting requirements. Moreover, upon further consideration, the Department is concerned that the 2020 rulemaking record was insufficient to justify the separate trust reporting requirements as set forth in the 2020 Form T-1 rule.

**DATES:** The Department will consider all written comments submitted on or before July 26, 2021.

**ADDRESSES:** You may submit comments, identified by RIN 1245-AA12, only by the following method: Internet—Federal eRulemaking Portal. Electronic comments may be submitted through <http://www.regulations.gov>. To locate the proposed rule, use RIN 1245-AA12 or key words such as “T-1,” “Labor-Management Standards” or “Trust Annual Reports” to search documents accepting comments. Follow the instructions for submitting comments. Please be advised that comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

**FOR FURTHER INFORMATION CONTACT:**

Andrew Davis, Chief of the Division of Interpretations and Standards, Office of Labor-Management Standards, U.S. Department of Labor, 200 Constitution Avenue NW, Room N-5609, Washington, DC 20210, (202) 693-0123 (this is not a toll-free number), (800) 877-8339 (TTY/TDD), [OLMS-Public@dol.gov](mailto:OLMS-Public@dol.gov).

**SUPPLEMENTARY INFORMATION:**

#### I. Statutory Authority

The Department’s statutory authority is set forth in section 208 of the LMRDA, 29 U.S.C. 438. Section 208 of the LMRDA provides that the Secretary of Labor “shall have authority to issue, amend, and rescind rules and regulations prescribing the form and publication of reports required to be filed under [the Act] and such other reasonable rules and regulations . . . as he may find necessary to prevent the circumvention or evasion of such reporting requirements.”

The Secretary has delegated his authority under the LMRDA to the Director of the Office of Labor-Management Standards (OLMS) and permitted re-delegation of such authority. *See* Secretary’s Order 03-2012 (Oct. 19, 2012), published at 77 FR 69375 (Nov. 16, 2012).

#### II. Background

##### A. Introduction

In enacting the LMRDA in 1959, Congress sought to protect the rights and interests of employees, labor organizations and the public generally as they relate to the activities of labor organizations, employers, labor relations consultants, and their officers, employees, and representatives. The LMRDA’s various reporting provisions are designed to empower labor organization members by providing them the means to maintain democratic

control over their labor organizations and ensure a proper accounting of labor organization funds. Labor organization members are better able to monitor their labor organization’s financial affairs and to make informed choices about the leadership of their labor organization and its direction when labor organizations disclose financial information as required by the LMRDA.

By reviewing a labor organization’s financial reports, a member may ascertain the labor organization’s priorities and whether they are in accord with the member’s own priorities and those of fellow members. At the same time, this transparency promotes both the labor organization’s own interests as a democratic institution and the interests of the public and the government. Furthermore, the LMRDA’s reporting and disclosure provisions, together with the fiduciary duty provision, 29 U.S.C. 501, which directly regulates the primary conduct of labor organization officials, operate to safeguard a labor organization’s funds from depletion by improper or illegal means. Timely and complete reporting also helps deter labor organization officers or employees from embezzling or otherwise making improper use of such funds.

##### B. The LMRDA’s Reporting and Other Requirements

When it enacted the LMRDA in 1959, a bipartisan Congress made the legislative finding that in the labor and management fields “there have been a number of instances of breach of trust, corruption, disregard of the rights of individual employees, and other failures to observe high standards of responsibility and ethical conduct which require further and supplementary legislation that will afford necessary protection of the rights and interests of employees and the public generally as they relate to the activities of labor organizations, employers, labor relations consultants, and their officers and representatives.” 29 U.S.C. 401(b). The statute was designed to remedy these various ills through a set of integrated provisions aimed at labor organization governance and management. These include a “bill of rights” for labor organization members, which provides for equal voting rights, freedom of speech and assembly, and other basic safeguards for labor organization democracy, *see* 29 U.S.C. 411-415; financial reporting and disclosure requirements for labor organizations, their officers and employees, employers, labor relations consultants, and surety companies, *see* 29 U.S.C. 431-436, 441; detailed