

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p.389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11H, Airspace Designations and Reporting Points, dated August 11, 2023, and effective September 15, 2023, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ASW TX E5 Utopia, TX [Establish]

Brushy Creek Ranch Airport, TX
(Lat 29°42'49" N, long 99°32'44" W)

That airspace extending upward from 700 feet above the surface within a 10-mile radius of the Brushy Creek Ranch Airport.

* * * * *

Issued in Fort Worth, Texas, on August 6, 2024.

Steven Phillips,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2024–19026 Filed 8–27–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF STATE

22 CFR Part 124

[Public Notice: 12506; Docket No. 2024–0024]

RIN 1400–AF84

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

AGENCY: Department of State.

ACTION: Interim final rule; correction.

SUMMARY: The Department of State (the Department) is correcting an interim final rule that appeared in the **Federal Register** on August 20, 2024 creating an exemption for defense trade and cooperation among Australia, the United Kingdom, and the United States and related amendments.

DATES: Effective on September 1, 2024.

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: In FR Doc. 2024–18043, beginning on page 67270 in the **Federal Register** of Tuesday, August 20, 2024, the following correction is made:

§ 124.8 [Corrected]

■ 1. On page 67290, in the second column, in part 124, in amendment 4, the instruction “Amend § 124.8 by revising paragraph (a) to read as follows:” is corrected to read “Amend § 124.8 by revising paragraph (a)(5) to read as follows:”

Stanley L. Brown,

Acting Assistant Secretary, Bureau of Political-Military Affairs, Department of State.

[FR Doc. 2024–19262 Filed 8–27–24; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF STATE

22 CFR Part 150

[Public Notice: 12475]

RIN 1400–AF85

Diplomatic Agent-Level Immunity

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Vienna Convention on Diplomatic Relations defines “diplomatic agent” and the level of immunity enjoyed by a diplomatic agent. However, because some other individuals who are not themselves “diplomatic agents” as defined in the VCDR also enjoy what is known as “diplomatic agent-level immunity,” the Department of State is promulgating this regulation to clearly and correctly define which foreign persons enjoy diplomatic agent-level immunity within the United States and clarify that the determination of who enjoys diplomatic agent-level immunity and lesser status-based immunity, which is both legal and factual in nature, is made by the Department of State.

DATES: This rule is effective on August 28, 2024.

FOR FURTHER INFORMATION CONTACT: Clifton M. Johnson, Diplomatic Law and Litigation, Office of the Legal Adviser, Department of State, Washington, DC 20520, (202) 647–1075, or *johnsoncm5@state.gov* (for information regarding this

final rule); Office of Foreign Missions, Department of State, Washington, DC 20520, or *OFM-Policy@state.gov* (for information regarding diplomatic status and immunities in specific instances).

SUPPLEMENTARY INFORMATION: Pursuant to Article II of the Constitution which provides the President with the right to receive ambassadors and other public ministers, the Secretary of State’s role to execute the foreign policy of the United States, specific provisions of the U.S. Code discussed below, and well established case law as noted below, the U.S. Department of State is uniquely positioned as the sole United States government agency that accepts the accreditation of foreign diplomats, and is authorized to determine and certify the diplomatic status of a foreign individual and the immunity enjoyed by that individual.

This regulation defines who enjoys diplomatic agent-level immunity and clarifies the comprehensive scope of diplomatic agents’ immunity for the non-exclusive purpose of facilitating judicial and administrative proceedings in the United States. The regulation also clarifies that the determination of who enjoys diplomatic agent-level immunity and lesser status-based immunity is one that requires application of law to facts and is made by the Department of State—not any other federal agency or by any foreign mission in the United States. Individuals enjoying diplomatic agent-level immunity are not subject to the criminal jurisdiction of the United States, and are immune from the civil or administrative jurisdiction of the United States, with limited exceptions. Such immunity is enjoyed by diplomatic agents at bilateral diplomatic missions pursuant to the Vienna Convention on Diplomatic Relations (VCDR, 23 U.S.T. 3227; see Articles 29 and 31 in particular); certain senior officials of the United Nations pursuant to Article V, Section 19 of the Convention on Privileges and Immunities of the United Nations of 1970 (21 U.S.T. 1418) (“UN Convention”); diplomatic staff at Permanent Missions of Member States to the United Nations pursuant to Article V, Section 15 of the United Nations Headquarters Agreement of 1947 (1947 U.S.T. 529) and Article IV, Section 11 of the UN Convention; consular officers assigned to consulates of countries with which the United States has an enhanced immunities agreement that “enhances” their immunity to diplomatic agent-level; certain senior officials of and representatives to some international organizations (see, e.g., Agreement on Privileges and Immunities of the

Organization of American States (26 U.S.T. 1025) and Agreement on the Status of the North Atlantic Treaty Organization, National Representative and International Staff (33 U.S.T. 1272)); and others. Lesser forms of status-based immunity include administrative and technical staff immunity as set forth in the VCDR, which is generally coextensive with diplomatic-agent level immunity with the exception of civil immunity which is more limited (for official acts only); consular officer immunity as set forth in the Vienna Convention on Consular Relations (VCCR, 21 U.S.T. 77), which entails immunity for official acts and personal inviolability from arrest absent a warrant for grave crimes; and consular employee immunity as set forth in the VCCR, which entails immunity for official acts.

Accordingly, the intent of the regulation is to strengthen the ability of law enforcement, the courts, foreign governments, and the public to recognize and rely upon authoritative determinations by the United States of the diplomatic status and corresponding level of status-based immunity enjoyed by foreign individuals. It is meant to discourage reliance on outdated or incomplete documentation of diplomatic status or assertions by persons other than Department of State officials that may lead to inaccurate understandings of who enjoys immunity and the scope of that immunity, and to direct interested parties to instead consult with the Department of State for such information. By doing so, the regulation will help ensure that individuals entitled to immunity will be treated accordingly and reduce the risk that individuals who erroneously or misleadingly assert such status are accorded immunity to which they are not entitled. The regulation is necessary to ensure the Secretary of State can continue to meet international and domestic legal obligations to respect the immunities accredited foreign diplomats enjoy. Specifically, the VCDR and various bilateral treaties enhancing immunities of individuals other than diplomatic agents establish immunities that the United States is obligated to respect under international law. Additionally, the Diplomatic Relations Act of 1978 (22 U.S.C. 254c(c)) establishes immunities for members of foreign missions and their families for foreign States not party to the VCDR. The Secretary and the Department of State are uniquely positioned to fulfill those responsibilities in this manner.

The Department of State has legal authority to promulgate this regulation. Article II, Section 3 of the United States

Constitution directs the President to “receive Ambassadors and other public Ministers.” 22 U.S.C. 2656 grants the Secretary of State authority to perform duties relative to matters respecting foreign affairs, including duties regarding applications and requests from foreign public ministers or other foreigners. Pursuant to this statutory authority, as well as Article 9 of the VCDR and Article 23 of the VCCR, the Department accepts accreditation of members of foreign diplomatic or consular missions at its discretion. Additionally, Article 10 of the VCDR and Article 24 of the VCCR provide that the Ministry of Foreign Affairs specifically, or the authority designated by that ministry (per the VCCR) or such other ministry as may be agreed (per the VCDR), shall be notified of the appointment of members of a diplomatic or consular mission. Under the VCDR, the Department of State has the broad discretion to classify diplomats. See *Abdulaziz v. Metro. Dade Cty.*, 741 F.2d 1328, 1330 (11th Cir. 1984). Additionally, pursuant to 22 U.S.C. 2656 and the United Nations Headquarters Agreement of 1947, the Department of State also accords privileges and immunities to foreign individuals accredited to the United Nations.

With respect to determining the status-based immunity that accredited foreign individuals and their family members enjoy, the Diplomatic Relations Act of 1978 (22 U.S.C. 254c(a)) authorizes the President to, “on the basis of reciprocity and under such terms and conditions as he may determine, specify privileges and immunities for members of the mission, their families and the diplomatic couriers of any sending state which result in more favorable or less favorable treatment than is provided under the Vienna Convention.” The President has delegated authority to prescribe regulations for that purpose to the Secretary of State through Executive Order 12101 (43 FR 54195), amended by Executive Order 12608 (52 FR 34617). The Diplomatic Relations Act of 1978, as amended (22 U.S.C. 254c(b)) also authorizes the Secretary of State, on the basis of reciprocity and under such terms and conditions as the Secretary may determine, with the concurrence of the Attorney General, to specify privileges and immunities for a consular post, the members of a consular post, and their families which result in more favorable or less favorable treatment than is provided in the VCCR. The Secretary’s determinations of the scope of the status-based immunity of foreign

individuals in that regard are made pursuant to international agreements with foreign governments that the Department of State negotiates, concludes, and interprets pursuant to 22 U.S.C. 254c(b), as well as the President’s Article II authority to speak as the sole organ of the government with respect to agreements regarding diplomatic relations, delegated to the Secretary. See 22 U.S.C. 2656; *United States v. Belmont*, 301 U.S. 324, 330 (1937). By according diplomatic agent-level immunity to foreign individuals, the Department of State is able to “contribute to the development of friendly relations among nations” and “to ensure the efficient performance of the functions of the diplomatic missions.” See *Hellenic Lines, Ltd. v. Moore*, 345 F.2d 978, 980 (D.C. Cir. 1965), citing the VCDR, preamble.

As the above authorities illustrate, the Department of State is authorized to and responsible for determining whether someone enjoys diplomatic agent-level immunity or other status-based immunity, consistent with the concurrence requirements of 22 U.S.C. 254c(b), as applicable. 22 U.S.C. 2651a authorizes the Secretary “to promulgate such rules and regulations as may be necessary to carry out the functions of the Secretary of State and the Department of State.” Clarifying that the Department of State is responsible for indicating which foreign individuals enjoy diplomatic agent-level immunity or lesser status-based immunity will reduce the risk of conflicting determinations of the diplomatic status and corresponding immunity foreign individuals and their family members may enjoy.

Courts have long held that the Department of State’s certification is “conclusive and dispositive evidence” of a diplomat’s entitlement to status-based immunity. See *United States v. Al-Hamdi*, 356 F.3d 564, 573 (4th Cir. 2004) (“[W]e hold that the State Department’s certification . . . is conclusive evidence as to the diplomatic status of an individual.”); *Abdulaziz v. Metro. Dade Cty.*, 741 F.2d 1328, 1339 (11th Cir. 1984) (“[O]nce the United States Department of State has regularly certified a visitor to this country as having diplomatic status, the courts are bound to accept that determination.”); *Muthana v. Pompeo*, 985 F.3d 893, 906–09 (D.C. Cir. 2021); *Carrera v. Carrera*, 174 F.2d 496, 497 (D.C. Cir. 1949) (“It is enough that an ambassador has requested immunity, that the State Department has recognized that the person for whom it was requested is entitled to it, and that

the Department's recognition has been communicated to the court.").

Regulatory Analysis

Administrative Procedure Act

This rulemaking is published as a final rule since it relates to a foreign affairs function of the United States and is exempt from notice-and-comment rulemaking. 5 U.S.C. 553(a)(1). Because this rulemaking is exempt from 5 U.S.C. 553, the provisions of 5 U.S.C. 553(d) are not applicable and this rule is effective immediately.

Regulatory Flexibility Act/Executive Order 13272: Small Business

Since this rule is exempt from notice and comment rulemaking, it is also exempt from the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

Congressional Review Act

This rulemaking does not constitute a major rule, as defined by 5 U.S.C. 804, for purposes of congressional review of agency rulemaking.

The Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1532, generally requires agencies to prepare a statement before proposing any rule that may result in an annual expenditure of \$100 million or more by State, local, or tribal governments, or by the private sector. This rule will not result in any such expenditure nor would it significantly or uniquely affect small governments.

Executive Orders 12372 and 13132: Federalism and Executive Order 13175, Impact on Tribes

This rule 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. Nor will the regulations have federalism implications warranting the application of Executive Orders 12372 and 13132. This rule will not have tribal implications, will not impose costs on Indian tribal governments, and will not pre-empt tribal law. Accordingly, the requirements of Executive Order 13175 do not apply to this rulemaking.

Executive Orders 12866, 13563, and 14094: Regulatory Review

This rule has been drafted in accordance with the principles of Executive Orders 12866 (as amended by Executive Order 14094) and 13563. This rule has been determined to be a

significant rulemaking under section 3 of Executive Order 12866, but not significant under section 3(f)(1). The benefits of the rule are qualitative, in that the rule provides clarity for foreign governments and their personnel, and secondarily for domestic officials and the public, on which individuals are entitled to diplomatic agent-level immunity and the scope of that immunity. Individuals enjoying diplomatic agent-level immunity are not subject to the criminal jurisdiction of the United States, and are immune from the civil or administrative jurisdiction of the United States, with limited exceptions. There are no costs to the rulemaking as the United States is already required to accord immunity to certain foreign individuals pursuant to its obligations under international law, including the VCDR. The rule does not expand or otherwise change the categories or number of individuals who enjoy diplomatic agent-level immunity. The promulgation of this rule will not increase the number of individuals accorded diplomatic agent-level immunity, as the rule will not affect the long-standing standards by which the Department determines a foreign individual's status and corresponding immunity. This rule will help ensure that law enforcement, the courts, foreign governments, and the public are aware of the need to consult the Department of State to understand foreign individuals' diplomatic status and corresponding immunity, which is relevant for, among other purposes, understanding whether their family members born in the United States were born subject to the jurisdiction of the United States under the Fourteenth Amendment of the U.S. Constitution. The rule would reduce the risk of erroneous determinations detrimental to the foreign relations of the United States. This rule also clarifies that the Department itself, in accordance with international and domestic law and taking into account the comprehensive information available to it related to diplomatic status, identifies the diplomatic status and corresponding immunities of foreign persons. In the absence of this rule, there is continued risk of immunity being extended or not extended erroneously, which can result in, *inter alia*, the inappropriate exercise of criminal jurisdiction over accredited diplomats; the inaccurate determination of lawful permanent residence status; and erroneous decisions on whether an individual was born in the United States subject to the jurisdiction of the Fourteenth Amendment. Therefore, the Department believes that the qualitative

benefits of this rulemaking are manifest, and there are few costs.

Executive Order 12988: Civil Justice Reform

This rule has been reviewed in light of sections 3(a) and 3(b)(2) of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

The Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), Federal agencies must obtain approval from OMB for each collection of information they conduct, sponsor, or require through regulation. This rule neither establishes nor modifies any collection of information subject to the Paperwork Reduction Act.

List of Subjects in 22 CFR Part 150

Foreign officials; Immunity.

For the reasons set forth above the State Department amends title 22, chapter I by adding part 150 to subpart P to read as follows:

PART 150—DIPLOMATIC AGENT-LEVEL IMMUNITY

Sec.

- 150.1 Diplomatic Agent-Level Immunity.
- 150.2 Determination by the Department of State.
- 150.3 Severability.

Authority: 22 U.S.C. 2651a, 2656; 22 U.S.C. 254c; Vienna Convention on Diplomatic Relations, Done at Vienna April 18, 1961, 23 U.S.T. 3227; Vienna Convention on Consular Relations, Done at Vienna April 24, 1963, 21 U.S.T. 77; Convention on the Privileges and Immunities of the United Nations, 21 U.S.T. 1418.

§ 150.1 Diplomatic Agent-Level Immunity.

Diplomatic Agent-Level Immunity refers to the complete immunity from the criminal jurisdiction of the United States and to comprehensive immunity from the civil and administrative jurisdiction of the United States, and is enjoyed by:

(a) Foreign individuals accredited to the United States as "diplomatic agents" under the Vienna Convention on Diplomatic Relations, and the family members forming part of their households;

(b) Foreign individuals accredited to the United States as administrative and technical staff or service staff of diplomatic missions, or as consular officers of consular missions, and the family members forming part of their households, representing a foreign government with which the United States has an international agreement for the enhancement of immunity of

those individuals to diplomatic agent-level immunity; and

(c) Certain other foreign officials and representatives as determined by the Department of State.

§ 150.2 Determination by the Department of State.

The question of whether any particular person enjoys diplomatic agent-level immunity and is therefore not subject to the jurisdiction of the United States, or whether they enjoy lesser status-based immunity, on any particular date entails both factual and legal analysis, and is determined by the Department of State, in accordance with relevant international and domestic law.

§ 150.3 Severability.

The provisions of this part are separate and severable from one another. If any provision is stayed or determined to be invalid, it is the Department of State’s intention that the remaining provisions shall continue in effect.

Kevin E. Bryant,

Deputy Director, Office of Directives Management, U.S. Department of State.
[FR Doc. 2024–19192 Filed 8–27–24; 8:45 am]
BILLING CODE 4710–08–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 948

[SATS No. WV–118–FOR (partial); Docket ID: OSM–2011–0009; SATS No. WV–126–FOR; Docket ID: OSM–2019–0012; S1D1S SS08011000 SX064A000 220S180110; S2D2S SS08011000 SX064A000 220XS501520]

West Virginia Regulatory Program; Correction

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.
ACTION: Final rule; correction.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), published a document in the *Federal Register* on March 18, 2024, approving in part, and not approving in part, amendments to the West Virginia regulatory program (the West Virginia program) under the Surface Mining

Control and Reclamation Act of 1977 (SMCRA or the Act).

DATES: This correction is effective August 28, 2024.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Castle, Acting Director, Charleston Field Office, Telephone: (859) 260–3900. Email: *osm-chfo@osmre.gov*.

SUPPLEMENTARY INFORMATION: In the final rule published Monday, March 18, 2024, in FR Doc. 2024–05682, on page 19273, column 2, a revision to 30 CFR 948.12 (State statutory, regulatory, and proposed program amendment provisions not approved) that revised paragraph (k) will be corrected to instead add that provision as new paragraph (l). Additionally, we are revising paragraph (k) to reinstate the deferral as it existed in the CFR prior to the publication of the *Federal Register* document. *See also* 89 FR 2133 (Jan. 12, 2024). We are also adding paragraph 38–2–12.5.d of West Virginia’s regulations to the table at 30 CFR 948.15 (Approval of West Virginia regulatory program amendments). We had approved its deletion from West Virginia’s regulations in the March 18, 2024, *Federal Register*, but it was omitted from the table.

Federal Register Correction

§ 948.12 [Corrected]

- 1. Effective April 17, 2024, in FR Doc. 2024–05682 at 89 FR 19262 in the issue of March 18, 2024, on page 19273, in the second column, amendatory instruction 2 is corrected to read: “Section 948.12 is amended by adding paragraph (l) to read as follows:”
- 2. On page 19273, in the second and third columns, § 948.12 is corrected to read:

* * * * *

(k) We are not approving the following portions of provisions of the proposed program amendment that West Virginia submitted on May 15, 2017:

(1) We are deferring our decision on the deletion of provisions from W.Va. Code 22–3–11(g)(2) regarding the development of a long-range planning process for the selection and prioritization of sites to be reclaimed. We defer our decision until we make a determination on West Virginia’s related amendment docketed as WV–128–FOR,

which relates to the complete and accurate listing of all outstanding reclamation obligations (including water treatment on active permits in the State.

- (2) [Reserved]
- (1) We are not approving the following provisions of the proposed West Virginia program amendments dated May 2, 2018:
 - (1) At W.Va. Code 22–3–9, revisions substituting notice by newspaper with notice in a form and manner determined by the Secretary which may be electronic.
 - (2) At W.Va. Code 22–3–20, revisions substituting notice by newspaper with notice in a form and manner determined by the Secretary which may be electronic.

- (3) At CSR 38–2–2.37, the removal of the definition “completion of reclamation”.
- (4) At CSR 38–2–12.2.d., the elimination to the existing prohibition on bond release for any site specific bonding (*i.e.*, open-acre bonding) until all coal extraction is completed and the disturbed area is completely backfilled and regraded.
- (5) At CSR 38–2–12.2.e., to restructure and revise existing approved language in this section and move it to CSR 38–2–12.2.a.4.

- (6) At CSR 38–2–12.2.f., to move, unchanged, this existing language to CSR 38–2–12.2.d.
- (7) At CSR 38–2–12.2.g., to move, unchanged, this existing language to CSR 38–2–12.2.f.
- (8) At CSR 38–2–12.2.h., to renumber existing CSR 38–2–12.2.h to 12.2.i. and to insert it as a new CSR 38–2–12.2.h.
- (9) At CSR 38–2–12.4.c., to eliminate an existing 180 day window for initiating reclamation operations to reclaim the site in accordance with the approved reclamation plan or modification thereof.

(10) At CSR 38–2–12.5., to delete subsection 12.5 of the West Virginia regulations, which directs WVDEP’s collection, analysis and reporting on sites where bond has been forfeited including, in particular, data relating to the water quality of water being discharged from forfeited sites.

§ 948.15 [Corrected]

- 3. On page 19273, in the table, § 948.15 is corrected to read as follows:

* * * * *

Original amendment submission dates	Date of publication of final rule	Citation/description of approved provisions
April 25, 2011 May 8, 2018	March 18, 2024	CSR 38–2–2.6; 9.3.d; 11.3.f; 11.4; 11.6; 12.2.a, 12.5.b, c and d; 12.4.a.2.B, 12.4.b, 4.b.1 and 4.b.2; 12.4.d; 14.5.b