

*Executive Order 13563 and Executive Order 12866*

As discussed above, the Department is of the opinion that the Exchange Visitor Program 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. However, the Department has nevertheless reviewed this proposed regulation to ensure its consistency with the regulatory philosophy and principles set forth in that Executive Order.

The Department has examined the economic benefits, costs, and transfers associated with this proposed rule, and declare that educational and cultural exchanges are both the cornerstone of U.S. public diplomacy and an integral component of American foreign policy. The benefits of these exchanges to the United States and its people are invaluable and cannot be monetized; in the same way, even one instance of an exchange visitor having a bad experience or, worse, being mistreated, could result in embarrassment and incalculable harm to the foreign policy of the United States. Therefore, the Department is of the opinion that these benefits of this rulemaking outweigh its costs.

*Executive Order 12988*

The Department has reviewed this regulation 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.

*Executive Orders 12372 and Executive Order 13132*

This regulation 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 section 6 of Executive Order 13132, it is determined that this rule 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 regulation.

*Paperwork Reduction Act*

The information collection requirements contained in this rulemaking are pursuant to the Paperwork Reduction Act, 44 U.S.C.

Chapter 35 and OMB Control Number 1405–0147, expiring on November 30, 2013.

**List of Subjects in 22 CFR Part 62**

Cultural Exchange Program.

Accordingly, 22 CFR part 62 is proposed to be amended as follows:

**PART 62—EXCHANGE VISITOR PROGRAM**

■ 1. The authority citation for part 62 continues to read as follows:

**Authority:** 8 U.S.C. 1101(a)(15)(J), 1182, 1184, 1258; 22 U.S.C. 1431–1442, 2451 et seq.; Foreign Affairs Reform and Restructuring Act of 1998, Pub. L. 105–277, Div. G, 112 Stat. 2681 et seq.; Reorganization Plan No. 2 of 1977, 3 CFR, 1977 Comp. p. 200; E.O. 12048 of March 27, 1978; 3 CFR, 1978 Comp. p. 168; the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. 104–208, Div. C, 110 Stat. 3009–546, as amended; Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT ACT), Pub. L. 107–56, Sec. 416, 115 Stat. 354; and the Enhanced Border Security and Visa Entry Reform Act of 2002, Pub. L. 107–173, 116 Stat. 543.

■ 2. Revise § 62.17 to read as follows:

**§ 62.17 Fees and charges.**

(a) Remittances. Fees prescribed within the framework of 31 U.S.C. 9701 must be submitted as directed by the Department and must be in the amount prescribed by law or regulation.

(b) Amounts of fees. The following fees are prescribed.

(1) For filing an application for program designation and/or redesignation (Form DS–3036)—\$3,982.00.

(2) For filing an application for exchange visitor status changes (i.e., extension beyond the maximum duration, change of category, reinstatement, reinstatement-update SEVIS status, ECFMG sponsorship authorization, and permission to issue)—\$367.00.

Dated: January 22, 2013.

**Robin J. Lerner,**

*Deputy Assistant Secretary for Private Sector Exchange, Bureau of Educational and Cultural Affairs, Department of State.*

[FR Doc. 2013–01555 Filed 1–29–13; 8:45 am]

**BILLING CODE 4710–05–P**

**DEPARTMENT OF STATE****22 CFR Parts 121, 123, 124, 125, and 129**

[Public Notice 8166]

RIN 1400–AD18

**Amendment to the International Traffic in Arms Regulations: Revision of U.S. Munitions List Category XVI**

**AGENCY:** Department of State.

**ACTION:** Proposed rule.

**SUMMARY:** As part of the President's Export Control Reform effort, the Department of State proposes to amend the International Traffic in Arms Regulations (ITAR) to revise Category XVI (nuclear weapons related articles) of the U.S. Munitions List (USML). The revisions contained in this rule are part of the Department of State's retrospective plan under E.O. 13563 completed on August 17, 2011. The Department of State's full plan can be accessed at <http://www.state.gov/documents/organization/181028.pdf>.

**DATES:** The Department of State will accept comments on this proposed rule until March 18, 2013.

**ADDRESSES:** Interested parties may submit comments within 45 days of the date of publication by one of the following methods:

- **Email:**

[DDTCResponseTeam@state.gov](mailto:DDTCResponseTeam@state.gov) with the subject line, "ITAR Amendment—Category XVI."

- **Internet:** At [www.regulations.gov](http://www.regulations.gov), search for this notice by using this rule's RIN (1400–AD18).

Comments received after that date will be considered if feasible, but consideration cannot be assured. Those submitting comments should not include any personally identifying information they do not desire to be made public or information for which a claim of confidentiality is asserted because those 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 Web site at [www.pmdtc.state.gov](http://www.pmdtc.state.gov). Parties who wish to comment anonymously may do so by submitting their comments via [www.regulations.gov](http://www.regulations.gov), leaving the fields that would identify the commenter blank and including no identifying information in the comment itself. Comments submitted via [www.regulations.gov](http://www.regulations.gov) are immediately available for public inspection.

**FOR FURTHER INFORMATION CONTACT:** Ms. Candace M. J. Goforth, Director, Office

of Defense Trade Controls Policy, U.S. Department of State, telephone (202) 663-2792, or email [DDTCResponseTeam@state.gov](mailto:DDTCResponseTeam@state.gov). ATTN: Regulatory Change, USML Category XVI.

**SUPPLEMENTARY INFORMATION:** The Directorate of Defense Trade Controls (DDTC), U.S. Department of State, administers the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120-130). The items subject to the jurisdiction of the ITAR, *i.e.*, “defense articles,” are identified on the ITAR’s U.S. Munitions List (USML) (22 CFR 121.1). With few exceptions, items not subject to the export control jurisdiction of the ITAR are subject to the jurisdiction of the Export Administration Regulations (“EAR,” 15 CFR parts 730-774, which includes the Commerce Control List (CCL) in Supplement No. 1 to part 774), administered by the Bureau of Industry and Security (BIS), U.S. Department of Commerce. Both the ITAR and the EAR impose license requirements on exports and reexports. Items not subject to the ITAR or to the exclusive licensing jurisdiction of any other agency of the U.S. government, such as the Department of Energy, are subject to the EAR.

#### Export Control Reform Update

The Departments of State and Commerce described in their respective Advanced Notices of Proposed Rulemaking (ANPRM) in December 2010 the Administration’s plan to make the USML and the CCL positive, tiered, and aligned so that eventually they can be combined into a single control list (*see* “Commerce Control List: Revising Descriptions of Items and Foreign Availability,” 75 FR 76664 (December 9, 2010) and “Revisions to the United States Munitions List,” 75 FR 76935 (December 10, 2010)). The notices also called for the establishment of jurisdictional “bright lines” between items controlled by the Department of State and items other departments, primarily the Department of Commerce, control. This notice seeks to draw a jurisdictional bright line, but largely with respect to items that are now subject to the jurisdiction of the Department of Energy.

#### Revision of Category XVI

This proposed rule removes most of the articles enumerated in USML Category XVI (nuclear weapons related articles). The provisions of 22 CFR parts 120-130 do not apply to all equipment, technical data, or services currently described in Category XVI to the extent

that exports of most such equipment, technical data, or services are under the control of the Department of Energy pursuant to the Atomic Energy Act of 1954, as amended, and the Nuclear Non-Proliferation Act of 1978, as amended, or is a government transfer authorized pursuant to these Acts.

The only articles now covered under Category XVI that would remain subject to USML control are modeling or simulation tools that model or simulate the environments generated by nuclear detonations or the effects of these environments on systems, subsystems, components, structures, or humans, and technical data and defense services directly related to those defense articles. In addition, nuclear radiation detection and measurement devices currently controlled in paragraph (c) would become subject to the jurisdiction of the Department of Commerce under already existing Export Control Classification Number (ECCN) 1A004.c.2 or 2A291.e.

Conforming changes are made to ITAR parts 123, 124, 125, and 129 to remove reference to USML Category XVI. In addition, Supplement No. 1 to Part 126 will be revised to remove the following entries: (1) Nuclear weapons strategic delivery systems and all components, parts, accessories, and attachments specifically designed for such systems and associated equipment; (2) defense articles and services specific to design and testing of nuclear weapons; and (3) nuclear radiation measuring devices manufactured to military specifications.

#### Request for Comments

As the U.S. Government works through the proposed revisions to the USML, some solutions have been adopted that were determined to be the best of available options. With the thought that multiple perspectives would be beneficial to the USML revision process, the public is asked to provide specific examples of nuclear-related items whose jurisdiction would be in doubt based on this revision. In particular, the Department seeks comments on whether the proposed paragraph (b) is appropriately captured in USML Category XVI or if there is a more suitable control within the USML or CCL.

#### Regulatory Analysis and Notices

##### *Administrative Procedure Act*

The Department of State is of the opinion that controlling the import and export of defense articles and services is a foreign affairs function of the United States Government and that rules implementing this function are exempt

from sections 553 (rulemaking) and 554 (adjudications) of the Administrative Procedure Act (APA). Although the Department is of the opinion that this rule is exempt from the rulemaking provisions of the APA, the Department is publishing 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. As noted above, and also without prejudice to the Department position that this rulemaking is not subject to the APA, the Department previously published a related Advance Notice of Proposed Rulemaking (RIN 1400-AC78) on December 10, 2010 (75 FR 76935), and accepted comments for 60 days.

##### *Regulatory Flexibility Act*

Since the Department is of the opinion that this proposed rule is exempt from the provisions of 5 U.S.C. 553, there is no requirement for an analysis under the Regulatory Flexibility Act.

##### *Unfunded Mandates Reform Act of 1995*

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

##### *Small Business Regulatory Enforcement Fairness Act of 1996*

This proposed rulemaking 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 proposed rulemaking will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this proposed rulemaking does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and

activities do not apply to this proposed rulemaking.

#### *Executive Orders 12866 and 13563*

Executive Orders 13563 and 12866 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). These Executive Orders stress the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. These rules have been designated “significant regulatory actions,” although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, this proposed rule has been reviewed by the Office of Management and Budget (OMB).

#### *Executive Order 12988*

The Department of State has reviewed the proposed rulemaking 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.

#### *Executive Order 13175*

The Department of State has determined that this proposed 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 proposed rulemaking.

#### *Paperwork Reduction Act*

Notwithstanding any other provision of law, no person is required to respond to, nor is subject to a penalty for failure to comply with, a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid OMB control number. This proposed rule would affect the following approved collections: (1) Statement of Registration, DS–2032, OMB No. 1405–0002; (2) Application/License for Permanent Export of Unclassified Defense Articles and Related Unclassified Technical Data, DSP–5, OMB No. 1405–0003; (3) Application/License for Temporary Import of Unclassified Defense Articles, DSP–61, OMB No. 1405–0013; (4) Nontransfer and Use Certificate, DSP–83, OMB No. 1405–0021; (5) Application/License for Permanent/

Temporary Export or Temporary Import of Classified Defense Articles and Classified Technical Data, DSP–85, OMB No. 1405–0022; (6) Application/License for Temporary Export of Unclassified Defense Articles, DSP–73, OMB No. 1405–0023; (7) Statement of Political Contributions, Fees, or Commissions in Connection with the Sale of Defense Articles or Services, OMB No. 1405–0025; (8) Authority to Export Defense Articles and Services Sold Under the Foreign Military Sales (FMS) Program, DSP–94, OMB No. 1405–0051; (9) Application for Amendment to License for Export or Import of Classified or Unclassified Defense Articles and Related Technical Data, DSP–6, –62, –74, –119, OMB No. 1405–0092; (10) Request for Approval of Manufacturing License Agreements, Technical Assistance Agreements, and Other Agreements, DSP–5, OMB No. 1405–0093; (11) Maintenance of Records by Registrants, OMB No. 1405–0111; (12) Annual Brokering Report, DS–4142, OMB No. 1405–0141; (13) Brokering Prior Approval (License), DS–4143, OMB No. 1405–0142; (14) Projected Sale of Major Weapons in Support of Section 25(a)(1) of the Arms Export Control Act, DS–4048, OMB No. 1405–0156; (15) Export Declaration of Defense Technical Data or Services, DS–4071, OMB No. 1405–0157; (16) Request for Commodity Jurisdiction Determination, DS–4076, OMB No. 1405–0163; (17) Request to Change End-User, End-Use, and/or Destination of Hardware, DS–6004, OMB No. 1405–0173; (18) Request for Advisory Opinion, DS–6001, OMB No. 1405–0174; (19) Voluntary Disclosure, OMB No. 1405–0179; and (20) Technology Security/Clearance Plans, Screening Records, and Non-Disclosure Agreements Pursuant to 22 CFR 126.18, OMB No. 1405–0195. The Department of State believes there will be minimal changes to these collections. The Department of State believes the combined effect of all rules to be published moving commodities from the USML to the EAR as part of the Administration’s Export Control Reform would decrease the number of license applications by approximately 30,000 annually. The Department of State is looking for comments on the potential reduction in burden.

#### **List of Subjects in Part 121, 123, 124, 125, and 129**

Arms and munitions, Exports.

Accordingly, for the reasons set forth above, Title 22, Chapter I, Subchapter M, parts 121, 123, 124, 125, and 129 are proposed to be amended as follows:

## **PART 121—THE UNITED STATES MUNITIONS LIST**

■ 1. The authority citation for part 121 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); E.O. 11958, 42 FR 4311; 3 CFR, 1977 Comp. p. 79; 22 U.S.C. 2651a; Pub. L. 105–261, 112 Stat. 1920.

■ 2. Section 121.1 is amended by revising U.S. Munitions List Category XVI to read as follows:

### **§ 121.1 General. The United States Munitions List.**

\* \* \* \* \*

#### **Category XVI—Nuclear Weapons Related Articles**

- (a) [Reserved]  
 (b) Modeling or simulation tools that model or simulate the environments generated by nuclear detonations or the effects of these environments on systems, subsystems, components, structures, or humans.  
 (c) [Reserved]  
 (d) [Reserved]  
 (e) Technical data (*see* § 120.10 of this subchapter) and defense services (*see* § 120.9 of this subchapter) directly related to the defense articles enumerated in paragraph (b) of this category. (*See* § 123.20 of this subchapter for nuclear related controls and § 125.4 of this subchapter for exemptions.)

## **PART 123—LICENSES FOR THE EXPORT OF DEFENSE ARTICLES**

■ 3. 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.

■ 4. Section 123.20 is amended by revising paragraph (a) to read as follows:

### **§ 123.20 Nuclear related controls.**

- (a) The provisions of this subchapter do not apply to equipment, technical data, or services in Category VI and Category XX of § 121.1 of this subchapter to the extent that the export of such equipment, technical data, or services is controlled by the Department of Energy pursuant to the Atomic Energy Act of 1954, as amended, and the Nuclear Non-Proliferation Act of 1978, as amended, or is a government transfer authorized pursuant to these Acts, or is controlled by the Department of Commerce pursuant to the Export Administration Regulations.

\* \* \* \* \*

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

■ 5. 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); 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; Pub. L. 111–266.

■ 6. Section 124.2 is amended by revising introductory paragraph (c), removing paragraphs (c)(5)(iii), (c)(5)(ix), and (c)(5)(xi), redesignating paragraphs (c)(5)(iv), (c)(5)(v), (c)(5)(vi), (c)(5)(vii), (c)(5)(viii), (c)(5)(x), (c)(5)(xii), and (c)(5)(xiii) as (c)(5)(iii), (c)(5)(iv), (c)(5)(v), (c)(5)(vi), (c)(5)(vii), (c)(5)(viii), (c)(5)(ix), and (c)(5)(x), respectively, and then revising redesignated paragraphs (c)(5)(iv), (c)(5)(vii), and (c)(5)(x), to read as follows:

**§ 124.2 Exemptions for training and military service.**

\* \* \* \* \*

(c) In addition to the basic maintenance training exemption provided in paragraph (a) of this section and the basic maintenance information exemption in § 125.4(b)(5) of this subchapter, no technical assistance agreement is required for maintenance training or the performance of maintenance, including the export of supporting unclassified technical data, to NATO countries, Australia, Japan, and Sweden when the following criteria can be met:

\* \* \* \* \*

(5) \* \* \*

\* \* \* \* \*

(iv) Gas turbine engine hot section components covered by USML Category XIX(f)(2);

\* \* \* \* \*

(vii) Chemical agents listed in USML Category XIV(a), biological agents listed in USML Category XIV(b), and equipment listed in USML Category XIV(f)(1)(i) for dissemination of the chemical and biological agents listed in USML Categories XIV(a) and (b);

\* \* \* \* \*

(x) Articles covered by USML Categories XVII and XXI.

\* \* \* \* \*

**PART 125—LICENSES FOR THE EXPORT OF TECHNICAL DATA AND CLASSIFIED DEFENSE ARTICLES**

■ 7. The authority citation for part 125 continues to read as follows:

**Authority:** Secs. 2 and 38, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778); E.O.

11958, 42 FR 4311; 3 CFR, 1977 Comp. p. 79; 22 U.S.C. 2651a.

■ 8. Section 125.1 is amended by revising paragraph (e) to read as follows:  
\* \* \* \* \*

**§ 125.1 Exports subject to this part.**

(e) The provisions of this subchapter do not apply to technical data related to articles in Category VI(e) and Category XX(b) of § 121.1 of this subchapter, to the extent that the export of such data is controlled by the Department of Energy pursuant to the Atomic Energy Act of 1954, as amended, and the Nuclear Non-Proliferation Act of 1978, as amended.

**PART 129—REGISTRATION AND LICENSING OF BROKERS**

■ 9. The authority citation for part 129 continues to read as follows:

**Authority:** Sec. 38, Pub. L. 104–164, 110 Stat. 1437, (22 U.S.C. 2778).

■ 10. Section 129.7 is amended by removing and reserving paragraphs (a)(1)(ii) and (a)(1)(iii), as follows:

**§ 129.7 Prior approval (license).**

(a) \* \* \*

(1) \* \* \*

(ii) [Reserved]

(iii) [Reserved]

\* \* \* \* \*

Dated: January 22, 2013.

**Rose E. Gottemoeller,**

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

[FR Doc. 2013–01825 Filed 1–29–13; 8:45 am]

**BILLING CODE 4710–25–P**

**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Part 1**

**[REG–130074–11]**

**RIN 1545–BK54**

**Rules Relating to Additional Medicare Tax; Correction**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correction to notice of proposed rulemaking and notice of public hearing.

**SUMMARY:** This document contains corrections to a notice of proposed rulemaking and notice of public hearing (REG–130074–11) that was published in the **Federal Register** on Wednesday, December 5, 2012 (77 FR 72268). The proposed regulations are relating to

Additional Hospital Insurance Tax on income above threshold amounts (“Additional Medicare Tax”), as added by the Affordable Care Act. Specifically, these proposed regulations provide guidance for employers and individuals relating to the implementation of Additional Medicare Tax.

**FOR FURTHER INFORMATION CONTACT:** Andrew K. Holubeck or Ligeia M. Donis at (202) 622–6040 (not a toll free number).

**SUPPLEMENTARY INFORMATION:**

**Background**

The notice of proposed rulemaking and notice of public hearing (REG–130074–11) that is the subject of these corrections is under Section 1.1401–1 of the Income Tax Regulations.

**Need for Correction**

As published, the notice of proposed rulemaking and notice of public hearing (REG–130074–11) contains errors that may prove to be misleading and are in need of clarification.

**Correction of Publication**

Accordingly, the notice of proposed rulemaking and notice of public hearing (REG–130074–11), that was the subject of FR Doc. 2012–29237, is corrected as follows:

1. On page 72268, in the preamble, column 2, under the caption **DATES**, line 6, the language “Must be received by March 5, 2013.” is corrected to read “Must be received by February 28, 2013.”.

2. On page 72272, in the preamble, column 3, under the paragraph heading “Comments and Public Hearing”, line 16, the language “www.regulations.gov. or upon request. A” is corrected to read “www.regulations.gov or upon request. A”.

3. On page 72273, in the preamble, column 1, under the paragraph heading “Drafting Information”, line 3, the language “Gerstein and Ligeia M. Donis of the” is corrected to read “Gerstein, formerly of the Office of the Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities), Andrew Holubeck and Ligeia M. Donis of the”.

**LaNita VanDyke,**

*Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).*

[FR Doc. 2013–01885 Filed 1–29–13; 8:45 am]

**BILLING CODE 4830–01–P**