tail with consequent loss of control of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Required Actions

(1) Within 7 days after the effective date of this AD or before the airplane accumulates 110 hours time-in-service (TIS) after installation of STC No. SA01795CH, whichever occurs later, and thereafter at intervals not to exceed 110 hours TIS until the airplane is modified as required by paragraph (g)(3) of this AD: Inspect the left and right horizontal stabilizer spars for cracks in accordance with Steps 1 through 9 of the Work Instructions—Inspection, Method 1 in Wipaire, Inc. Service Letter 253, Revision D, dated July 3, 2024 (Wipaire SL 253D).

(2) If any crack is found in a horizontal stabilizer spar during any inspection required by paragraph (g)(1) of this AD, or if any crack, elongated hole, or corrosion is found in a horizontal stabilizer spar during any inspection required by paragraph (g)(4) of this AD, before further flight, replace the horizontal stabilizer spar.

(3) Within 300 hours TIS or 12 months after the effective date of this AD, whichever occurs first, install bathtub fittings (Service Kit 1012347–01 or 1012347–02) in accordance with Steps 1 through 10 of the Work Instructions—Install Bathtub Fittings in Wipaire SL 253D except where Step 2 specifies that to be eligible for reinstallation, finlet mount weldments must include the welded gussets shown in figure 8 of Wipaire SL 253D, that constraint is not required by this AD. If any spars were previously modified by installing 7D1–4399 Revision L or earlier, regardless of condition, those spars must be replaced at the same time the bathtub fittings kit is installed.

(4) Within 110 hours TIS after installing the bathtub fittings, and thereafter at intervals not to exceed 110 hours TIS, inspect the horizontal stabilizer spars for cracks, elongated holes, and corrosion in accordance with Steps 1, 2, 4 through 6, 9, and 10 of the Work Instructions—Inspection, Method 2 in Wipaire SL 253D.

(5) Within 5 days after each inspection required by paragraphs (g)(1) and (4) of this AD or within 5 days after the effective date of this AD, whichever occur later, report the following to the FAA at the address in paragraph (j)(1) of this AD. Report this information regardless of whether cracks are found.

(i) Model, engine configuration (with horsepower limits), and propeller type;

(ii) Serial number and N number;

(iii) Total hours TIS on airframe;

(iv) Total hours TIS operated with floats, if known;

(v) STC configuration and total hours with STC installed;

(vi) Crack location (right or left, upper/lower caps inboard/outboard hole);

(vii) Crack size;

(viii) Photos of cracks found, if available; and

(ix) Any additional operator/mechanic comments.

(h) Credit for Previous Actions

You may take credit for the initial inspection required by paragraph (g)(1) of this AD if, before the effective date of this AD, you complied with Wipaire, Inc. Service Letter 253, Revision A, dated April 5, 2023; or Wipaire Service Letter 253, Revision B, dated July 27, 2023.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Central Certification 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 local Flight Standards District Office, as appropriate. If sending information directly to the manager of the Certification Branch, send it to the attention of the person identified in paragraph (j)(1) of this AD and email to: *AMOC@faa.gov*.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(j) Related Information

(1) For more information about this AD, contact Tim Eichor, Aviation Safety Engineer, Central Certification Branch, FAA, 1801 S. Airport Road, Wichita, KS 67209; phone: (847) 294–7141; email: *tim.d.eichor@faa.gov*.

(2) Material identified in this AD that is not incorporated by reference is available at the address specified in paragraph (k)(3) of this AD.

(k) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference of the material listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this material as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Wipaire, Inc. Service Letter 253, Revision D, dated July 3, 2024.

(ii) [Reserved]

(3) For Wipaire, Inc. material identified in this AD, contact Wipaire, Inc., 1700 Henry Avenue, Fleming Field (KSGS), South St. Paul, MN 55075; phone: (651) 451–1205; email: *customerservice@wipaire.com;* website: *wipaire.com*.

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222–5110.

(5) You may view this material at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, visit *www.archives.gov/federal-register/cfr/ibr-locations* or email *fr.inspection@nara.gov*.

Issued on August 14, 2024.

Victor Wicklund,

Deputy Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2024–18586 Filed 8–15–24; 11:15 am]

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DEPARTMENT OF STATE

22 CFR Parts 123, 124, and 126

[Public Notice: 12468]

RIN 1400–AF84

International Traffic in Arms Regulations: Exemption for Defense Trade and Cooperation Among Australia, the United Kingdom, and the United States

AGENCY: Department of State.

ACTION: Interim final rule; request for comments.

SUMMARY: The Department of State (the Department) is amending the International Traffic in Arms Regulations (ITAR) to facilitate defense trade and cooperation among Australia, the United Kingdom, and the United States through a new exemption, pursuant to section 38(l) of the Arms Export Control Act; adding an expedited licensing process for certain defense article and defense service exports to Australia, the United Kingdom, and Canada; adding a list of defense articles and defense services excluded from eligibility for transfer under the new exemption for Australia, the United Kingdom, and the United States; and adding to the scope of the exemption for intra-company, intra-organization, and intra-governmental transfers to allow for the transfer of classified defense articles to certain dual nationals who are authorized users within the United Kingdom and Australia. The Department also seeks further public comment on these changes and whether they support the stated goals of this rulemaking. This interim final rule adopts the proposed rule published on May 1, 2024, with additional changes described below and implemented herein.

DATES:

Effective date: The rule is effective on September 1, 2024.

Comments due date: Comments due on or before November 18, 2024.

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

- *Email: DDTCPublicComments@state.gov,* with the subject line ''Australia, the United Kingdom, and the United States ITAR Exemption''

• *Internet:* At *www.regulations.gov,* search for this notice using Docket DOS–2024–0024.

Those submitting comments should not include any personally identifiable 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 (DDTC) website at *www.pmddtc.state.gov.* Parties who wish to comment anonymously may submit comments via *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 (771) 205–9566; email *DDTCCustomerService@state.gov,* ATTN: Regulatory Change, ITAR Section 126.7 Australia, the United Kingdom, and the United States Exemption.

SUPPLEMENTARY INFORMATION: On May 1, 2024, the Department of State (the Department) published a proposed rule with request for comments (89 FR 35028) to create an exemption designed to implement the provisions of section 38(l) of the Arms Export Control Act (AECA) (22 U.S.C. 2778(l)), as added by section 1343 of the National Defense Authorization Act (NDAA) for Fiscal Year 2024 (Pub. L. 118–31). The proposed rule at § 126.7 stated that no license or other approval would be required for the export, reexport, retransfer, or temporary import of defense articles; the performance of defense services; or engagement in brokering activities between or among authorized users within Australia, the United Kingdom, and the United States provided certain requirements and limitations are met. The rule also proposed a new supplement no. 2 to part 126, which is an Excluded Technology List (ETL) designed to limit certain defense articles and defense services from being eligible for the provisions of § 126.7. Further, the Department proposed § 126.18(e) for transfers of classified defense articles to dual nationals, who are citizens of Australia and the United Kingdom and another country, provided all other criteria are met in this exemption. Lastly, the proposed § 126.15(c) and (d) aimed to implement a separate provision, section 1344 of the NDAA for Fiscal Year 2024, for expedited licensing for exports of defense articles and defense services to Australia, the United Kingdom, and Canada.

The Department acknowledges and appreciates the comments submitted in response to the proposed rule identified as 89 FR 35028 (herein ''proposed rule'') and is now publishing this interim final rule, which contains revisions to certain provisions of the proposed rule and additions to certain ITAR sections. The Department welcomes further public comment on the regulatory text of this interim final rule.

The main changes to regulatory text in this rule, compared to the proposed rule, are as follows:

• In § 123.10(a), the phrase ''pursuant to a license or other authorization, except for the exemptions in §§ 126.5 and 126.7'' is added to the statement that a nontransfer and use certificate (*i.e.,* Form DSP–83) generally is required for the export of significant military equipment and classified articles regardless of the form of the applicable export authorization while simultaneously clarifying that no nontransfer and use certificate is required for exports pursuant to the specified exemptions.

• In § 124.8(a)(5), § 126.7 was added to clarify that the exemption may be used to retransfer and reexport defense articles pursuant to this exemption that were originally exported via an agreement.

• In § 126.1(a), § 126.18(e) was added to the list of excepted exemptions from the section's country-based prohibitions.

• In § 126.7(b)(1), the term ''activity'' replaced the term ''transfer'' in order to more clearly express the inclusion of defense services and brokering activities under this exemption.

• In § 126.7(b)(2), the term ''broker'' was added to clarify that depending on the activity, the transferor, recipient, or broker all would need to register with DDTC, as appropriate. Further, language was added to clarify that a U.S. Government department or agency are authorized users of this exemption.

• For § 126.7(b)(4), the recordkeeping requirements in proposed § 126.7(b)(4) are removed in this interim final rule. The Departments notes recordkeeping requirements in § 120.15(e) apply to this exemption as they do for all other ITAR exemptions.

• For § 126.7(b)(6), this proposed provision was removed in this interim final rule. The proposed text was redundant and simply listed a number of ITAR requirements to which users are already subject. Further the proposed text to obtain nontransfer and use assurances was removed from the § 126.7 exemption, as these assurances are incorporated into the authorized user process.

• In § 126.7(b)(8), the reference to Restricted Data and the Atomic Energy Act of 1954, as amended, was removed as it is duplicative and is already referenced in § 120.5(c).

• In § 126.7(b)(8), the requirements for handling classified were changed to a note to § 126.7(b), and the industrial security requirement reference was updated for Australia.

• In § 126.15(c), the ITAR defined term ''person'' replaced the phrase ''corporate entities'' to clarify that individuals and entities are included in this provision.

• In § 126.15(d), the phrase ''To the extent practicable . . .'' was added to align with the NDAA for Fiscal Year 2024.

• In, § 126.18(e), the phrase ''retransfer or reexport'' replaces the term ''transfer'' in this provision to clarify more explicitly the types of transfers that are allowed.

• In supplement no. 2 to part 126, the Excluded Technologies List (ETL), is clarified and adjusted to better address the necessary and intended scope of exclusions:

○ The Missile Technology Control Regime (MTCR) exclusion no longer applies to unmanned aerial vehicle (UAV) flight control systems and vehicle management systems described in United States Munitions List (USML) Category VIII(h)(12).

○ The anti-tamper exclusion is clarified.

○ The exclusion specific to source code is removed in its entirety.

○ The exclusion of classified manufacturing know-how for certain articles described in USML Categories XI and XII is removed in its entirety.

○ The entry for articles in USML Categories IV(a)(3), (9), (10), and (11), (b)(2), (h)(5), and (i) was refined to exclude launchers for man-portable air defense systems (MANPADS), but not other articles described in paragraph (b)(2).

○ Excluded articles described in USML Categories XI and XIII are now described across multiple entries to better implement the intent of that entry, as follows:

■ All articles described in USML Category XI(a)(1)(i) and (ii) are excluded, as are articles described in paragraph (c) or (d) of USML Category XI that are specially designed for the excluded paragraph (a)(1) articles, and directly related technical data and defense services.

■ The exclusion of classified countermeasures and counter-

countermeasures is refined and split into multiple entries as follows:

- Classified articles described in USML Category XI(a)(2), other than underwater acoustic decoy countermeasures; classified articles described in paragraphs (c)(1) through (3) or paragraph (d) of USML Category XI specially designed therefor; and classified, directly related technical data and defense services are excluded.
- Classified articles described in USML Category XI(a)(3)(xviii), classified countermeasures and counter-countermeasures described in Category XI(a)(4)(iii), and classified articles described in Category XI(a)(5)(iii); classified articles described in paragraphs (c)(1) through (3) and (18) or paragraph (d) of USML Category XI specially designed therefor; and classified, directly related technical data and defense services are excluded.
- Classified articles described in USML Category XI(c) or (d) that implement countermeasures or counter-countermeasures for defense articles described in Category XI(a), and classified, directly related technical data and defense services, are excluded.

▪ The exclusion of classified articles described in USML Category XI(b), which also excludes classified, directly related technical data and defense services, is split out into a separate entry.

▪ Classified articles described in USML Category XI(c) specially designed for articles described in Category XIII(b); and classified, directly related technical data and defense services; are excluded. This replaces the previously proposed exclusions of articles specially designed for Category XIII(b) articles and classified articles for cryptographic systems.

▪ The exclusion of classified articles described in USML Category XIII(b) is split out into a separate entry, along with classified, directly related technical data and defense services.

○ Following consultations with the Department of Defense (DoD), the Department is adding classified articles described in USML Category XI(a)(4)(i), certain classified articles specially designed for those articles, and classified, directly related technical data and defense services to the previously proposed exclusions. The excluded articles and services relate to intelligence capabilities. Technology for integrating or incorporating U.S. National Security Administration data used in these electronic support articles requires case-by-case review to assess the sensitivity and releasability of the specific technology.

○ The exclusion of classified articles described in USML Category XII(d)(3) and directly related technical data and defense services is removed.

○ The exclusion of source code and classified technical data and defense services directly related to certain night vision commodities is removed in its entirety.

○ Classified articles in paragraphs (f)(7) and (12) of USML Category XIX, specially designed for excluded articles in paragraph (f)(1) or (2) of that category, and directly related technical data and defense services, are now excluded.

○ The entry for USML Category XX manufacturing know-how is modified to remove the exclusion for manufacturing know-how directly related to classified uncrewed vessels, and to also exclude design methodology and engineering analysis for crewed vessels, articles used only in crewed vessels, classified payloads, and classified uncrewed underwater vessel (UUV) signature reduction techniques.

A review and response to the public comments submitted on the proposed rule, organized by applicable proposed section of the ITAR, is as follows.

Public Comments and Responses

ITAR § 126.7: Exemption for Defense Trade and Cooperation Among Australia, the United Kingdom, and the United States

General Comments on the Proposed Rule

Several commenters expressed support for the proposed rulemaking effort and the Department acknowledges that support, while two commenters noted that they opposed the exemption outright as they assessed it could result in unsecured trade in munitions. The Department notes the terms of the exemption support secure defense trade and the trilaterally shared security standards associated with the protection of defense technology.

Section 126.7(a)

Two commenters recommended regulators commit to additional industry review for this exemption. The Department notes this rulemaking takes the form of an interim final rule, which allows for further public comment.

Two commenters proposed a specific exemption to allow government contractors from Australia, the United Kingdom, and the United States to work together more effectively without needing a license or other approval from DDTC. The Department notes the previously proposed exemption in § 126.7 allows for designated parties, including government contractors, from those three countries to use the exemption in support of their work, provided the terms of the exemption are met.

Two commenters recommended the addition of ''classified and unclassified'' before the phrase ''defense articles'' to more clearly include the type of export allowed and instructions given in § 126.7(a) and (b)(8), respectively. The Department notes throughout the ITAR, unless specified, the term ''defense articles'' applies to both unclassified and classified articles. For example, where a given provision refers specifically to ''unclassified defense articles,'' the scope of the provision applies only to unclassified defense articles. However, a reference to ''defense articles'' should be read to apply to both unclassified and classified defense articles.

Similarly, another commenter wanted confirmation that the § 126.7 exemption included technical data. The Department confirms the exemption includes technical data and notes that technical data is included in the ITAR definition of ''defense article'' found at § 120.31.

One commenter requested clarification as to whether retransfers are allowed under the § 126.7 exemption if the defense article was exported to Australia or the United Kingdom under another ITAR exemption. Similarly, another commenter asked whether one has to be an authorized user for retransfers under the § 126.7 exemption. The Department confirms such retransfers are permitted under § 126.7 provided all the criteria are met, including § 126.7(b)(2)(ii)—requirements associated with the transferor, recipient, or broker.

Two commenters requested clarification as to whether the original U.S. exporter, the original equipment manufacturer, and the recipient of a defense article exported under the § 126.7 exemption could apply for a retransfer or reexport authorization to a territory outside of Australia or the United Kingdom. The Department confirms that any of the three may apply for a retransfer or reexport authorization. Similarly, another commenter also recommended the creation of a new Open General License to allow for authorized users to reexport unclassified defense articles to destinations outside of Australia, the United Kingdom, and the United States. The Department acknowledges this comment and may consider this recommendation in the future.

One commenter recommended the Department set out in § 126.7(a) that activities described in the section are

not subject to a requirement for licensing or other approvals, rather than referring to the provision as an exemption. The Department declines to accept this recommendation and notes the exemption authorizes, without further licenses or other approvals from DDTC, activities authorized by the exemption, provided the criteria for use of the exemption are met.

Section 126.7(b)

One commenter suggested modifying § 126.7(b) to add the phrase ''Except as provided in § 120.54, the exemption described in paragraph (a) . . .''. The commenter also advised finalizing and incorporating the text from the proposed rule (87 FR 77046) to this interim final rule, especially § 120.54(a)(6) regarding the taking of defense articles subject to this subchapter on deployment or training exercises to countries not previously approved. The Department notes this activity generally is already allowed, presuming there is no change in end-user or end-use, and is the subject of a separate rulemaking (87 FR 77046, Dec. 16, 2022) (proposed) and FR Doc. 2024–18249, scheduled to publish on August 15, 2024 (RIN 1400–AF26). As for the expressed reference to § 120.54, the Department declines to adopt this suggestion, as no other ITAR provision outside of part 120 references § 120.54. That provision is definitional and therefore applies to the entire ITAR. Including a specific reference in this one instance could lead to confusion as to whether other provisions of the ITAR must specifically reference that or other definitional provisions.

Three commenters asserted proposed § 126.7(b)(4), (6), and (7) are additional limitations and requirements not specified in AECA section 38(l)(4). The commenter further claimed this statutory exemption also states that it ''exempt[s]'' the applicable transfers ''from the licensing and other approval requirements'' of the AECA and that it should not be called an exemption, but rather something else. The Department disagrees with this commenter's interpretation. While an exemption is a type of authorization and a type of other approval, the statutory language in AECA section 38(l) states that the Department ''shall immediately exempt from the licensing or other approval requirements of this section exports and transfers . . . .'' The Department interprets the provision to refer to creating an exemption from the requirement to obtain, prior to a regulated activity, either a license *or* other approval, *i.e.,* a written document DDTC may issue in lieu of a license, such as a Technical Assistance Agreement, to approve a regulated activity. Further, the Department does not interpret the provision as creating an exemption while restricting its ability to issue an exemption. ''Exemption'' is the term the statute repeatedly uses, and what § 126.7 will create is an exemption consistent with the definition in § 120.57(c).

Similarly, another commenter asserted that § 120.11(c) does not apply to this provision, and the Department cannot impose requirements on reexport and retransfers. The Department disagrees. The requirements of the ITAR, including but not limited to registration, recordkeeping requirements, § 120.11(c), and penalties for violations continue to apply to this exemption as they do with other exemptions, such as the Canadian exemptions. The part of the law the commenter relies upon to support their argument, 22 U.S.C. 2778(l)(2), is not an independent export authority. Instead, that provision simply empowers the Department to issue a country-based exemption under its other core unaltered authorities in section 2778(a) and (b). This is further supported by the fact that in section 2778(f)(2) the Department's ability to issue a country-based exemption under its core existing authorities were at one point restricted before being allowed again for the United Kingdom (UK) and Australia by section 1345(a) of the NDAA for Fiscal Year 2024. Consequently, the Department is required to issue an exemption only from the AECA and ITAR requirements to obtain a license or other approval for exports and various transfers, not from other ITAR provisions, which still do and will apply.

Section 126.7(b)(1)

Several commenters recommended expansion of the scope of transfers allowed in § 126.7(b)(1) to include transfers (1) to or within the physical territory of Australia, the United Kingdom, or the United States; (2) to members of the armed forces of Australia, the United Kingdom, or the United States acting in their official capacity or while on deployment; (3) to government employees of Australia, the United Kingdom, and the United States; (4) to § 126.7 authorized users deployed in support of such armed forces, to include maintenance, repair, and overhaul providers; (5) to international waters when in support of AUKUS testing or operations; and (6) by Australian, U.S., and UK persons to export or transfer defense articles for end use by the armed forces of Australia, the United Kingdom, or the United States outside of their physical territories. Commenters expressed that the proposed § 126.7 precludes support in various ways, including to the three countries' armed forces when deployed outside their physical territories, and restricts contractors in support of those armed forces while deployed. This exemption is subject to statutory implementation requirements mandating its introduction in relatively short timeframes. The scope of the suggested changes is significant and additional time is required to consider them. The Department has determined that an interim final rule with another round of public comments will support continued refinement of the exemption to ensure the exemption works for the regulated community and supports the goals of this rulemaking.

One commenter recommended revising the proposed § 126.7(b)(1) text to include the clarifying phrase ''. . . the transfer of defense articles or performance of defense services must be to or within the physical territory . . .'' to clarify that transfers applies to defense articles and defense services. The Department accepts this comment in part and amends § 126.7(b)(1) to clarify that the term ''activity'' includes brokering and the provision of defense services within the scope of the exemption.

Two commenters recommended the creation of a definition of Australia and the United Kingdom in the ITAR, similar to how the United States is defined in § 120.60. The Department declines to adopt a specific definition for any one foreign country. Longstanding practice and the ordinary meaning of a country's physical territory has been understood in both the ITAR and the Department of Commerce's Export Administration Regulations (EAR). Should an unusual and country-specific question as to physical territory arise, the Department recommends asking it within an advisory opinion request pursuant to ITAR § 120.22.

One commenter sought clarification regarding the scope of the exemption with respect to ''cyber physical space'' managed by Australia, the United Kingdom, or the United States. The Department clarifies that servers hosting technical data in one of the three countries would still be within the physical territory of Australia, the United Kingdom, or the United States; however, transfers of technical data must be to or from those that meet the criteria set out in § 126.7(b)(2). Further, the Department notes the text of § 120.54, which lists activities that are not exports, reexports, retransfer, or temporary imports, including sending,

taking, or storing of certain encrypted unclassified technical data that meet the specific criteria provided there.

Another commenter sought clarification as to whether a U.S. person who works for a U.S. company can utilize the § 126.7 exemption while traveling outside the United States. The Department notes that, per the proposed § 126.7(b)(1), the transfer must be to or within the physical territory of Australia, the United Kingdom, or the United States. Similarly, the Department again notes the text of § 120.54, which lists activities that are not exports, reexports, retransfer, or temporary imports.

Three commenters asked whether retransfers or reexports are allowed under § 126.7 if an ITAR-controlled defense article is exported from a non-authorized user to an authorized user. The Department clarifies that both transferors and recipients would need to be authorized users, in addition to meeting all other criteria in § 126.7, before retransfers or reexports would be allowed under this exemption.

Section 126.7(b)(2)

Several commenters requested more information regarding the authorized user process. While additional information and guidance on the enrollment process will be provided separately, the Department notes that Australian and UK entities will manage the authorized user enrollment process through their respective governments.

Several commenters asked how often the authorized user list in the proposed § 126.7(b)(2)(ii) will be updated, as well as whether there will be an annual reevaluation process to remain on the authorized user list. Some commenters recommended the list be published on a public website, rather than within a user-restricted website such as the Defense and Export Control Compliance System (DECCS). Further, one commenter requested guidance to confirm that ''a transferor should require no additional due diligence steps beyond checking the list . . .'', and another asked if industry will need to provide notice and then wait for approval from DDTC before each transfer of a defense article. The Department notes it is developing separate guidance on the use and administration of the authorized user list and based off of consultations with representatives from Australia and the UK, that will be released shortly through the DDTC website.

Similarly, another commenter suggested the inclusion of validity dates with the list of authorized users and provide a process to notify current authorized users when persons are removed from the list of authorized users. The Department reiterates that it is developing separate guidance on the use and administration of the authorized user list, including these points, that will be released shortly through the DDTC website.

One commenter expressed concern that the authorized users for Australia and the UK would only include those that chose to enroll, and this is not the case for other ITAR exemptions. The Department cannot require Australian or UK entities to become authorized users as that is a business decision for them to make. The Department is designing the authorized user process, in coordination with the UK and Australian governments, to encourage interest to use the § 126.7 exemption.

One commenter inquired if foreign entities who are authorized users could access DECCS and if they could apply for a Technical Assistance Agreement through DECCS or would need to submit a General Correspondence request. The Department affirms non-U.S. authorized users will have access to DDTC's website after enrolling and will be able to view the authorized user list. The Department is not designing additional functionality for non-U.S. authorized users in DECCS. Further, under 22 U.S.C. 2778(g)(5), the Department is prohibited from issuing export licenses to foreign persons. As a result, the Department does not accept the commenter's suggestion to modify DECCS to allow foreign persons to apply for Technical Assistance Agreements and other types of export authorizations. Foreign persons can submit General Correspondence requests seeking authorization to reexport and retransfer defense articles, and foreign persons owned or controlled by U.S. persons may seek approval to engage in brokering activities.

Two commenters requested the Department work with industry to publish an authorized user list in a form that can be directly accessed by industry-standard automated screening software just as it does for denied parties. The Department, in coordination with the UK and Australian governments, is designing the list to be as simple as possible to use, while maintaining certain security protocols. The Department does not develop or support third-party screening software and cannot speak to its integration with the authorized user list.

One commenter asserted that the Department should not confirm the eligibility of U.S. registrants who are not utilizing the exemption for defense trade and cooperation among Australia, the United Kingdom, and the United States. The Department clarifies DDTC will not confirm to third parties a U.S. registrant's eligibility to participate in a transfer via the § 126.7 exemption. Similarly, another commenter asserted the Department should not vet entities that the Australian and UK governments have already vetted as it is counterproductive. The Department disagrees with the premise that its vetting of parties is counterproductive as approval by both governments ensures comprehensive vetting of entities.

Two commenters recommended members of the Australian, UK, and U.S. governments be separately enumerated within § 126.7(b)(2) so one does not need to check the authorized user list. The commenters added the enumerated list should include all departments and agencies, and contractor support personnel thereof, of the Australian, UK, and U.S. governments. The Department requires the Australian and UK governments' department or agencies be identified on the authorized user list, instead of the regulatory text itself, to provide agility and flexibility in implementing updates. The Department further clarifies that the exemption would cover ''contractor support personnel thereof'' if the contractor personnel are authorized users.

Two commenters warned that certifying authorized users for the § 126.7 exemption will be overly complex and recommended against using a ''positive'' list of authorized users. Conversely, another commenter supported identifying U.S. registrants on a list accessible to exporters and reexporters on an official website. Further, two commenters suggested the Department have a help desk to aid entities with inquiries about the registration status of a company. The Department notes that only authorized users of Australia and the UK will be identified on the authorized user list on DECCS. Further, the Department is developing separate guidance on use and administration of the authorized user list that will be released shortly through the DDTC website.

Two commenters suggested certain entities should immediately be presumed eligible to be authorized users. These include government agencies and organizations of Australia and the United Kingdom, foreign subsidiaries of U.S. registered companies, and any party previously authorized for the export of defense article. Further, another commenter suggested to identify UK and Australian companies by business registry numbers

and for the Department to align changes to the authorized user list with the general correspondence process for Foreign Entity Name Changes to ensure that both lists remain current. The Department notes because defense articles and defense services provide a critical military or intelligence advantage, vetting of eligible parties is vital to maintaining secure defense trade. The Department acknowledges these comments and notes it will publish separate guidance on the use and administration of the authorized user list that will be released shortly through the DDTC website. For prospectively eligible private entities, subsidiaries and affiliates might be included under the parent entity's authorized user status, depending on the parent entity's corporate structure and place of incorporation.

Three commenters requested confirmation that individual U.S. persons, including U.S. persons working abroad (USPABs), can be authorized users. Further, several commenters wanted confirmation that furnishing a defense service under § 126.7 is allowed by authorized users so separate USPAB authorization is not needed, and the defense services provided will not cause a foreign-produced defense article to become ITAR controlled. The Department affirms that all U.S. persons, as defined in § 120.62, including individual persons, are eligible to become authorized users. The § 126.7 exemption is a unique authorization not to be conflated with a USPAB authorization issued under § 120.22(b), which authorizes the export of limited defense services only. The Department reconfirms that the mere presence or involvement of a U.S. person during the design, development, etc. of a foreign-origin defense article, or the provision of limited defense services authorized via a USPAB authorization, does not subject a resultant foreign-origin defense article to the ITAR or its reexport and retransfer requirements. However, to utilize the § 126.7 exemption, a U.S. person must be an authorized user—and defense services provided via the exemption subjects technical data and any resulting defense article to the ITAR, including retransfer and reexport restrictions outside the authorized user community. The Department will provide guidance on the authorized user process separate from this rulemaking. Transferors are best positioned to determine whether the § 126.7 exemption or a USPAB authorization best suits their needs. Similarly, another commenter requested confirmation that UK or Australian citizens, including dual nationals, can be authorized users such that their employers can transfer technical data to them under this exemption. The Department clarifies that UK and Australian dual nationals can be authorized users and § 126.18(e) outlines the exemption available to them for transferring classified defense articles.

One commenter recommended clarification that registration is required only for the applicable activity being conducted (*e.g.,* exporting or brokering). One does not need both unless they are conducting both activities. The commenter suggested to amend the proposed § 126.7(b)(2)(i) with U.S. persons registered with the applicable registration type (*i.e.,* manufacturer, exporter, and/or broker) and not debarred under § 127.7. The Department accepts this comment in part and has amended the regulatory text herein.

Several comments were submitted pertaining to brokering requirements under the new exemption. These included:

- whether brokering registration as described in part 129 is required for proposed § 126.7(b)(2)(i);
- whether §§ 129.4 and 129.10(b) should be revised to clarify if entities that engage in brokering under this exemption need to register and furnish reports to DDTC;
- if the brokering recipient must be an authorized user that is supporting AUKUS; and
- if a foreign broker needs to be an authorized user and be registered as a broker;

The Department confirms that brokering registration is required per § 129.3, with certain exceptions. The Department also notes that the brokering requirements covering exemptions are already specified in § 129.4, and there is a reporting requirement in § 129.10(b) that still applies with this exemption. The recipient of any defense article must be an authorized user or registered U.S. person per proposed § 126.7(b)(2)(i); however, the proposed exemption is available for use between and among Australia, the United Kingdom, and the United States, and need not be in support of AUKUS. Lastly, the Department clarifies that foreign persons who are brokers as defined in § 129.2 must register with the Department to engage in brokering activities and must be an authorized user, per proposed § 126.7(b)(2), to use this exemption. The Department amends the proposed § 126.7(b)(2) to clarify that U.S. and foreign persons must be registered with DDTC pursuant to §§ 122.1 and 129.3, as appropriate.

Relatedly, several commenters made requests for more outreach events regarding the § 126.7 exemption and the authorized user process as well as guidance materials, including Frequently Asked Questions (FAQs) to be shared with the regulated community. The Department agrees and notes that it intends to conduct outreach and issue further guidance and FAQs on the exemption.

One of these commenters sought clarification as to whether freight forwarders, carriers, and warehousing companies need to be authorized users. The commenter similarly asked if subcontractors need to be authorized users if they receive documentation in relation to a defense article from an existing authorized user. The Department clarifies that, for purposes of § 126.7(b)(2), anyone who has access to a defense article would need to be an authorized user. We note that many carriers and other service providers do not require such access; however, freight forwarders often do as they require access to the defense articles they are processing.

Four commenters recommended expansion of the scope of the § 126.7 exemption to include British and Australian persons employed by an authorized user in the United States to avoid the need for a Foreign Person Employment (FPE) license, and to expand the exemption to include U.S. persons working abroad (USPABs) who provide defense services to an employer who is an authorized user. The Department notes that an expansion of the exemption is not needed as the existing text may be used by Australian or British FPEs or USPABs who can satisfy the elements of § 126.7, including by becoming an authorized user. However, the Department clarifies that any defense article produced or manufactured from U.S.-origin technical data or defense service(s) transferred via § 126.7 may only be transferred pursuant to a DDTC license or other authorization, which may include the § 126.7 exemption itself. In other words, any defense article that is designed, developed, engineered, manufactured, produced, assembled, tested, repaired, maintained, modified, operated, demilitarized, destroyed, processed, or used by an FPE or USPAB pursuant to § 126.7 becomes subject to the ITAR.

Another commenter sought clarification regarding how USPAB authorizations intersect with the § 126.7 exemption, in particular for dual nationals or those with Australian permanent residency. The Department notes a USPAB authorization is for limited defense services. For dual

nationals, the Department notes there are ITAR exemptions available, such as in § 126.18.

One commenter requested clarification regarding the text ''. . . DDTC will confirm eligibility of parties under this exemption prior to the transfer . . . . of defense articles or defense services'' in the proposed rule and if this was a requirement prior to each transfer and what the process is for confirming eligibility of parties. The Department clarifies there is no requirement to check with the Department prior to each transfer and additional guidance on how this process will work will be released shortly through the DDTC website.

Section 126.7(b)(3)

One commenter recommended the addition to § 126.15 of a list of defense articles for which the U.S. Government requires a license for national security reasons and recommended the public have an opportunity to comment on that list. The Department notes the list, called the Excluded Technology List (ETL), in supplement no. 2 to part 126 articulates those defense articles and defense services that are not eligible for the exemption in § 126.7. This list was created based on a combination of statutory obligations and policy decisions, including national security reasons. The public had an opportunity to comment on that list when the proposed rule published on May 1, 2024. Further, the public may continue to comment on that list with this interim final rule.

Many commenters asked how often the ETL will be updated, and some asked if there would be an opportunity for industry input. The Department notes that it is statutorily required to conduct a review of the USML every three years and any applicable changes resulting from those reviews will be reflected in the ETL. Further, the U.S. Government has also committed to ensure that the items on the ETL will be specifically reviewed on a more frequent basis, annually for the first five years from implementation and periodically thereafter, and changes will be made to the ETL, depending on the outcome of each review.

One commenter asked whether transfers of third-country origin (*e.g.,* South African-origin; German-origin) defense articles between and among authorized users is allowed under § 126.7, provided such transfer occurs to or within the physical territory of Australia, the United Kingdom, and the United States and the defense articles are not listed on the Excluded Technology List. The Department notes the ETL describes defense articles, which includes foreign-origin defense articles, and if the foreign-origin defense articles are subject to the ITAR, are not on the ETL, and all other criteria are met, one may elect to use the § 126.7 exemption.

Section 126.7(b)(4)

Several commenters asked if the recordkeeping requirements in § 120.15(e) apply to the proposed § 126.7 exemption and how the proposed § 126.7(b)(4) differs. Similarly, several commenters recommended the replacement of § 126.7(b)(4) with § 120.15(e), and another commenter recommended confirmation that ITAR recordkeeping requirements are satisfied if the recordkeeper meets the recordkeeping obligations of the comparable national export control system in their nation. Because the recordkeeping requirements are already present in § 120.15(e) and are applicable to any kind of exemption, including the one at § 126.7, the Department will remove § 126.7(b)(4) from § 126.7 to avoid suggesting the recordkeeping requirements for the new exemption are any different than those for any other exemption. The requirements set out in the proposed § 126.7(b)(4) were similar to § 120.15(e), with the exception of criteria such as recording the Electronic Export Information (EEI) Internal Transaction Number (ITN) in one's records. Of note, the EEI number required in § 120.15(e) is only applicable to certain transfers as it is the electronic export data filed in the U.S. Customs and Border Protection's Automated Export System (AES). If your transaction required an EEI filing, then you should maintain it in your records; if it did not, then that is not part of the record. The Department also declines to accept a different nation's recordkeeping requirements as meeting the ITAR's requirements.

One commenter claimed there is nothing established regarding processes and procedures to track and report defense articles received under this exemption and differentiate between this exemption and other ITAR exemptions. The Department acknowledges this comment; however, the standard recordkeeping requirements under this exemption are the same as the standard recordkeeping requirements other ITAR exemptions are subject to (see § 120.15(e)). How companies wish to document and track and report ITAR-controlled technical data releases or transfers of defense articles is at the discretion of each company. The Department does not set expectations about what processes or procedures to use to meet that requirement.

Several commenters raised a concern that recording an individual's personal information and associated data has privacy implications and suggested recording the details of the entity rather than the natural person. The Department clarifies maintaining internal records of ''the name of the natural person responsible for the transaction'' refers to the transferor, not the recipient. Understanding who is responsible for executing a transfer is standard in a compliance program, allowing entities to identify problems and self-correct, and supports audits. Similarly, several commenters raised concerns that tracking certain information required for record keeping may violate the European Union's General Data Protection Regulation if shared with the Department and sought clarification as to what the term ''transaction'' means in this provision. The Department notes that these are the standard recordkeeping procedures that exist today and with which companies must comply with to operate under the provisions of the ITAR. Review of these recordkeeping requirements is not the subject of this rulemaking, but the Department may use the information obtained here to inform a future rulemaking. Further, the Department clarifies that term ''transaction'' in the proposed § 126.7(b)(4) referred to the transfer of the defense article or provision of the defense service; however, that proposed provision has been removed in this interim final rule since recordkeeping requirements are already captured in § 120.15(e).

One commenter requested confirmation that the § 126.7 exemption requires the authorized user to keep all shipping information pursuant to the exemption. The Department notes that § 120.15(e) articulates the recordkeeping requirements for ITAR exemptions, to include shipping information.

One commenter requested clarification as to who is responsible for keeping records and what constitutes a sufficient record for a technical data exchange. The Department notes technical data releases are subject to recordkeeping requirements. The Department further confirms it is removing the previously proposed § 126.7(b)(4), as § 120.15(e) sufficiently articulates the recordkeeping requirements for the § 126.7 exemption and § 120.15(e) is the provision to which a transferor should refer.

One commenter sought clarification regarding the phrase ''. . . and such records must be made available to DDTC upon request . . .'' in § 126.7(b)(4). The

Department acknowledges this comment while noting that the subject subparagraph is removed in this rule, as explained above.

Section 126.7(b)(5)

One commenter suggested modification of the proposed § 126.7(b)(5) to state that ''The value of the transfer does not exceed the amounts described in § 123.15 and does not enable the manufacturing abroad of significant military equipment as described in § 124.11.'' The Department notes there are separate statutory requirements for congressional certifications (sometimes referred to as congressional notifications), which are based on value thresholds associated with the transaction, including those for exports of major defense equipment, as described in § 123.15. Further, manufacturing abroad of significant military equipment is not allowed under this exemption, as this activity is subject to congressional certification requirements. To the extent the commenter suggests replacing the word ''involve'' with ''enable'' in the regulatory text, the Department declines that suggestion and will keep the former term, which is also the one used in the controlling statute, 22 U.S.C. 2776(d).

Two commenters noted there is an opportunity to reform how congressional certifications are handled with the § 126.7 exemption. Similarly, another commenter suggested changing the congressional certification process for transfers eligible for expedited licensing but subject to reporting to Congress. The commenter stated 22 U.S.C. 2276(c) and (d) set requirements for the President to report to Congress when licenses are submitted, and both provisions grant the President the opportunity to use an emergency certification to waive the requirement and instead issue the license. The commenter further recommended furnishing an annual report for the AUKUS-related licenses to Congress. The Department presumes the commenter intended to cite 22 U.S.C. 2776(c) and (d) and not 2276(c) and (d). Given the type of transfers the Department anticipates being eligible for the exemption at § 126.7, the Department does not assess it could certify that each transfer constitutes the type of emergency contemplated under 22 U.S.C. 2776. The Department appreciates feedback on how it may expedite existing processes and will use the information provided as appropriate.

Four commenters suggested the Department remove § 126.7(b)(5) and eliminate unnecessary congressional certification requirements because the commenters asserted that, under 22 U.S.C. 2778(l)(2), Congress explicitly required that the Department exempt certain defense articles from export license requirements. Thus, by failing to eliminate corresponding congressional certification requirements for these covered defense articles, the proposed rulemaking will require exporters to apply for licenses to ensure that congressional certifications are submitted. Further, the commenters suggest, the Department will be notifying Congress of exports Congress already exempted from the export licensing requirements and any associated congressional certification requirements. The Department disagrees with the comment and assesses that the exemption at § 126.7 is consistent with both the scope of 22 U.S.C. 2778 and with the Department's obligations under 22 U.S.C. 2776 to provide notification to Congress of the types of exports described in 22 U.S.C. 2776(c) and 2776(d). Within 22 U.S.C. 2778(l)(6), Congress specifically made the congressional certification requirements of 22 U.S.C. 2753 not applicable to items transferred under the exemption but did not mention 22 U.S.C. 2776. Furthermore, the authority to issue the exemption under 22 U.S.C. 2778(l) is modeled after many provisions in 22 U.S.C. 2778(j) and 2778(j)(3)(C), which requires that congressional certifications continue to be notified regardless of any exemption issued under 22 U.S.C. 2778(j). One commenter suggested to task the State Department's Defense Trade Advisory Group (DTAG) to explore whether congressional approval requirements should remain in place under the Arms Export Control Act for exports to (§ 123.15) and manufacturing of significant military equipment (SME) (§ 124.11). The Department notes it is unnecessary to task the DTAG with assessing the Department's legal obligations, as that is the Department's responsibility. The Department assessed, consistent with 22 U.S.C. 2778(j)(3)(C) and (l)(6) the congressional certification obligations contained in 22 U.S.C. 2776 apply to exports conducted under the exemption in § 126.7.

Two commenters sought clarification regarding the § 126.7 exemption and congressional certification given the fact that both existing Australia and UK Defense Trade Cooperation Treaties (DTCT) exemptions contain an entire section on congressional certifications. Similarly, another commenter recommended inclusion of a provision similar to the procedures for legislative notification described under § 126.16(o) as the commenter asserts it allows for the congressional certification process to be executed without a license application. The Department notes the statutorily authorized § 126.7 exemption is separate from the Australia and UK DTCT exemptions, which were authorized under treaties. Comparing the criteria and conditions of § 126.7 to those articulated in §§ 126.16 and 126.17 is not appropriate because those sections implement the DTCT, rather than exemptions to the routine ITAR license requirements. The congressional certification requirements for transfers conducted pursuant to the DTCTs are unique and distinct from those articulated in 22 U.S.C. 2776 and ITAR §§ 123.15 and 124.11. Further, transfers that do not meet all of the criteria articulated in § 126.7 are not eligible for the exemption. This includes transfers that exceed a certain dollar value threshold or those that involve the manufacture of significant military equipment abroad. Those transfers will continue to require licenses or other authorizations consistent with the routine procedures and requirements, and the export authorization for those transfers will be the applicable license or agreement rather than the exemption.

One commenter sought clarification as to how the values of intangibles, such as conversations involving technical data, should be calculated. The Department confirms that the value of every transfer should be calculated because transfers that exceed certain values are not eligible under § 126.7(b)(5) and may require congressional certification in line with the provisions of ITAR §§ 123.15 and 124.11. The Department defers to exporters on the most appropriate formula to calculate the value of intangible transfers. When establishing the value of a transfer, exporters should strive for consistency regardless of whether a transfer will occur pursuant to a license, agreement, or exemption.

One commenter sought confirmation as to whether a license is required if a contract was modified and the values exceeded the congressional certification thresholds articulated in § 126.7(b)(5). The Department confirms a license or other authorization would be required for exports exceeding the congressional certification value thresholds or involving the manufacture of significant military equipment abroad.

One commenter suggested the Department provide information regarding the use of the § 126.7 exemption and the congressional certification requirement pursuant to § 123.15. The Department confirms the § 126.7 exemption may not be used to

conduct exports that require congressional certification as described in § 123.15.

One commenter recommended that congressional certification values be calculated separately for each transfer under the exemption provided the transfer is not split or structured to avoid exceeding applicable notification dollar value limits. The Department does not dispute this approach.

Section 126.7(b)(6)

One commenter recommended replacing § 120.16 with § 120.16(c) in the proposed § 126.7(b)(6) text. The Department rejects this comment, as all of § 120.16 applies to the § 126.7 exemption. The same commenter suggested § 126.7(b)(6) is redundant and the Department should consider its removal. The Department accepts this comment and removed this provision; however, the Department notes that use of the exemption still requires adherence to all applicable sections in the ITAR, including registration and recordkeeping requirements.

Three commenters asked if part 130 reports are required with the proposed § 126.7 exemption, how those reports should be provided to DDTC with no associated license application in DECCS, and whether ITAR exemptions in general require part 130 reporting. The Department clarifies that ITAR exemptions do not require part 130 reporting, as exemptions do not require an applicant to seek authorization from DDTC pursuant to §§ 130.2 and 130.9.

Four commenters recommended removal of the requirement to obtain nontransfer and use assurances through the DSP–83 form from the § 126.7 exemption and incorporation of those assurances in the authorized user process. The Department accepts this comment and amends § 123.10(a) with a clarification to that effect. Similarly, five commenters requested removal of the DSP–83 signature requirement for Australia and the United Kingdom, similar to how the Canadian government is treated. The Department accepts this comment. The Department notes that the Canadian government is not required to sign DSP–83s because the government has communicated the necessary assurances to the Department through other means. The UK and Australia governments have also provided the necessary assurances through other means. Two commenters recommended that Australia, the United Kingdom, and the United States agree to one common format for nontransfer and use assurances. Lastly, one commenter asked if nontransfer and use assurances require ink signature and original copies to be maintained and are electronic signatures and/or scanned copies allowed. As previously mentioned, the Department has incorporated the nontransfer and use assurances into the authorized user process. Separately, the Department accepts the use of electronic, digital, or wet signatures provided the name of the individual signing is clearly legible (*e.g.,* printed below the electronic signature), and there is a date provided with the signature.

Section 126.7(b)(7)

One commenter requested clarification on how § 123.9(b) works with this exemption, particularly in the case where a recipient is receiving an intangible, *e.g.,* certain technical data. The Department clarifies that § 123.9(b) refers to tangible items only and it sets the requirement that the exporter must notify the end user of certain criteria, including the exemption citation, if an exemption is used.

Section 126.7(b)(8)

One commenter recommended the addition of a note to § 126.7(b)(8) stating: ''NOTE: Refer to the Atomic Energy Act of 1954 for any transfers of Restricted Data as defined in that Act'' since the proposed exemption appears to imply that Restricted Data could be exported under the exemption. The Department acknowledges and partly accepts the comment. The Department deleted reference to Restricted Data and the Atomic Energy Act of 1954 from the regulatory text, given it is already referenced in § 120.5(c). Because that text regarding Restricted Data was deleted from what was originally proposed in § 126.7(b)(8), there is no need for the clarifying note. Relatedly, the Department takes this opportunity to remind the public that the ITAR exemption does not authorize permanent imports of defense articles and defense services described on the U.S. Munitions Import List (USMIL). Regulations pertaining to permanent imports are administered by the Bureau of Alcohol, Tobacco, Firearms, and Explosives and are found at 27 CFR part 447.

One commenter asked if § 126.7(b)(8) was necessary to include in the exemption given the handling of classified materials are subject to other laws, and it should be a note to paragraph (b) rather than a limitation or requirement, especially since it is not specified by AECA section 38(l)(4). The Department accepts this comment and amends the regulatory text with the addition of a note to paragraph (b).

ITAR § 126.15: Expedited Processing of License Applications for the Export of Defense Articles and Defense Services to Australia, the United Kingdom, or Canada

Section 126.15(c)

Two commenters recommended revision and expansion of the expedited license process to include the armed forces of Australia, the United Kingdom, or the United States acting in their official capacity outside the physical territory of the countries and to entities deployed in support of the armed forces of Australia, the United Kingdom, or the United States acting in their official capacity. Further, the commenters suggested the term ''corporate entities'' in the proposed § 126.15(c) is confusing, leading one commenter to recommend replacing that term with ''person'' as defined in § 120.61. This would, the commenter suggested, clarify that natural persons and academia qualify for expedited licensing too. The Department declines to accept the comment to expedite the license processing timelines for exports to members of the armed forces of Australia, the United Kingdom, or the United States and entities that support those armed forces while deployed outside the physical territories of these countries. That would expand the expedited licensing application processing timelines beyond that which Congress required. Moreover, the ability for a country's armed forces to take defense articles to third countries is the subject of a different rulemaking (87 FR 77046, Dec. 16, 2022) (proposed) and FR Doc. 2024–18249, scheduled to publish on August 15, 2024 (RIN 1400–AF26). However, the Department does accept the recommendation to replace ''corporate entities'' with ''person'' in § 126.15(c).

Four commenters recommended expanding the expedited licensing process beyond exports to also include reexports, retransfers, and temporary imports of defense articles; the performance of defense services; and brokering to, among or within Australia, the United Kingdom, Canada, or the United States. The Department appreciates the comment but declines to expand the scope of § 126.15(c) as it implements the provisions of section 1344 of NDAA for Fiscal Year 2024, which require the Department to expedite export license applications and do not extend to reexports, retransfers, brokering, or temporary import requests.

Three commenters recommended the Department create a policy of ''presumption of approval'' in § 126.15 for all AUKUS-related applications;

where the ultimate end user is the Government of Australia or the Government of the United Kingdom and where all parties to the transaction, with the exception of freight forwarders and brokers, are incorporated in the United States, United Kingdom, Canada, New Zealand, or Australia who have previously received a DDTC approval for the same articles. The Department acknowledges this comment; however, it is outside the scope of the rulemaking. The Department is implementing the provisions of section 1344 of NDAA for Fiscal Year 2024. Three commenters suggested the Department make public how it intends to facilitate the expedited licensing process, including the U.S. Government's adjudication timeframes. Further, one commenter recommended the Department update its licensing guidelines, including the Agreement Guidelines, with standardized language to easily identify which applications meet the expedited licensing criteria. Two commenters suggested that DDTC create a dedicated, internal AUKUS coordination office. The Department declines to publish detailed information about the deliberative license adjudication process. Further, the Department notes it is not necessary to update the Agreements Guidelines to identify license applications that qualify for expedited treatment under § 126.15 as the Agreements Guidelines and other licensing instructions already require submission of any information necessary to determine whether § 126.15 applies to a specific submission. The Department also can confirm that National Security Presidential Directive-56 has already established defined timeframes for U.S. Government adjudication of all license requests, including those licenses that involve Australia, the United Kingdom, and Canada. Adherence to those existing timeframes will enable the expedited processing of license applications consistent with § 126.15. Lastly, the Department notes the recommendation to establish a AUKUS coordination office is outside the scope of this rulemaking.

Another commenter recommended that DDTC provide standardized provisos for these expedited license applications to alleviate uncertainty on the scope of activities, technical exchanges, and defense services that are authorized. The Department appreciates the comment; however, the Department has endeavored to create the § 126.7 exemption with the broadest possible applicability and predictability. The transfers that cannot be undertaken pursuant to the exemption at § 126.7 or another exemption within the ITAR are likely to be more unique transfers that may not lend themselves to standard provisos. To the extent the commenter is encouraging the Department to standardize provisos more generally, the Department recognizes the value in that line of effort and is already undertaking steps to ensure provisos are applied more consistently on licenses in the future.

Another commenter recommended that AUKUS-related licenses be free of provisos and conditions. The Department notes a commitment by DDTC to expedite the licensing review timeline should not be confused with a commitment by DDTC to approve the scope and content of all license requests for Australia, the UK, or Canada. The Department is still required to vet license applications for foreign policy and national security considerations. This requires vetting individual parties on license applications to assess risks of diversion and to ensure proposed exports are consistent with the United States's multilateral regime commitments, including those articulated in the Missile Technology Control Regime (MTCR). Occasionally, that vetting will require DDTC to include provisos or conditions when approving a license.

Four commenters recommended that AUKUS-related license applications not be staffed to the interagency for review when they are ''in furtherance of'' (IFO) licenses, or licenses that require congressional certification. Additionally, one commenter stated that licenses that do require congressional certification should be subject to a shorter processing period, for example, less than five business days. These commenters suggest that those applications, including relevant IFO licenses, were already reviewed when the existing agreement was adjudicated and as part of the congressional certification process. Another commenter suggested removing the current increase in value thresholds or scope expansions that prompt re-notification of previously notified programs. The Department notes these comments are outside the scope of the rulemaking as they offer recommendations regarding the Department's internal deliberative process for adjudicating licenses and not the previously proposed regulatory text. However, the Department takes this opportunity to note that the types of license applications that trigger congressional certification thresholds or involve the manufacture of SME abroad are generally the types of cases that warrant case-by-case review and consideration. As a result, it would not be appropriate to short-circuit the interagency staffing process for these cases or to mandate that they be notified to Congress in five business days or less. Furthermore, the Department has a long-standing arrangement and practice with Congress regarding the timeframe afforded for informal congressional review of license applications prior to formal certification. These suggestions would be inconsistent with that long-standing expectation and practice.

One commenter questioned whether anything should be notated in a license application submission to make it eligible for expedited review. The Department notes applicants are encouraged to submit any information that they believe would help facilitate an expeditious and streamlined review by the Department. Additionally, license application submissions are regularly reviewed to identify cases that qualify for expedited processing consistent with the provisions of § 126.15.

Two commenters requested retention of the ability to make licensing requests from Australia and the United Kingdom to the Department directly because U.S. exporters, at times, are no longer available to submit a reexport or retransfer authorization request. The Department confirms that Australian and UK companies are free to submit reexport and retransfer requests. To the extent that such requests by Australian and UK companies are intended to change the scope of existing active agreement, those amendments should be submitted by the U.S. exporter in order to ensure that the Department has a single record and authorization of the full scope of activities necessary to support a given line of effort. This is necessary, among other reasons, to ensure that the Department complies with applicable congressional certification requirements under 22 U.S.C. 2776.

One commenter requested confirmation that a UK company could rely on § 126.15(a) for expedited processing of a license application. The Department notes that the expedited licensing procedures outlined in § 126.15 apply to export licenses, not licenses for reexports, retransfers, or temporary imports. Because foreign companies are not permitted to submit export license applications under 22 U.S.C. 2778(g)(5), a UK company would not be able to request expedited processing under § 126.15. The same commenter inquired if there could be expedited processing for General Correspondence requests. The Department notes that the NDAA for

Fiscal Year 2024 requirements being implemented by this section apply to export licenses, not reexport or retransfer authorizations. The Department, therefore, will not commit to expediting such requests in this section of the ITAR but will continue to process them as appropriate.

Section 126.15(d)

Five commenters recommended the Department clarify whether Memorandums of Understanding (MOUs) and Foreign Military Sales (FMS) benefit from the expedited licensing process described in § 126.15(d). Expedited licensing is not applicable to MOUs or FMS cases as the ITAR only regulates direct commercial sales (DCS) and does not govern the government-to-government process for concluding MOUs or Letter of Offer and Acceptances (LOAs) for FMS cases.

Further, two commenters asserted that expedited processing is reserved for license applications ''that are not covered'' by an ITAR exemption; however, the proposed rule stated, ''describing an export that cannot be undertaken under an exemption'' and recommends the provision be modified by replacing ''cannot be undertaken'' with ''is not covered.'' The Department declines to accept this recommendation because the Department assesses that the phrases ''cannot be undertaken under an exemption'' and ''is not covered by an exemption'' would apply equally to the scenarios presented by the commenters. In particular, if the U.S. Government has declined to take some step that is necessary for an exporter to rely on any exemption within the ITAR for a proposed export, that proposed export cannot be undertaken under an exemption and is not covered by an exemption.

One commenter recommended additional resources be committed to support the expedited licensing process because historically the proposed timeframes proposed in § 126.15(d) have not materialized. The Department disagrees, as data collected on license processing timelines does not support the commenter's statement. The same commenter also recommended the Department include in the annual report required by section 1344 of the NDAA for Fiscal Year 2024 a certification that the expedited timelines have been satisfied. This comment is outside of the scope of this rulemaking and section 1344 of the NDAA does not have an annual report requirement. The Department believes that the commenter may have meant to refer to section 1341 of the NDAA, which does require a related annual report. When preparing and submitting the report required by 22 U.S.C. 10411(e) (the location to which section 1341 of the NDAA for Fiscal Year 2024 was classified) the Department will include all required information.

Three commenters noted the expedited licensing timeframes proposed in this provision could result in cases being returned without action (RWA) if an agency is not ready to position the case and provide a response back to the DDTC within 30 or 45 days. Similarly, another commenter suggested the Department implement a process to hold a license for a specified period of time to permit minor changes and adjustments to a license that would otherwise be returned without action. The Department accepts these comments and amends § 126.15(d) with the qualifying phrase ''to the extent practicable'' in order to better reflect the statutory NDAA language in section 1344(c) (classified to 22 U.S.C. 10423(c)) to expedite certain applications and avoid unnecessary and burdensome RWAs when adjudication in the 30- or 45-day timeframe is not practicable.

Three commenters suggested the inclusion of a provision stipulating the automatic approval of licenses exceeding the 45-day review period and to identify which USML categories should trigger staffing to certain intra- and interagency offices/agencies that participate in the licensing review process, including the Defense Technology Security Administration (DTSA) for AUKUS-related cases instead of staffing all license requests to these offices/agencies. The Department declines to accept the recommendation to automatically approve licenses after 45 days. A commitment by the Department to expedite the license is not a commitment by the Department to approve all license requests for Australia, the United Kingdom, or Canada. The Department is still required to vet license applications for foreign policy and national security considerations. This requires vetting individual parties on license applications to assess risks of diversion and to ensure propose exports are consistent with the United States's multilateral regime commitments, including those articulated in MTCR. Additionally, recommendations regarding the policies and procedures the Department and the interagency apply to the deliberative process of reviewing individual license applications are outside the scope of this rulemaking.

One commenter sought clarification as to what constitutes a government-to-government agreement and how would the regulated community know if a government-to-government agreement exists. A government-to-government agreement is used to authorize Foreign Military Sales (FMS), coproduction agreements, or other authorizations between governments to export defense articles and defense services outside of the ITAR or direct commercial sales (DCS) framework. Parties to exports that are related to such agreements would have such information from their company or contractor and would identify it on their license applications to qualify for the expedited process.

Two commenters suggested the Department provide expectations regarding the Department of Defense's Technology Security & Foreign Disclosure (TSFD) review process and Low Observable and/or Counter Low Observable (LO/CLO) review process and mandate that interagency review for AUKUS applications include expedited TSFD and LO/CLO approvals to ensure meeting the statutory timelines. The Department notes that the comment is outside the scope of the rulemaking as it offers recommended changes to the U.S. Government's internal deliberative process. The Department has, however, relayed this comment to the Department of Defense.

One commenter asked how AUKUS-related licenses would be identified to be subject to expedited licensing; requested Canada be included for expedited licensing; inquired if other countries will be considered for expedited licensing aside from those listed in § 126.15(c) and (d); and suggested to update DDTC's Agreement Guidelines to enable the quick identification of licenses subject to expedited processing. The Department notes that all export license applications meeting the requirements of § 126.15(d) are subject to expedited review, not just those in support of AUKUS-related programs. Additionally, licenses that include parties from countries other than those listed in § 126.15(c) and (d) will not benefit from the expedited license processing timelines. Lastly, the Department confirms that Canada was already included in the proposed § 126.15(c) and (d) text as section 1344 of the NDAA for Fiscal Year 2024 applies to applications to export to Australia, the United Kingdom, and Canada.

The same commenter recommended the inclusion of technical data in § 126.15(d) and a stipulation that any license application that is returned or denied must be done so within 14 days of receipt with an explanation for the return or denial, with an opportunity for the applicant to resubmit if the reason

for return or denial can be addressed. The Department declines to accept these suggestions as it is not possible to guarantee that all license applications will be returned or denied within 14 days of receipt because DDTC is not always able to determine within 14 days how a specific license will be adjudicated. The Department is committed to expediting export license applications for Australia, the UK, and Canada to the greatest extent possible and to meeting 30- and 45-day processing timelines for those applications. It is not currently possible to shorten that timeframe to 14 days. Additionally, the Department will not add the term ''technical data'' to this provision as ''technical data'' is already covered by the term ''defense article,'' as defined in § 120.31.

One commenter requested the term ''review'' be replaced with ''approved, returned, or denied'' in § 126.15(d) to ensure final adjudications of a license applications are provided to the applicant within the 45-calendar day timeframe. The Department declines to accept this comment as the proposed text already states ''. . . any review shall be completed no later than 45 calendar days . . . ,'' which is the equivalent of the proposed change.

ITAR § 126.18: Exemptions Regarding Intracompany, Intra-Organization, and Intragovernmental Transfers to Employees Who Are Dual Nationals or Third-Country Nationals

Section 126.18(e)

Three commenters asked if a dual national with Australian citizenship who was born in a § 126.1 country, who holds an Australian security clearance and works for a U.S. or Australian company, can have classified technical data under this exemption. The Department notes if the criteria in § 126.18(e) are met then no additional authorization is required and the dual national can receive classified technical data. Similarly, another commenter requested the U.S. Government provide details regarding multilateral efforts to ensure personnel and facilities' security clearance processes in all three countries can support the final implementation of the proposed exemption. The Department notes this comment is outside the scope of this rulemaking.

Three commenters wanted clarification as to several aspects of the § 126.18(e) exemption: if this exemption is only available for use in relation to the § 126.7 exemption, or if one can just be an authorized user; if § 126.18(e) can be used with existing ITAR agreements that involve classified technical data; if § 126.18(e) can be used for FMS transfers and MOU/Cooperative Armament Programs; if § 126.18(e) can be used by contractors who are not ''regular employees'' as defined in § 120.64; whether one needs approval from a U.S. original equipment manufacturer (OEM) to use the exemption; and if there are provisos in an existing DDTC authorization, whether this exemption supersedes those provisos. The Department notes the § 126.18(e) provision is not just available for use in relation to the § 126.7 exemption and can be used with existing ITAR agreements provided the terms of the provision are met. Further, for clarity, the Department amends § 126.18(e) by replacing ''transfer'' with ''reexport'' and ''retransfer.'' The exemptions within the ITAR are not applicable to FMS cases or MOU/Cooperative Armament Programs (unless the MOU/Cooperative Armament Programs are executed under the authorities of the ITAR). The Department notes the exemption cannot be used by contractors that are not regular employees and suggests reviewing the definition of ''regular employee'' in § 120.64. The Department further notes ITAR exemptions are self-certifying, so no additional approval is needed from a U.S. OEM to utilize this provision of the ITAR; however, this exemption does not supersede any existing provisos placed on authorizations issued by DDTC. To the extent an exporter chooses to rely on a particular export authorization to conduct a transfer, including exemptions, the provisos, conditions, and limitations that were applied to that authorization continue to govern the transfer.

Two commenters wanted confirmation that § 126.18(e) was not limited by the ETL and requested that ''regular employee'' be removed from this provision. The Department declines to accept the comment to remove ''regular employee'' from this provision and notes that § 126.18(e) is not limited by the ETL.

Finally, in light of the comments received about this subsection, the Department made certain clarifying but minor and non-substantive changes to its phrasing and presentation.

Section 126.18(e)(1)

One commenter wanted clarification that ''dual nationals of another country'' in § 126.18(e)(1) includes § 126.1 countries. The Department acknowledges this comment and notes § 126.1(a) is amended by this rule to include § 126.18(e).

One commenter sought clarification regarding whether § 126.18(e)(1) applies to third-country nationals, and if not, what authorization is needed to receive classified defense articles. The Department confirms that this provision only applies to dual nationals and not third-country nationals. There are other provisions within § 126.18 that apply to third-country nationals for transfers of unclassified defense articles; however, to transfer classified technical data to third-country nationals, separate DDTC authorization would be required.

Section 126.18(e)(2)

Two commenters recommended the removal of the criteria of ''regular employees of an authorized user of the exemption in § 126.7'' as the individuals are still required to hold a security clearance under the § 126.18(e) exemption and limiting the criteria to an individual being a regular employee of an authorized user provides no additional assurances for the Department. Similarly, another commenter requested clarification on what constitutes a regular employee. The Department declines to accept the comment to remove ''regular employee'' from § 126.18(e) as previously mentioned and clarifies that ''regular employee'' is defined in § 120.64.

Section 126.18(e)(4)

One commenter asked if UK and Australian militaries can take defense articles transferred under the § 126.18 exemption outside their physical territories while on deployment in other countries. The Department clarifies that this provision is only applicable to dual nationals and one must meet all other criteria in § 126.18(e) before it may be used, but the Department confirms that military members acting in their official capacity can transfer classified defense articles to dual nationals who are citizens of Australia and the United Kingdom. Of note, this provision is only for classified defense articles and not for unclassified defense articles. For either unclassified or classified defense articles, this comment is the subject of a separate rulemaking (87 FR 77046, Dec. 16, 2022) (proposed) and FR Doc. 2024–18249, scheduled to publish on August 15, 2024 (RIN 1400–AF26).

Supplement No. 2 to Part 126—Excluded Technology List

General Comments on the ETL

Several commenters requested that the Department reduce the overall size of the ETL to facilitate AUKUS Pillar II objectives and that the list of exclusions be defined as narrowly as possible,

including limiting the list to those articles required by law or critical to national security and citing the relevant USML entries as specifically as possible. The Department's initial development of the ETL included a detailed review of statutory obligations, coordination with its Australian and UK partners, and coordination across the U.S. Government to ensure exclusion of only those technologies required by statute or otherwise determined to require continued licensing review for national security reasons. The Department, in coordination with the Department of Defense, has now reviewed concerns raised in the public comments regarding the need to update the list of exclusions as described in this rule and has made reductions in the scope of exclusions. The exclusions represent the technologies that require continued—and now expedited—licensing review for statutory or national security reasons.

Two commenters noted that the proposed ETL was in some ways more restrictive than the Canadian exemptions in § 126.5 and recommended that the ETL not be more restrictive than that exemption. The Department, in coordination with the Department of Defense, reviewed the ETL in light of this concern. The Department has removed the entry restricting certain source code. Further, the Department notes that the ETL's exclusion of classified Category XIII(b) articles and classified cryptographic devices is not more restrictive than the Canadian exemptions, which is limited to unclassified articles. The Department declines to remove the other ETL entries highlighted by the commenters because they are based on legal requirements or other policy factors.

One commenter suggested carving out certain DoD programs, such as the F–35 aircraft program, from the exclusions in the ETL because those programs are already subject to significant U.S. Government involvement and oversight. The Department declines to adopt this suggestion, as the license review process is an important mechanism for such oversight and the excluded technologies have been identified as warranting continued license review.

Several commenters requested guidance on how to read the ETL. For example, one commenter asked if technical data and defense services excluded by the ETL row for USML Categories XIV(a), (b), (c)(5), (f)(1), (i), and (m) are limited to technical data and defense services directly related to articles described in the other specified paragraphs. The Department affirms that this row excludes Category XIV(m) technical data and defense services directly related to articles described in paragraph (a), (b), (c)(5), (f)(1), or (i) of Category XIV. It does not affect the availability of the § 126.7 exemption for other Category XIV(m) technical data and defense services, such as those directly related only to articles described in Category XIV(f)(2).

The Department also offers the following example of how to utilize the ETL. This example considers the use of the § 126.7 exemption to export a part that (1) is classified, (2) is described only in USML Category XI(c)(18), (3) is specially designed for a radio described in USML Category XI(a)(5)(iii), (4) does not have anti-tamper features, and (5) does not implement countermeasures or counter-countermeasures. To review the requirement in § 126.7(b)(3) that the part not be identified on the ETL as ineligible for transfer, first review each row of the ETL to determine which entries include USML Category XI(c)(18) in the first column. Second, for each of those entries that include USML Category XI(c)(18) in the first column, determine whether the second column of the entry excludes the part specific article. In this example, only five ETL entries include USML Category XI(c)(18) in the first column. If none of those five ETL entries identifies the part, then this example part is not excluded by the ETL:

- The first three applicable entries don't apply, as the part does not have an ''MT'' designation in paragraph (c)(18), is not an article with anti-tamper features, and is designed for a radio (not a cluster munition).
- The next applicable entry begins with ''XI(a)(5)(iii).'' If the part is specially designed for a classified radio described in USML Category XI(a)(5)(iii), then it is described by the second clause in the second column (''classified articles specially designed [for] classified articles described in USML Category XI(a)(5)(iii)'') and thus is excluded by this entry. In that case, the review stops, as it is excluded by at least one entry on the ETL.
- The last applicable entry, for ''XI(c) and (d),'' would not apply, as the part is specially designed for a radio described in XI(a)(5)(iii)—and is thus not described in the second column of this entry.

One commenter suggested improving the readability of the ETL by including the full names of the USML Categories and the full text of excluded USML entries in the ETL entries. The Department to declines to adopt this suggestion. The Department refers to USML Category numbers and entries in the ETL to keep the text concise and to require fewer updates when USML language may be revised in the future. Furthermore, to assess whether a defense article or defense service is described in a USML entry, it is often necessary to view the USML entry noted in the ETL in the context of other USML entries and applicable notes and definitions. Therefore, the Department declined to fully reproduce USML text in the ETL entries, to simplify interpretation and clearly identify instances wherein the scope of a USML entry and an ETL entry are the same.

Several commenters noted difficulty understanding various terminology used in the ETL. Some terminology referenced by commenters is defined in ITAR part 120 (*e.g.,* ''commodity'' and ''specially designed''). While the ITAR does not define ''directly related,'' this term has been used throughout the USML for decades and is implemented daily by the regulated community. However, the entry excluding certain underwater equipment has been updated to use the term ''specially designed'' instead of ''directly related'' in relation to specially designed articles. Similarly, the entry for USML Category XX(d) has been revised to refer to articles ''used only in,'' rather than ''directly related to,'' classified payloads and classified underwater unmanned vehicle signature reduction techniques. Commenters also recommended that, to improve clarity, the ETL should refer only to specific USML subentries instead of broader categories. For most ETL entries, the Department referenced USML entries and terms defined in the ITAR instead of using novel regulatory language. However, in some entries, it was necessary to use terminology not defined in the ITAR (*e.g.,* ''cluster munitions'') to more narrowly specify an exclusion not coextensive with the related USML entries.

One commenter asserted that using the term ''article'' instead of ''hardware'' or ''defense article'' is ''undefined, unclear, and/or subjective,'' and that doing so unintentionally expands the scope of the ETL. The Department disagrees and retains the term ''article'' as a more concise equivalent for ''defense article'' in this context. Specifically, as only defense articles are described on the USML and the ETL, and all defense articles are articles (by definition), all ETL entries referring to ''articles'' refer to all ''defense articles'' otherwise described by the ETL entry.

A commenter also asked whether it may use the § 126.7 exemption for programs that involve defense articles eligible for the exemption and other defense articles identified on the ETL as ineligible for the exemption. Articles

and services identified on the ETL are not eligible for export under the exemption, regardless of whether they are packaged with eligible articles. Provided that all other conditions of the § 126.7 exemption are met, an exporter may use the exemption for the articles not described on the ETL but must obtain a license or an authorization other than the § 126.7 exemption for articles identified on the ETL.

One commenter asked whether articles in USML Categories XI and XII are excluded from export when packaged as spares or kits for larger assemblies or end items. Unless otherwise specified in the relevant ETL entry (*e.g.,* the anti-tamper entry), the Department confirms excluded articles are ineligible for use of the § 126.7 exemption, irrespective of whether those articles are shipped individually, packaged with other articles, or already incorporated and integrated into a larger assembly. For example, a classified article described in Category XI(b) is ineligible for the exemption, either as a spare or when installed in an aircraft.

Several commenters encouraged the Department to work with its AUKUS partners to implement consistent lists of excluded articles and services. The Department appreciates these comments and anticipates continued efforts by all three nations to harmonize the lists to the extent feasible and consistent with national legislation and notes that there will still be nuanced differences in definitions and regulatory structures between Australia, the United Kingdom, and the United States.

One commenter suggested the creation of a single table of excluded technologies with the applicable categories from the USML and the Australian and United Kingdom munitions lists. The Department acknowledges this comment but declines to adopt this recommendation. Though consistency across the three nations' exclusion lists is desirable, the lists do not perfectly align, and each partner must maintain its own list to account for separate national legal and policy requirements and to remain agile in adapting to revisions to its own national regulations.

Several commenters requested that the Department implement a process to confirm for exporters whether a particular defense article or defense service is identified on the ETL. The Department declines to accept this request, as exporters must conduct a case-by-case review to validate whether all requirements to use an exemption have been satisfied. The Department does not provide exemption validation as exporters are best positioned to make their own determination based on the particular conditions associated with any controlled event, to include exports. The Department notes the advisory opinion process described in § 120.22(c) is available to request an interpretation of the language used in the ETL, but not whether a specific technology is described.

Two commenters suggested renaming the ETL to ''Excluded Defense Article List.'' The Department declines this suggestion and notes the list applies not only to defense articles, but also to defense services, and novice exporters could misinterpret ''defense articles'' as applying only to hardware.

Two commenters requested that the Department publish the rationale for each exclusion in the ETL, which the Department declines to do. Some ETL entries are required by law, while others are based on policy assessments that involve ongoing internal deliberative processes. The Department notes it continues to discuss iterative improvements to the ETL with its interagency and AUKUS partners.

One commenter asked if articles will be removed from the ETL automatically as they are removed from the Wassenaar Arrangement Munitions List or the MTCR Annex. The Department notes the ETL will only be updated by established rulemaking processes. The ETL will remain as specified in supplement no. 2 to part 126 until modified by the Department.

The same commenter requested a 90-day prior notice to removal of items from the ETL to allow industry to secure alternate authorizations (DSP–5, TAA, etc.). The Department declines to do so because removing something from the ETL does not impose additional licensing requirements. Rather, items described in any ETL entry are not eligible for the exemption provided at § 126.7, while items not described in any ETL entry may be transferred without additional licensing provided the other requirements of § 126.7 are met.

The same commenter also asked what criteria are used to determine inclusion or exclusion of items on the ETL. The Department declines to provide specific criteria, noting that some ETL entries are required by law, while others are based on policy assessments that consider a variety of factors.

Missile Technology Control Regime

Several commenters noted the Department of Commerce does not require a license for many exports of MTCR-controlled articles to Australia and the United Kingdom. In contrast, most MT-designated articles on the USML continue to require a license. The Department notes there is no requirement for the Departments of State and Commerce to perfectly align their licensing requirements, as the agencies derive their authorities and mandates from separate sources and regulate technologies of differing importance to U.S. national security and foreign policy interests.

Several commenters noted that the MTCR entry on the ETL is broader than required by law, with one recommending the Department use the language from the MTCR and AECA instead. The Department declines to rely on the regulated community to interpret elements of the AECA and MTCR, including the term ''for use in rocket systems.'' The Department has not included USML entries with an ''MT'' designation in the MTCR entry on the ETL when the USML entry (1) does not include MTCR Category I commodities and (2) does not include MTCR Category II commodities for use in rockets. USML Category XIX is an example from the proposed rule. In this interim final rule, the Department also removes the ETL exclusion for MT-designated articles described in paragraph (h)(12) of Category VIII, as the defense articles described therein are demonstrably for use in UAVs, not rockets (flight control systems for rockets are described in paragraph (h)(1) of Category IV and remain excluded). The Department appreciates the intent of these comments and is reviewing other ways to facilitate collaboration on MTCR technologies among and between Australia, the United Kingdom, and the United States.

Similarly, two commenters observed the MTCR entry on the USML treats USML Category IV propulsion differently than Category XIX, asserting technologies excluded from one category but not the other will introduce conflicts and recommending removal of Category IV propulsion from the ETL. Another commenter asked why MT-designated articles in Category XIX are not excluded. The Department notes this was intentional, as engines described in USML Category XIX are generally not for use in rocket systems (including ballistic missiles, space launch vehicles, and sounding rockets, while excluding cruise missiles, target drones, and reconnaissance drones), and therefore are not excluded. Engines described in USML Category IV with an MT designation are excluded from eligibility due to their use in rocket systems.

One commenter recommended the Department ''declare a general policy exception for MT cooperation'' with

Australia and the United Kingdom, and another suggested clearing specific programs that involve the transfer of MT-designated defense articles. The Department acknowledges these comments; however, policies of this nature are outside the scope of this rulemaking.

One commenter asserted the distinction between hypersonic kinetic energy weapons and MT-designated defense articles is unclear and requested clarification that hypersonic systems are not excluded from the § 126.7 exemption. The Department declines this request as beyond the scope of the current rulemaking. The ETL specifies excluded technologies based upon their USML categories, and a case-by-case review is necessary to assess whether, and in which USML paragraph(s), any particular hypersonic system is described on the USML. Multiple USML paragraphs may describe a given commodity, and the commodity jurisdiction process described in § 120.12 is available for resolving doubt with regard to the jurisdiction and classification of a particular defense article or defense service.

One commenter suggested limiting the MTCR exclusion to classified articles or creating a separate exemption for MTCR commodities. The Department declines to limit the MTCR exclusion to classified articles, as the underlying reasons for the ETL exclusion, including 22 U.S.C. 2778(j)(1)(C)(ii)(I) through (III), are not limited to classified articles. A separate exemption for MTCR commodities is outside the scope of this rulemaking.

Anti-Tamper

Several commenters asked the Department to define ''anti-tamper'' and ''readily identifiable'' as used in the anti-tamper exclusion. Following consultations with DoD, the Department has clarified the exclusion, which is intended to apply to articles developed in accordance with a DoD Program Protection Plan. Companies that implement anti-tamper methodologies to protect DoD Critical Program Information are well versed in this area. The Department has also deleted the term ''readily identifiable'' from the entry. The Department confirms that the anti-tamper exclusion does not apply to commodities protected by incorporated anti-tamper mechanisms but not otherwise listed on the ETL. For these reasons, the Department declines to define ''anti-tamper.''

One commenter asked where anti-tamper articles are described on the USML. Such articles may be described in multiple USML entries, depending upon their characteristics and functions, and commonly in catch-all controls. The exclusion applies to all anti-tamper articles described on the ETL, regardless of which USML entry describes them.

Source Code

Five commenters requested removal, limitation, or clarification of the ETL entry that excluded certain source code. Commenters noted the necessity of source code for co-development and integration efforts, and they noted certain inconsistencies with the Canadian exemption. The Department accepts these comments and, after interagency consultation, deletes that entry from the ETL, as well as the entry that excluded source code pertaining to certain night vision commodities in USML Category XII.

Manufacturing Know-How

Commenters recommended removing the exclusion of certain manufacturing know-how in USML Categories II(k), III(e), IV(i), X(e), and XIX(g), particularly with regard to hypersonic weapons capabilities and kinetic energy weapons. The Department concurs that some manufacturing know-how is critical to the success of AUKUS Pillar II objectives concerning hypersonics. However, the specific technologies excluded by the ETL have been identified, following consultations with DoD, as warranting continued licensing review.

One commenter asserted that the exclusion of USML Category XIX manufacturing know-how is overly restrictive. The Department disagrees with the commenter's assessment that manufacturing know-how for Category XIX engines is ''relatively low-level technology.'' Following consultations with the Department of Defense, the Department of State confirms that the technology in question continues to require exclusion from the exemption for national security reasons and the Department declines to modify the exclusion of manufacturing know-how for Category XIX articles.

Several commenters requested the Department remove the exclusion of classified manufacturing know-how for articles described in USML Categories XI(a)(3) or (4), or XII(d). Commenters asserted these exclusions would impede AUKUS goals with regard to electronic warfare (EW) and other collaborative efforts such as position, navigation, and timing (PNT) capabilities. The Department has removed this exclusion, while noting the remaining ETL entries (such as the MTCR exclusion and the exclusion pertaining to Category XI) may continue to restrict use of the exemption for some of these systems.

USML Category II

Four commenters requested clarification or removal of the ETL entry for USML Category II(j)(9) through (11) and (k). The Department clarifies that this ETL entry exists to ensure that articles described in Category II(j)(9) through (11), and directly related technical data and defense services, are not transferred under the § 126.7 exemption unless they are elements of armaments, weapons, or military platforms. This ETL entry does not affect the use of the § 126.7 exemption for articles designed for integration into, or incorporated as elements of, platforms such as military aircraft, or technical data and defense services directly related to such articles.

One commenter requested clarification for USML Category II(j) and referred to ''difficulties carving out items in [USML Categories] XI and XII.'' The Department cannot respond because it does not understand this comment.

USML Category IV

Multiple commenters requested the Department further limit the ETL scope when able. Consistent with that request, the Department further revised one ETL entry to continue to exclude launchers for MANPADS described in USML Category IV(b)(2), while removing the exclusion of other articles described in Category IV(b)(2).

Naval Nuclear Propulsion

One commenter objected to the ETL excluding articles described in USML Category VI(e) or (f)(5) and Category XX, asserting that excluding support for nuclear propulsion may be ''counter to the whole purpose of AUKUS.'' The Department disagrees and notes naval nuclear propulsion capabilities must be transferred pursuant to a mutual defense agreement such as the one required for AUKUS Pillar I. Such agreements are described in sections 91(c), 123, and 144(c) of the Atomic Energy Act of 1954 (AEA) (42 U.S.C. 2121(c), 2153, 2143(c)), as well as section 1352(d)(3) of the 2024 NDAA (22 U.S.C. 10431(d)(3)).

One commenter suggested the establishment of a new Naval Nuclear Propulsion Plant Information (NNPI) agreement between the United States, Australia, and the United Kingdom. Another commenter proposed a secure data management program to enable the safe and secure sharing of submarine data, including NNPI and Alternate and Compensatory Control Measures (ACCM). The Department acknowledges

these comments; however, they are outside the scope of the rulemaking.

One commenter opined that the ''boundaries'' defining naval nuclear propulsion items require further clarification because such items may be interconnected with the overall operation and maintenance of military vessels. The Department declines to further define such boundaries, as the ETL entry excluding naval nuclear propulsion items clearly identifies specific USML entries and uses established ITAR terms. If doubt exists as to the export classification of an item, the Commodity Jurisdiction process at § 120.12 is available.

USML Category VIII

One commenter incorrectly asserted that the ETL does not exclude articles for the F–22 aircraft, such as the mission computer and engine, which are described in USML entries other than paragraphs (a)(2), (h)(1), and (i) of USML Category VIII, because they are described in other USML paragraphs. The Order of Review in § 120.11 identifies that an item may be described in multiple entries. Paragraph (h)(1) of Category VIII describes parts, components, accessories, and attachments specially designed for the F–22 aircraft, subject to the Note to that paragraph, irrespective of whether those articles are also described in other USML entries. As such, the Department rejects the comment and resulting recommendation to exclude further F–22 parts described elsewhere on the USML, as a redundancy.

USML Categories XI and XIII(b)

Several commenters observed that the previously proposed ETL entry for USML Categories XI(a) through (d); and XIII(b) and (l) appeared to exclude technical data and defense services only if they are directly related to naval acoustic spectrum control and awareness and asked the Department to revise the entry to clarify its intent. Having consulted with DoD, the Department clarifies the intent was to exclude all technical data and defense services directly related to unclassified articles excluded in this ETL entry and to exclude only classified technical data and defense services directly related to classified articles excluded in this entry.

Two commenters recommended separating USML Category XIII(b) and (l) onto a separate row from Category XI or placing them with other Category XIII exclusions. The Department accepts this comment. This entry has been split into multiple rows to address different exclusions and to more clearly specify the relevant USML entries.

Many commenters advocated clarifying, eliminating, or narrowing the scope of the exclusion for articles directly related to naval acoustic spectrum control and awareness. One commenter asked whether this phrase describes all of USML Category XI(a)(1)(i). Two commenters suggested limiting the exclusion to classified articles. Another proposed removing the phrase ''and awareness.'' Following consultations with DoD, the Department declines to narrow the scope of this exclusion, as these articles continue to require (now expedited) case-by-case review for export. The Department has modified this entry to clarify the exclusion applies to all articles described in USML Category XI(a)(1)(i) and (ii), specially designed articles therefor, and directly related technical data and defense services.

Several commenters requested clarification as to whether the exclusion of classified countermeasures and counter-countermeasures in USML Category XI applies to unclassified hardware designed for a classified system. They noted that in some cases, the only classified element of the system is software provided on a government-to-government basis and installed onto the hardware after export. Furthermore, one commenter requested the Department review whether the exclusion would prevent collaboration on aspects of a defense article not related to the classified portions of the defense article. Another commenter asserted that § 120.11(c) should not apply to excluded defense articles—specifically, that end items incorporating classified countermeasures or counter-countermeasures should be eligible for export. Yet another commenter requested clarification as to which USML entries describe the specially designed parts, components, accessories, and attachments excluded under this entry. And one commenter expressed confusion on how to interpret the term ''classified.''

The Department has revised the proposed countermeasures and counter-countermeasures exclusion both for greater clarity and to focus the exclusion more precisely on relevant, classified defense articles. Such revisions include distributing the contents of the proposed entry across multiple narrower entries, more clearly identifying the relevant USML entries, and removing unclassified articles designed for classified articles. Classified, directly related technical data and defense services are also excluded. Articles excluded from the exemption at § 126.7 remain excluded even when incorporated into an article that is not otherwise excluded. The Department also confirms that an exclusion of classified articles and classified, directly related technical data and defense services, does not prevent use of the exemption to transfer unclassified articles used in the classified article, or unclassified technical data and defense services. The Department further notes the term ''classified'' is defined within the ITAR in § 120.38.

One commenter requested removal of USML Category XIII(b) cryptographic devices, software, and components from the ETL, asserting they are authorized for transfer under the Canadian exemptions in § 126.5. The Department notes that the Canadian exemptions are distinct from the § 126.7 exemption. Nonetheless, the classified articles described in Category XIII(b) previously proposed for exclusion are today excluded from the § 126.5 Canadian exemptions, as it is limited to the transfer of unclassified articles.

One commenter objected to the exclusion of classified articles described in USML Category XIII(b), asserting it will prevent the use of the exemption for UK, Australian, North Atlantic Treaty Organization (NATO), and other allied classified cryptography that is not used to access U.S. Top Secret or Sensitive Compartmented Information (SCI) information, some of which is provided by the U.S. Defense Industrial base. Following consultation with DoD, including the National Security Agency, the Department declines to limit this entry. Classified cryptography, even that which is shared with U.S. allies, must remain subject to significant oversight and distribution limits, including that which is provided by the (now expedited) licensing process.

Many commenters observed the proposed rule excluded classified articles described in USML Category XIII(b), but excluded all articles specially designed for a Category XIII(b) article, regardless of classification status. Commenters were uncertain how to interpret this exclusion and asked whether the Department intended to exclude only classified articles, and which USML paragraphs describe the specially designed articles that are excluded. The Department recognizes the requested clarifications of this entry. Following consultations with DoD, the Department revises the scope consistent with the intent to exclude (1) classified articles described in USML Category XIII(b), (2) classified articles in USML Category XI specially designed for the excluded Category XIII(b) articles and

(3) classified, directly related technical data and defense services.

In a section of its comment devoted to the ETL, one commenter advocated for ''more harmonization on cryptographic technology.'' The Department assesses any actionable response to this comment falls outside the scope of the proposed rule.

One commenter requested confirmation that the Department is not asserting jurisdiction over articles not described on the USML. As an example, the commenter noted the use of the phrase ''specially designed parts, components, accessories, and attachments therefor'' in the ETL entry that excludes classified countermeasures and counter-countermeasures, incorrectly asserting there is no catch-all entry on the USML for such items. The Department confirms it does not assert regulatory jurisdiction via the ETL, which only identifies the articles and services already under the Department's jurisdiction that are excluded from transfer via the § 126.7 exemption. The Department notes the proposed exclusion, which would have applied to paragraphs (a) through (d) of USML Category XI, in addition to paragraphs (b) and (l) of USML Category XIII, would have applied to articles described in USML Category XI(c)(1) through (19) that are specially designed for classified countermeasures or counter-countermeasures.

USML Category XII

One commenter requested narrowing of the exclusion for source code and classified technical data and defense services pertaining to night vision-related items. After further review and consultation with DoD, the Department removed this exclusion.

Also, consistent with commenters' requests to narrow the ETL, the Department has, after consultation with DoD, removed the exclusion for classified articles described in Category XII(d)(3).

USML Category XV

Two commenters welcomed the ability to transfer unclassified Category XV(f) technical data and defense services under the exemption because such transfers will facilitate initial unclassified discussions related to the bid phase for novel space-based power generation systems. They and three other commenters requested complete or partial removal of the ETL entry excluding classified articles described in Category XV(a) or (e); and directly related classified technical data and defense services. Based on interagency consultations, the Department declines to do so. Such articles necessitate a case-by-case review prior to export, which is inherent in the licensing process.

One commenter requested that the Department confirm that information collected by excluded defense articles in USML Category XV is not subject to the ITAR, or that such information falls within the scope of the § 126.7 exemption. The Department declines this request as a case-by-case review is necessary to assess whether such information is described on the USML or the ETL. The requested carve-outs are overly broad and not actionable within this rulemaking. The Department notes that just because information was ''collected by a defense article'' does not make that information ''directly related to the defense article that collected it''; and most ETL entries exclude information only as technical data directly related to excluded defense articles.

One commenter requested removal of ''cooperative docking'' capability from the list of technologies described in USML Category XV. The Department notes that this comment is outside the scope of this rulemaking, as the rule does not contemplate changes to the USML.

USML Category XVI

One commenter requested the Department specify the relevant paragraphs within USML Category XVI that are excluded; the Department confirms all articles described in USML Category XVI are excluded, and thus declines to specify each paragraph individually.

USML Category XVIII

One commenter requested removal of the ETL entry that excludes classified articles in Category XVIII specially designed for counter-space operations, asserting this would improve the relationship between the three countries' Space Commands and facilitate collaboration between their industrial bases. The Department, based on U.S. Government review, declines to remove this entry at this time, as the excluded technologies warrant continued, and now expedited, case-by-case review for national security concerns.

USML Category XIX

One commenter noted that it would be unable to take advantage of the proposed exemption for exports related to classified parts for use in the engine for the F–35 aircraft. The Department confirms this, based on the description of those parts in an excluded entry.

One commenter suggested that paragraphs (f)(6) and (7) of USML Category XIX should be added to the exclusion for classified articles described in paragraphs (e) and (f)(1) and (2) of USML Category XIX, as those paragraphs describe production commodities directly related to the technologies excluded by the existing Category XIX entry. The Department appreciates this comment and notes that excluding the articles described in paragraphs (f)(7) and (12) for manufacturing the excluded articles is consistent with the Department's intent to exclude articles not yet integrated and their technical data. Following consultations with DoD, the Department declines to add defense articles described in paragraph (f)(6), as the Category XIX classified defense articles warranting exclusion are already described in the ETL entry. Thus, following consultations with DoD, State is excluding the articles described in paragraphs (f)(7) and (12) for manufacturing the excluded articles in paragraphs (f)(1) and (2).

USML Category XX

Multiple commenters recommended the Department eliminate or narrow the exclusions in USML Category XX. Commenters noted that exchange of Category XX articles, including manufacturing know-how, will be necessary to support AUKUS Pillar I, which is intended to enable Australia to safely and effectively operate nuclear-powered submarines and establish a corresponding manufacturing industrial base in Australia. One commenter noted that the exclusion of certain Category XX manufacturing know-how is not required by AECA and asserted that exclusions of articles not otherwise restricted by law or other international obligations is contrary to the premise that Australia and the UK have comparable systems with the United States. Commenters specifically cited the need for transfer of information regarding processes necessary to meet materials specifications, instruction with regard to test and commissioning software, and design models that may contain manufacturing know-how. One commenter recommended eliminating the exclusion for manufacturing know-how pertaining to classified UUV signature reduction techniques or making the exclusion specific to current U.S.-fielded technologies in programs of record. One commenter also estimated that, without an exclusion for manufacturing know-how, approximately 200 manufacturing

license agreements would be necessary to support the anticipated transfers of submersible manufacturing capabilities. Another commenter suggested restricting the exclusions in Category XX to classified technologies.

The Department affirms the articles and services described in USML Category XX(d) are critical to the success of AUKUS Pillar I and further notes this exemption is not the only means of facilitating the safe and effective operation or manufacture of nuclear-powered submarines. The specific technologies excluded by the ETL have been identified as warranting continued (and now expedited) licensing review. Having consulted with DoD, the Department further amends the USML Category XX(d) entry to (1) remove manufacturing know-how directly related to uncrewed vessels, (2) clarify the entry, and (3) further exclude design methodology and engineering analysis directly related to certain USML Category XX commodities for the same reasons manufacturing know-how is excluded for those commodities.

One commenter requested clarification whether manufacturing know-how is excluded if it pertains to a USML Category XX(c) defense article used in both crewed vessels and classified UUVs. The Department has revised the manufacturing know-how entry for Category XX, which no longer specifically excludes all manufacturing know-how for classified UUVs. Manufacturing know-how directly related to crewed vessels remain excluded. For Category XX(c) defense articles used both in crewed and uncrewed vessels, exporters must assess whether the information under consideration is directly related to crewed vessels and is therefore excluded. The Department further notes that technical data directly related to a Category XX(c) commodity may be excluded by other ETL entries. For example, other ETL entries exclude technical data directly related to Category XX(c) articles specially designed for articles in Categories XX(b)(1) and (2).

Other Public Comments

Several commenters cautioned against finalizing a § 126.7 exemption that hampers collaboration and innovation for technological development in support of future AUKUS programs. The Department notes that the exemption was developed by the U.S. Government cognizant of the goals of AUKUS and the exemption was designed to support these goals while maintaining individual licensing requirements for the most sensitive items subject to the ITAR.

Multiple commenters argued that, because section 38(l) of the AECA (22 U.S.C. 2778(l)) requires all three nations to have ''comparable'' export control systems, an exporter should not need U.S. authorization to retransfer or reexport defense articles previously exported via the § 126.7 exemption outside of the authorized user community or outside of the three AUKUS nations. Instead, these commenters recommended a license or other authorization from Australia or the United Kingdom from which the defense article is to be retransferred or reexported should suffice. DDTC declines to accept this recommendation. The § 126.7 exemption does not authorize the reexport or retransfer of defense articles outside its scope for several reasons. The Department was provided legal authority under section 38(l) of the AECA to implement such license-free defense trade for Australia and the United Kingdom and only under certain conditions. Having comparable export controls ensures that all three nations are using similar systems to protect technologies within their territory from being transferred illicitly. However, government decisions to authorize the export of defense articles implicate a range of national security and foreign policy interests of a nation.

Multiple commenters also requested the Department eliminate the effect of § 120.11(c) (commonly referred to as the ''see-through rule'') for transactions that take place under the proposed § 126.7 exemption or the proposed § 126.15 expedited licensing process, to simplify export compliance for Australian and UK exporters. The Department declines this request, for the same reasons it requires entities to obtain a license or other authorization for retransfers or reexports outside the authorized user community. The underlying reasons for ITAR regulation of defense articles do not change following incorporation or integration into another item, unless specifically provided otherwise in the ITAR (*e.g.,* see USML Category XV, Note 2 to paragraph (e)).

Several commenters requested clarification that § 124.8(a)(5) does not apply to the proposed exemption. ITAR § 124.8(a)(5) requires certain agreements to include a clause specifying that technical data or defense services exported from the United States in furtherance of the agreement, and any defense article which may be produced or manufactured therefrom, may not be transferred to a foreign person except pursuant to § 126.18, as specifically authorized in the agreement, or where prior written approval of the Department of State has been obtained. While § 124.8(a)(5) does not apply, the Department notes that a similar provision is included in the authorized user process. Use of the § 126.7 exemption does not eliminate the equities underlying § 124.8(a)(5) regarding transfers outside of Australia, the United Kingdom, or the United States. Moreover, maintaining this regulatory provision is key to ensuring know-how transferred under the exemption is not repurposed for use in defense articles not described in Australia and the UK's munitions lists. Without this provision, AECA section 38(j)(1)(C)(ii)(VI) and (VII) would require the Department to substantially expand the ETL to prevent unlicensed exports of U.S. technological capabilities outside of the United Kingdom and Australia. However, to further facilitate trade within the approved user community, and for clarity, the Department is amending § 124.8(a)(5) to affirm the exemption at § 126.7 may be used to retransfer and reexport articles and services within the authorized user community that were originally exported via an agreement subject to § 124.8(a)(5).

One commenter inquired when the Department plans to certify that Australia and the United Kingdom have comparable export controls. The Department notes that such a certification must occur prior to the effective date of this final rule implementing the exemption.

One commenter supported the passing of the Australian Defence Trade Controls Amendment Act 2024; however, expressed concern that the law will increase compliance requirements for Australian industry. The Department notes that this comment is outside the scope of this rulemaking regarding the ITAR exemption that the United States Government proposed.

One commenter requested clarification as to whether the term ''export'' in the proposed rule refers to both permanent and temporary exports. The Department clarifies that, consistent with how the term ''export'' is used elsewhere in the ITAR, unless otherwise specified, the term ''export'' refers to both permanent and temporary exports.

One commenter sought clarification as to whether the § 126.7 exemption would supersede an existing license or other authorizations already issued by DDTC, and if provisos in an existing license or other authorization include tighter restrictions than the § 126.7 exemption, which authorization should

the exporter refer to. Another commenter suggested the Department clarify that provisos in an existing authorization no longer apply if the § 126.7 exemption is available for use. Similarly, two commenters inquired if there is a transition period for existing license or other authorizations to using the § 126.7 exemption. The Department notes that use of the § 126.7 exemption in lieu of an existing license or other authorization is allowed effective immediately upon the effective date of this interim final rule provided all exemption criteria are met, consistent with the application of other ITAR exemptions. There is no transition period required for this exemption. The Department notes ITAR exemptions do not automatically invalidate previously authorized licenses or agreements. For example, to the extent an exporter chooses to rely on a particular authorization to export, the provisos, conditions, and limitations that were applied to that authorization continue to govern the authorization.

One commenter sought clarification if this exemption could be used for a defense article originally shipped via FMS and what the requirements were for continued transfers. The Department confirms that the ITAR authorizes commercial exports of defense articles and defense services, also known as direct commercial sales or DCS. Defense articles transferred via government-to-government channels such as FMS are conducted pursuant to separate and distinct authorities. Those separate authorities continue to govern the export, reexport, and retransfer of those defense articles. This means that defense articles originally exported pursuant to an FMS case continue to be subject to the terms and conditions of the FMS Letter of Offer and Acceptance and are not eligible for retransfer or reexport under § 126.17 or any other provision of the ITAR.

One commenter sought clarification on the proposed rule's impact on the existing United Kingdom and Australian DTCTs and if this rule will replace or alter §§ 126.16 and 126.17. The Department notes that the existing United Kingdom and Australian DTCTs will not be altered. The § 126.7 exemption is new and a separate exemption.

One commenter expressed concern about arms transfers and money laundering. The Department notes that this comment is outside the scope of this rulemaking.

One commenter expressed that all defense trade and cooperation should exclude Israel. The Department notes the § 126.7 exemption is solely for Australia, the United Kingdom, and the United States and that the comment is otherwise outside the scope of this rulemaking.

Two commenters recommended the Department waive agreement signatures and nondisclosure agreements (NDA) for authorized users who are a party to ITAR agreements which are for end-use by AUKUS governments and include non-AUKUS parties and suggested that the NDA requirement be included in the authorized user enrollment process to mitigate administrative hurdles. Similarly, one commenter recommended the same waivers but for end-use by AUKUS governments, authorization to export defense articles on the ETL, and only include authorized users. The commenter acknowledges that the latter recommendation requires a license but asserts that without these waivers it is burdensome and does not support AUKUS objectives. The Department notes that these recommendations exceed the scope of the proposed rulemaking insofar as it recommends changing requirements that apply to transfers that are not described within the § 126.7 exemption being proposed or the expedited processing timelines that would apply under § 126.15. The Department also does not agree with the commenter's suggestion that signatures on approved agreements are ''administrative hurdles.'' A party's signature to an agreement is an acknowledgement that the party has been made aware of and agrees to comply with the terms and conditions of the specific agreement to which the party has affixed its signature. Further, exports of defense articles on the ETL especially, these specific assurances are an important measure designed to help ensure that all parties to the transaction, including authorized user understand their specific obligations.

Similarly, another commenter suggested to remove the NDA requirement for sublicensees when transfers are on the ETL and require licensing. The Department notes that these recommendations exceed the scope of the proposed rulemaking.

One commenter noted classified and FMS are not captured in the § 126.7 exemption and recommended the Department consider harmonizing licensing pathways for users of the exemption. The Department acknowledges this comment; however, classified is not prohibited in the § 126.7 exemption provided all criteria in that section are met, and regarding different licensing pathways, the ITAR does not regulate FMS. The Department acknowledges that continued efforts to streamline and facilitate defense trade generally and may consider this comment within other efforts.

Two commenters recommended to create an exception similar to § 120.54(a)(3) for authorized users. While this is outside the scope of this particular rulemaking, the Department may consider it in a future rulemaking.

Two commenters acknowledged this is outside the realm of export controls but recommended all three nationals have harmonized cyber security standards. The Department notes that this comment is outside the scope of this rulemaking.

The same commenter inquired how controlled unclassified information (CUI) will be handled with AUKUS, what upcoming AUKUS-related streamlining of the FMS system are being considered and requested the creation of a non-U.S. Defense Trade Advisory Group (DTAG). The Department notes that this comment is outside the scope of this rulemaking, however there are several mechanisms for foreign industry to provide comments to the U.S. Government on defense trade matters, including through their governments. These comments were passed to the U.S. Government entities overseeing CUI and FMS processes.

One commenter expressed that efforts to expedite transfers to NTIB (National Technology and Industrial Base) partners is still important. The Department notes that this comment is outside the scope of this rulemaking.

One commenter suggested to amend § 123.9(c)(4) to include the proposed § 126.7 exemption to reflect Australian and UK authorized users are allowed to submitted retransfer authorizations. The Department declines to accept this comment as the § 123.9(c)(4) provision imposes conditions on reexports and retransfers of defense articles originally exported pursuant to the Defense Trade Cooperation Treaties in §§ 126.16 and 126.17, which impose unique requirements, including on reexports and retransfers.

One commenter suggested DDTC work with the Office of Regional Security and Arms Transfers (RSAT), the Defense Security Cooperation Agency (DCSA), and other government entities to inform the public about changes to DCS and FMS processes within the AUKUS framework, including activities done through FMS channels which can transition to be handled through the § 126.7 exemption. The Department reemphasizes that the ITAR regulates DCS only and ITAR exemptions cannot be used for FMS transfers. However, the Department

recognizes the need for continued outreach and education on defense trade process more generally and will aim to coordinate outreach between the DCS and FMS communities.

One commenter applauded the Department of State and the Department of Commerce for aligning its export controls, in particular the inclusion of the AUKUS exemption and conforming authorizations in the Export Administration Regulations (EAR). The commenter further suggested both agencies consider revising the treatment of nationality to ensure that national security concerns and risks relating to dual- and third-country nationals are consistent across the ITAR and the EAR, particularly with respect to technology transfers and ''deemed exports.'' The Department notes that the Department of State and Department of Commerce have different authorities for export controls and thus the ITAR and EAR have different scopes of technology, with the ITAR controlling more sensitive defense articles and defense services. As such, the ITAR control may be more stringent than those implemented by the EAR.

One commenter proposed to have a series of tabletop exercises with the governments of Australia, the United Kingdom, and the United States to better streamline policies or regulations, conduct gap analyses, and support harmonization prior to the finalization of this rule. The Department notes it continues to coordinate with the United Kingdom and Australia on this rulemaking and the reciprocal exemptions being created by the United Kingdom and Australia.

One commenter wanted clarification if the requirements set out in § 126.18(a), (b), and (c)(2) apply to § 126.7. The Department notes that those provisions are separate and do not apply to § 126.7 but are still available for use if all the criteria are met. Moreover, the Department notes that these provisions are for dual and third-country nationals.

One commenter recommended Canada be included in §§ 126.7 and 126.18(e). The Department notes its focus on implementing the requirements set forth in section 38(l) of the AECA, which are specific to Australia and the United Kingdom.

One commenter suggested the Department align subject matter experts to specific AUKUS pillars, each country would have an administrator that manages those pillars, and the administrator is responsible for vetting entities as authorized users. The Department notes that this comment is outside the scope of the rulemaking in terms of how future AUKUS programs will be structured and which countries will collaborate on those projects or programs.

One commenter recommended that DoD and the intelligence community conduct a comprehensive review of classification policy to ensure defense articles are not routinely marked with classifications that limit sharing with Australian and UK partners. The Department notes this comment is outside the scope of this rulemaking.

Regulatory Analysis and Notices

Administrative Procedure Act

This rulemaking is exempt from the notice-and-comment rulemaking requirements of the Administrative Procedure Act (APA) pursuant to 5 U.S.C. 553(a)(1) as a military or foreign affairs function of the United States Government. Good cause also exists under 5 U.S.C. 553(b)(B) and (d)(3) to issue this final rule with an immediate effective date, as 22 U.S.C. 2778(l)(2) requires that this rule implementing an exemption be immediately issued upon an assessment of comparability. The Department believes that the statutory directive is a result of congressional intent and recognition that the foreign affairs function exception to the requirements of 5 U.S.C. 553 apply to ITAR rules. *E.g.,* 22 CFR 120.20. Moreover, since Australia and the United Kingdom have implemented a comparable exemption from their export control requirements for the United States in furtherance of the trilateral trade concept envisioned by statute, and have made changes and commitments regarding their own laws and processes, good cause exists to quickly issue a final rule, have certain limitations to the exemption based on security and shared objectives, ensure it goes into effect on or near a certain coordinated date, and otherwise facilitate the enhanced trilateral partnership envisioned by AUKUS.

Regulatory Flexibility Act

Since this rule is exempt from the notice-and-comment provisions of 5 U.S.C. 553 as a military or foreign affairs function, and based on the Department's finding of good cause, the rule 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 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, 14094 and 13563

Executive Order 12866, as amended by Executive Order 14094, and Executive Order 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. Because the scope of this rule does not impose additional regulatory requirements or obligations, the Department believes costs associated with this rule will be minimal. Regarding the exemption, Australia and the United Kingdom, as set forth in the section 655 reports required annually by the Foreign Assistance Act of 1961, as amended, are ordinarily among the most commonly licensed destinations for transfers subject to the ITAR. The Department expects that fewer license applications will be submitted as a result of this rule for authorized users that meet the criteria of the exemption, for eligible transfers of defense articles and defense services to and between Australia, the United Kingdom, and the United States. Consequently, this exemption will relieve licensing burdens for some exporters. Regarding the expedited licensing review process when an ITAR exemption is not available for use, the Department expects minimal costs associated with this provision for the

public, with the benefit of license applications involving Australia, the United Kingdom, or Canada being subject to faster adjudication. The Department is seeking public comment on its assessment of the costs and benefits of this interim final rule. This rule has been designated as 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 Parts 123, 124, and 126

Arms and munitions, Exports, Reporting and recordkeeping requirements, Technical assistance.

For the reasons set forth above, title 22, chapter I, subchapter M, parts 123, 124, and 126 of the Code of Federal Regulations are amended as follows:

PART 123—LICENSES FOR THE EXPORT AND TEMPORARY IMPORT OF DEFENSE ARTICLES

■ 1. The authority citation for part 123 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. 2753; 22 U.S.C. 2651a; 22 U.S.C. 2776; Pub. L. 105–261, 112 Stat. 1920; Sec. 1205(a), Pub. L. 107–228; Sec. 520, Pub. L. 112–55; Section 1261, Pub. L. 112–239; E.O. 13637, 78 FR 16129.

■ 2. Amend § 123.10 by revising the section heading and paragraph (a) to read as follows:

§ 123.10 Nontransfer and use assurances.

(a) A nontransfer and use certificate (*i.e.,* Form DSP–83) is required for the export of significant military equipment and classified articles, including classified technical data, pursuant to a license or other authorization, except for the exemptions in §§ 126.5 and 126.7 of this subchapter. A license will not be issued until a completed Form DSP–83 has been received by the Directorate of Defense Trade Controls. This form is to be executed by the foreign consignee, foreign end-user, and the applicant. The certificate stipulates that, except as specifically authorized by prior written approval of the Department of State, the foreign consignee and foreign end-user will not reexport, resell, or otherwise dispose of the significant military equipment enumerated in the application outside the country named as the location of the foreign end-use or to any other person.

* * * * *

PART 124—AGREEMENTS, OFF-SHORE PROCUREMENT, AND OTHER DEFENSE SERVICES

■ 3. The authority citation for part 124 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. 2651a; 22 U.S.C. 2776; Section 1514, Pub. L. 105–261; Pub. L. 111–266; Section 1261, Pub. L. 112–239; E.O. 13637, 78 FR 16129.

■ 4. Amend § 124.8 by revising paragraph (a) to read as follows:

§ 124.8 Clauses required both in manufacturing license agreements and technical assistance agreements.

(a) * * *

(5) ''The technical data or defense service exported from the United States in furtherance of this agreement and any defense article which may be produced or manufactured from such technical data or defense service may not be transferred to a foreign person except pursuant to 22 CFR 126.7 or 126.18, as specifically authorized in this agreement, or where prior written approval of the Department of State has been obtained.''

* * * * *

PART 126—GENERAL POLICIES AND PROVISIONS

■ 5. The authority citation for part 126 is revised to read as follows:

Authority: 22 U.S.C. 287c, 2651a, 2752, 2753, 2776, 2778, 2779, 2779a, 2780, 2791, 2797, 10423; sec. 1225, Pub. L. 108–375, 118 Stat. 2091; sec. 7045, Pub. L. 112–74, 125 Stat. 1232; sec. 1250A, Pub. L 116–92, 133 Stat. 1665; sec. 205, Pub. L. 116–94, 133 Stat. 3052; and E.O. 13637, 78 FR 16129, 3 CFR, 2013 Comp., p. 223.

■ 6. Amend § 126.1 by revising paragraph (a) to read as follows:

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

(a) *General.* It is the policy of the United States to deny licenses and other approvals for exports and imports of defense articles and defense services, destined for or originating in certain countries. The exemptions provided in this subchapter, except § 123.17 of this subchapter and §§ 126.4(a)(1) or (3) and (b)(1) (paragraph (a)(2) or (b)(2) when the export is destined for Russia and in support of government space cooperation), 126.6, and 126.18(e), or when the recipient is a U.S. Government department or agency, do not apply with respect to defense articles or defense services originating in or for export to any proscribed countries, areas, or persons. (See § 129.7 of this subchapter, which imposes restrictions on brokering activities similar to those in this section.)

* * * * *

■ 7. Add § 126.7 to read as follows:

§ 126.7 Exemption for defense trade and cooperation among Australia, the United Kingdom, and the United States.

(a) No license or other approval is required for the export, reexport, retransfer, or temporary import of defense articles, the performance of defense services, or engaging in brokering activities as described in part 129 of this subchapter, between or among authorized users of this exemption, subject to the requirements and limitations in paragraph (b) of this section.

(b) The exemption described in paragraph (a) of this section is subject to the following requirements and limitations:

(1) The activity must be to or within the physical territory of Australia, the United Kingdom, or the United States;

(2) The transferor, recipient, or broker must each be:

(i) U.S. persons registered with the applicable Directorate of Defense Trade Controls (DDTC) registration pursuant to §§ 122.1 and 129.3 of this subchapter, and not debarred under § 127.7 of this subchapter;

(ii) A U.S. Government department or agency; or

(iii) Authorized users identified through the DDTC website and, if engaging in brokering activities, registered with DDTC pursuant to § 129.3 of this subchapter;

(3) The defense article or defense service is not identified in supplement no. 2 to this part as ineligible for transfer under the exemption in paragraph (a) of this section;

(4) The value of the transfer does not exceed the amounts described in § 123.15 of this subchapter and does not involve the manufacturing abroad of significant military equipment as

described in § 124.11 of this subchapter; and

(5) Transferors must comply with the requirements of § 123.9(b) of this subchapter.

Note 1 to paragraph (b): The exemption in paragraph (a) of this section does not remove other applicable U.S. statutory and regulatory requirements. For example, for U.S. authorized users, transfers of classified defense articles and defense services must still meet the requirements in 32 CFR part 117, National Industrial Security Program Operating Manual (NISPOM), in addition to all other applicable laws. Australian authorized users must, for example, meet the requirements in the Australian Protective Security Policy Framework, including appropriate security risk management for contracted providers. United Kingdom authorized users must, for example, meet the requirements in the Government Functional Standards GovS 007: Security.

■ 8. Amend § 126.15 by revising the section heading and adding paragraphs (c) and (d) to read as follows:

§ 126.15 Expedited processing of license applications for the export of defense articles and defense services to Australia, the United Kingdom, or Canada.

* * * * *

(c) Any application submitted for authorization of the export of defense articles or defense services to Australia, the United Kingdom, or Canada, describing an export that cannot be undertaken under an exemption provided in this subchapter, will be expeditiously processed by the Department of State. The prospective export must occur wholly within, or between the physical territories of Australia, the United Kingdom, Canada, or the United States, and between governments or persons from such countries.

(d) To the extent practicable, any application in paragraph (c) of this section to export defense articles and defense services related to a government-to-government agreement between Australia, the United Kingdom, or Canada, and the United States must be approved, returned, or denied within 30 days of submission. For all other license applications, any review shall be completed no later than 45 calendar days after the date of the application. The provisions of this paragraph (d) do not apply to any applications which require congressional certification.

■ 9. Amend § 126.18 by adding paragraph (e) to read as follows:

§ 126.18 Exemptions regarding intra-company, intra-organization, and intra-governmental transfers to employees who are dual nationals or third-country nationals.

* * * * *

(e) Notwithstanding any other provisions of this subchapter, no license is required for the retransfer or reexport of classified defense articles to citizens of Australia or the United Kingdom, provided such individuals:

(1) Are dual nationals of another country;

(2) Are authorized users or regular employees of an authorized user of the exemption in § 126.7;

(3) Hold a security clearance approved by Australia, the United Kingdom, or the United States that is equivalent to the classification level of SECRET or above in the United States; and

(4) Are either:

(i) Within the physical territory of Australia, the United Kingdom, or the United States; or

(ii) A member of the armed forces of Australia, the United Kingdom, or the United States acting in their official capacity.

10. Add supplement no. 2 to part 126 to read as follows:

Supplement No. 2 to Part 126—Excluded Technology List

This supplement lists the defense articles and defense services excluded from the scope of the exemption provided at § 126.7. The United States Munitions List (USML), see 22 CFR 121.1, entries in column 1 represent the location of the excluded defense articles and defense services within the USML and does not indicate the entire USML entry in column 1 is excluded; only the portions of those entries that are further described in column 2 are excluded.

USML entry	Exclusion
I through XV, and XX	Missile Technology Control Regime (MTCR) articles, as annotated on the USML by an ''MT'' designation, except for articles described in USML Category VIII(h)(12); and directly related technical data and defense services.
I through XX	Articles having anti-tamper features developed in accordance with a U.S. Department of Defense (DoD) Program Protection Plan, not already installed in the commodity they are intended to protect; and directly related technical data and defense services.
II(k), III(e), IV(i), X(e), and XIX(g)	Manufacturing know-how (see § 120.43(e) of this subchapter) directly related to: —articles described in USML Categories II(d), III(d)(1) or (2), IV(a), (b), (d), (g), or (h), X(a)(1) or (2), or XIX; or —parts, components, accessories, or attachments that are only used in those articles.
II(j)(9) through (11), and (k)	Articles described in USML Category II(j)(9) through (11) that are not an element of an armament, weapon, or military platform; and directly related technical data and defense services.
III(a)(9) and (e); IV(a)(5) and (6), (b)(2), (c), (g), (h), and (i); VI(f)(6) and (g); VIII(h)(6) and (i); XI(c) and (d); XII(a), (d), (e), and (f); and XX(c) and (d).	Cluster munitions and articles specially designed for cluster munitions; and directly related technical data and defense services.
IV(a)(3), (9), (10), and (11), (b)(2), (h)(5), and (i)	Articles described in USML Category IV(a)(3), (9), (10), or (11), or (h)(5); launcher mechanisms for MANPADS; and directly related technical data and defense services.
V(a)(13)(iii) and (iv), (a)(23)(iii), (d)(3), (i), and (j)	Articles described in USML Category V(a)(13)(iii) or (iv), (a)(23)(iii), or (d)(3); articles, other than propellants, described in USML Category V(i); and directly related technical data and defense services.
VI(e), (f)(5), and (g); and XX(b)(1), (c), and (d)	Articles described in USML Category VI(e) or (f)(5), or XX(b)(1); articles specially designed for articles described in USML Category XX(b)(1); and directly related technical data and defense services.
VIII(a)(2), (h)(1), and (i)	The F–22 aircraft and articles specially designed for the F–22, other than those also used in aircraft other than the F–22; and directly related technical data and defense services.
X(a)(7)(ii), (d)(2) and (3), and (e)	Articles described in USML Category X(a)(7)(ii); articles specially designed therefor; and directly related technical data and defense services.

USML entry	Exclusion
XI(a)(1)(i) and (ii), and (d)	Articles described in USML Category XI(a)(1)(i) or (ii); and directly related technical data and defense services.
XI(a)(2),(c)(1) through (3), and (d)	Classified articles described in USML Category XI(a)(2), other than underwater acoustic decoy countermeasures; classified articles specially designed therefor; and classified, directly related technical data and defense services.
XI(a)(3)(xviii),(c)(1) through (3), and (d)	Classified articles described in USML Category XI(a)(3)(xviii); classified articles specially designed therefor; and classified, directly related technical data and defense services.
XI(a)(4)(i),(c)(1) through (3), and (d)	Classified articles described in USML Category XI(a)(4)(i); classified articles specially designed therefor; and classified, directly related technical data and defense services.
XI(a)(4)(iii),(c)(1) through (3), and (d)	Classified countermeasure and counter-countermeasure equipment described in USML Category XI(a)(4)(iii); classified articles specially designed therefor; and classified, directly related technical data and defense services.
XI(a)(5)(iii),(c)(1) through (3) and (18), and (d)	Classified articles described in USML Category XI(a)(5)(iii); classified articles specially designed therefor; and classified, directly related technical data and defense services.
XI(b) and (d)	Classified articles described in USML Category XI(b); and classified, directly related technical data and defense services.
XI(c) and (d)	(1) Articles described in USML Category XI(c) or (d) specially designed for articles described in USML Category XI(a)(1)(i) or (ii); and directly related technical data and defense services. (2) Classified articles described in USML Category XI(c) or (d) that implement countermeasures or counter-countermeasures for defense articles described in USML Category XI(a); and classified, directly related technical data and defense services. (3) Classified articles described in USML Category XI(c) specially designed for articles described in USML Category XIII(b); and classified, directly related technical data and defense services.
XIII(b) and (l)	Classified articles described in USML Category XIII(b); and classified, directly related technical data and defense services.
XIII(d)(2) and (l)	Articles described in USML Category XIII(d)(2); and directly related technical data and defense services.
XIV(a), (b), (c)(5), (f)(1), (i), and (m)	Articles described in USML Category XIV(a), (b), (c)(5), (f)(1), or (i); and directly related technical data and defense services.
XV(a), (e), and (f)	Classified articles described in USML Category XV(a) or (e); and classified, directly related technical data and defense services.
XVI	Articles described in USML Category XVI; and directly related technical data and defense services.
XVIII	Classified articles described in USML Category XVIII specially designed for counter-space operations; and classified, directly related technical data and defense services.
XIX(e), (f)(1), (2), (7), and (12), and (g)	(1) Classified articles described in USML Category XIX(e), (f)(1), or (f)(2), not already integrated into a complete engine; and directly related technical data and defense services. (2) Classified articles described in USML Category XIX(f)(7) or (12) for excluded articles described in USML Category XIX(f)(1) or (2); and directly related technical data and defense services.
XX(b)(2), (c), and (d)	Articles described in USML Category XX(b)(2); articles specially designed therefor; and directly related technical data and defense services.
XX(d)	Design methodology, engineering analysis, and manufacturing know-how (see § 120.43 of this subchapter) directly related to: —crewed vessels described in USML Category XX(a); or —articles described in USML Category XX(b) or (c) that are used only in: ○ crewed vessels, ○ classified payloads, or ○ classified Uncrewed Underwater Vehicle (UUV) signature reduction techniques.
XXI	Commodities, software, technical data, and defense services, unless specifically designated as eligible for the exemption provided at § 126.7 in State's written Category XXI determination.

Bonnie D. Jenkins,

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

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POSTAL REGULATORY COMMISSION

39 CFR Parts 3000, 3010, 3040, and 3041

[Docket No. RM2023–5; Order No. 7353]

RIN 3211–AA34

Competitive Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission is adopting final rules establishing requirements for reviewing contracts negotiated between the Postal Service and customers for competitive services. These contracts are known as competitive negotiated service agreements (NSAs). The final rule includes a default method for reviewing competitive NSAs and three optional streamlined methods. Different requirements apply to each method for reviewing proposed competitive NSAs. In addition, the final rules include requirements for administering approved competitive NSAs.

DATES: Effective September 19, 2024.