Dated: November 1, 2011.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

For the reasons set out in the preamble, 15 CFR part 902 is amended as follows:

PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS

■ 1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

■ 2. In § 902.1, the table in paragraph (b), under 50 CFR, is amended by revising the OMB control numbers for §§ 622.5, 622.8, and 622.18, to read as follows:

§ 902.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) * * *

CFR part or section where the information collection requirement is located	Current OMB control number (all numbers begin with 0648–)
* * * * * * *	
50 CFR	
* * * * * * *	
622.5	−0013, −0016, −0392, and −0593.
* * * * * * *	
622.8	−0205 and −0593.
* * * * * * *	
622.18	−0205 and −0593.
* * * * * * *	

[FR Doc. 2011–28662 Filed 11–3–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF STATE

22 CFR Part 123

RIN 1400–AC91

[Public Notice 7674]

Amendment to the International Traffic in Arms Regulations: Filing, Retention, and Return of Export Licenses and Filing of Export Information

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Department of State is amending the International Traffic in Arms Regulations (ITAR) to reflect changes in the requirements for the return of licenses. Applicants are no longer required to return certain expired DSP–5s. This change will reduce the administrative burden on applicants.

DATES: *Effective Date:* This rule is effective November 4, 2011.

FOR FURTHER INFORMATION CONTACT: Nicholas Memos, Office of Defense Trade Controls Policy, Bureau of Political-Military Affairs, Department of State, (202) 663–2829 or FAX (202) 261–8199; Email *memosni@state.gov,* Attn: ITAR Amendment—License Return.

SUPPLEMENTARY INFORMATION: The Department of State is amending § 123.22(c) to institute changes in the requirements for the return of licenses. With this change, applicants with DSP–5 licenses that have been issued electronically by the Directorate of Defense Trade Controls (DDTC) and decremented electronically by the U.S. Customs and Border Protection (CBP) through the Automated Export System (AES) are no longer required to return them to DDTC when they expire, to include when the total authorized value or quantity has been shipped. The return of these licenses is redundant and unnecessary as all of the export information has been captured and saved electronically. If a DSP–5 license issued electronically is decremented physically in one or more instance the license must be returned to the Department of State.

All other DSP–5 licenses that do not meet the criteria described above, and all DSP–61, DSP–73, and DSP–85 licenses, and DSP–94 authorizations, must be returned by the applicant, or the government agency with which the license or authorization was filed, to DDTC, as these licenses and authorizations are not decremented electronically, even if an Electronic Export Information is filed via AES.

New § 123.22(c)(3) addresses the return of the DSP–94 authorization.

New § 123.22(c)(4) provides that licenses issued but not used by the applicant do not need to be returned to DDTC.

New § 123.22(c)(5) provides that licenses which have been revoked by DDTC are considered expired.

Section 123.21(b) is amended to conform to the changes to § 123.22(c).

This rule was first presented as a proposed rule for public comment on July 14, 2011. That comment period ended August 29, 2011. Three comments were received. The Department's evaluation of the written comments and recommendations are as follows.

One commenting party recommended the Department revise the provision regarding the return of the DSP–85, as the issued license is not held by the applicant, but by an officer of the Defense Security Service. The Department accepted this recommendation, and has revised § 123.22(c)(2) to provide that ''the government agency with which the license or authorization was filed'' may also return an expired license or authorization to the Department.

One commenting party recommended revising the sentence in § 123.22(c)(1) addressing the maintenance of records. The commenting party correctly pointed out that, as drafted in the proposed rule, the requirement to maintain records of an electronically issued and decremented DSP–5 pertained only when the license was fully decremented or expired, when in fact the requirement, per ITAR § 122.5, is for record maintenance on an ongoing basis. Section (c)(1) is revised accordingly.

One commenting party recommended revising a section of the ITAR not the subject of this rule. The Department,

though, takes this opportunity to address the recommendation. The commenting party recommended revising ITAR § 123.22(a)(1) to allow the exporter to present to CBP an electronically issued DSP–5 license at the time of permanent export, and not prior to filing the license in the Automated Export System. This procedure is a requirement set by CBP, for enforcement purposes, and not by the Department.

One commenting party recommended the elimination of the requirement to return any expired license to the Department, stating that it is inefficient, redundant of other recordkeeping requirements, and not in keeping with the Department's initiative to provide end-to-end electronic licensing. The Department observes that while it has instituted electronic processes for the majority of defense trade licensing transactions, it has not completed this initiative. Therefore, certain requirements cannot be completed electronically by the public. This includes providing the Department with a record of certain expired licenses. As an alternative, the commenting party suggested providing D-Trade, the Department's electronic licensing system, as a means of returning certain expired licenses, but D-Trade is currently not configured to support this function. The Department also observes that the recordkeeping requirement of ITAR § 122.5 pertains to registrants; for enforcement purposes, the Department also must have record of which exports were completed from approved authorizations. For the foregoing reasons, the Department did not accept this commenting party's recommendation.

Having thoroughly reviewed and evaluated the written comments and recommended changes, the Department has determined that it will accept, and hereby does adopt with the noted changes, the proposed rule as a final rule.

Regulatory Analysis and Notices

Administrative Procedure Act

The Department of State is of the opinion that controlling the import and export of defense articles and services is a foreign affairs function of the United States Government and that rules implementing this function are exempt from § 553 (Rulemaking) and § 554 (Adjudications) of the Administrative Procedure Act. Although the Department is of the opinion that this rule is exempt from the rulemaking provisions of the APA, the Department published this rule with a 45-day provision for public comment and without prejudice to its determination that controlling the import and export of defense services is a foreign affairs function.

Regulatory Flexibility Act

Since this amendment is not subject to the notice-and-comment procedures of 5 U.S.C. 553, it does not require analysis under the Regulatory Flexibility Act.

Unfunded Mandates Reform Act of 1995

This amendment does not involve a mandate that will result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Executive Order 13175

The Department has determined that this rule will not have Tribal implications, will not impose substantial direct compliance costs on Indian Tribal governments, and will not pre-empt Tribal law. Accordingly, the requirements of Executive Order 13175 do not apply to this rule.

Small Business Regulatory Enforcement Fairness Act of 1996

This amendment has been found not to be a major rule within the meaning of the Small Business Regulatory Enforcement Fairness Act of 1996.

Executive Orders 12372 and 13132

This amendment will not have substantial 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 amendment.

Executive Order 12866

The Department of State does not consider this rule to be a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review. The Department is of the opinion that controlling the import and export of defense articles and services is a foreign affairs function of the United States Government and that rules governing the conduct of this function are exempt from the requirements of Executive Order 12866.

Executive Order 13563

The Department of State has considered this rule in light of Executive Order 13563, dated January 18, 2011, and affirms that this regulation is consistent with the guidance therein.

Executive Order 12988

The Department of State has reviewed the amendment in light of sections 3(a) and 3(b)(2) of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

Paperwork Reduction Act

This rule does not impose any new reporting or recordkeeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. chapter 35.

List of Subjects in 22 CFR Part 123

Arms and munitions, Exports.

Accordingly, for the reasons set forth above, Title 22, Chapter I, Subchapter M, part 123 is amended as follows:

PART 123—LICENSES FOR THE EXPORT 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; E.O. 11958, 42 FR 4311; 3 CFR, 1977 Comp. p. 79; 22 U.S.C. 2651a; 22 U.S.C. 2776; Pub. L. 105–261, 112 Stat. 1920; Sec 1205(a), Pub. L. 107–228.

■ 2. Section 123.21 is amended by revising the section heading and paragraph (b) to read as follows:

§ 123.21 Duration, renewal, and disposition of licenses.

* * * * *

(b) Unused, expired, suspended, or revoked licenses must be handled in accordance with § 123.22(c) of this subchapter.

■ 3. Section 123.22 is amended by revising paragraph (c) to read as follows:

§ 123.22 Filing, retention, and return of export licenses and filing of export information.

* * * * *

(c) *Return of licenses.* Per § 123.21 of this subchapter, all DSP licenses issued by the Directorate of Defense Trade Controls (DDTC) must be disposed of in accordance with the following:

(1) A DSP–5 license issued electronically by DDTC and decremented electronically by the U.S. Customs and Border Protection through the Automated Export System (AES) is not required to be returned to DDTC. If a DSP–5 license issued electronically is decremented physically in one or more instance the license must be returned DDTC. A copy of the DSP–5 license must be maintained by the applicant in accordance with § 122.5 of this subchapter.

(2) DSP–5, DSP–61, DSP–73, and DSP–85 licenses issued by DDTC but not decremented electronically by the U.S. Customs and Border Protection through AES (*e.g.,* oral or visual technical data releases or temporary import and export licenses retained in accordance with paragraph (a)(2) of this section), must be returned by the applicant, or the government agency with which the license was filed, to DDTC upon expiration, to include when the total authorized value or quantity has been shipped. A copy of the license must be maintained by the applicant in accordance with § 122.5 of this subchapter. AES does not decrement the DSP–61, DSP–73, and DSP–85 licenses. Submitting the Electronic Export Information is not considered to be decremented electronically for these licenses.

(3) A DSP–94 authorization filed with the U.S. Customs and Border Protection must be returned by the applicant, or the government agency with which the authorization was filed, to DDTC upon expiration, to include when the total authorized value or quantity has been shipped, or when all shipments against the Letter of Offer and Acceptance have been completed. AES does not decrement the DSP–94 authorization. Submitting the Electronic Export Information is not considered to be decremented electronically for the DSP–94. A copy of the DSP–94 must be maintained by the applicant in accordance with § 122.5 of this subchapter.

(4) A license issued by DDTC but not used by the applicant does not need to be returned to DDTC, even when expired.

(5) A license revoked by DDTC is considered expired and must be handled in accordance with paragraphs (c)(1) and (c)(2) of this section.

Dated: October 27, 2011.

Ellen O. Tauscher,

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

[FR Doc. 2011–28548 Filed 11–3–11; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF STATE

22 CFR Part 126

[Public Notice: 7675]

RIN 1400–AC97

Amendment to the International Traffic in Arms Regulations: Libya and UNSCR 2009

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Department of State is amending the International Traffic in Arms Regulations (ITAR) to update the policy regarding Libya to reflect the additional modifications to the United Nations Security Council arms embargo of Libya adopted in September 2011.

DATES: *Effective Date:* This rule is effective November 4, 2011.

FOR FURTHER INFORMATION CONTACT: Charles B. Shotwell, Director, Office of Defense Trade Controls Policy, Department of State, by *telephone:* (202) 663–2792; *fax:* (202) 261–8199; or *email: DDTCResponseTeam@state.gov.* ATTN: Part 126, Libya.

SUPPLEMENTARY INFORMATION: On September 16, 2011, the United Nations Security Council adopted resolution 2009, which modifies the arms embargo against Libya put in place by the adoption in February and March of resolutions 1970 and 1973, respectively.

Resolutions 1970 and 1973, and the May 2011 ITAR Amendment Regarding Libya

On February 26, 2011, the United Nations Security Council adopted Resolution 1970, paragraph 9 of which provides that UN member states shall immediately take the necessary measures to prevent the sale, supply, or transfer of arms and related materiel of all types to the Libyan Arab Jamahiriya, with certain exceptions. On March 17, 2011, the UN Security Council adopted Resolution 1973, paragraph 4 of which authorizes member states to take all necessary measures, notwithstanding the arms embargo established by paragraph 9 of Resolution 1970, to protect civilians and civilian populated areas under threat of attack in Libya. On May 24, 2011, the Department amended the ITAR to implement the Security Council's actions by adding Libya to § 126.1(c), which identifies countries subject to UN Security Council arms embargoes. *See* 76 FR 30001. The Department also revised the previous policy on Libya contained in § 126.1(k) to announce a policy of denial for all requests for licenses or other approvals to export or otherwise transfer defense articles and services to Libya, except where not prohibited under UNSC embargo and determined to be in the interests of the national security and foreign policy of the United States.

Resolution 2009

To the existing exceptions to the arms embargo, delineated in resolutions 1970 and 1973, resolution 2009 adds the supply, sale, or transfer to Libya of arms and related materiel, including technical assistance, intended solely for security or disarmament assistance to the Libyan authorities, and small arms, light weapons, and related materiel for the sole use of UN personnel, representatives of the media, and humanitarian and development workers and associated personnel. License applications submitted pursuant to these exceptions are notified in advance to the Committee of the Security Council concerning Libya, and are eligible for approval in the absence of a negative decision by the Committee within five working days of such a notification.

Accordingly, the ITAR is amended to reflect these exceptions.

Regulatory Analysis and Notices

Administrative Procedure Act

The Department of State is of the opinion that controlling the import and export of defense articles and services is a foreign affairs function of the United States Government and that rules implementing this function are exempt from § 553 (Rulemaking) and § 554 (Adjudications) of the Administrative Procedure Act. Since this rule is exempt from 5 U.S.C. 553, it is the view of the Department of State that the provisions of § 553(d) do not apply to this rulemaking. Therefore, this rule is effective upon publication. The Department also finds that, given the national security issues surrounding U.S. policy towards Libya, that notice and public procedure on this rule would be impracticable, unnecessary, or contrary to the public interest. *See* 5 U.S.C. 808(2).

Regulatory Flexibility Act

Since this amendment is not subject to the notice-and-comment procedures of 5 U.S.C. 553, it does not require analysis under the Regulatory Flexibility Act.

Unfunded Mandates Reform Act of 1995

This amendment does not involve a mandate that will result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100 million or more in any year and it will not significantly