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DEPARTMENT OF STATE

22 CFR Part 123

RIN 1400-AD07

[Public Notice 8371]

International Traffic in Arms Regulations: Canadian Firearms Components

Exemption

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Department of State is amending the International Traffic in Arms Regulations to implement a statutory provision regarding the exemption from licensing for export to Canada of firearms components not exceeding \$500 in value.

DATES: This rule is effective [insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Ms. Sarah J. Heidema, Acting Director, Office of Defense Trade Controls Policy, Department of State, telephone (202) 663-2792, e-mail DDTCResponseTeam@state.gov. ATTN: Part 123, Canadian Firearms Components Exemption.

SUPPLEMENTARY INFORMATION: The Department of State is amending the International Traffic in Arms Regulations (ITAR) to implement section 520 of the Consolidated and Further Continuing Appropriations Act 2012 (Pub. L. 112-55), which applies to fiscal year 2012 appropriations, as carried forward for fiscal year 2013 by the Full Year Continuing Appropriations Act 2013 (Pub. L. 113-6). The Department has the

authority to regulate the export control program pursuant to the Arms Export Control Act, 22 U.S.C. 2778.

Pursuant to section 520, the Department cannot require a license for the export of certain firearms and firearms components for end-use by the Canadian government with a total transaction value not exceeding \$500 wholesale, and cannot require a license for the export of certain firearms components for end-use in Canada with a total transaction value not exceeding \$500 wholesale. ITAR §123.17 is revised accordingly. In addition, ITAR §123.16(b)(6) is amended to remove the words “for personal use,” as the firearms exemption at ITAR §123.17 includes use of the exemption for an end-use other than personal use.

This rule implements a statutory mandate, and concerns a foreign affairs function of the United States. Therefore, the Department is publishing this as a final rule, and is not soliciting comments.

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. Since the Department is of the opinion that this rule is exempt from 5 U.S.C. 553, it is the view of the Department that the provisions of §553(d) do not apply to this rulemaking. Therefore, this rule is effective upon publication.

Regulatory Flexibility Act

Since the Department is of the opinion that this 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 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.

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 pre-empt tribal law. Accordingly, the provisions of Executive Order 13175 do not apply to this rulemaking.

Small Business Regulatory Enforcement Fairness Act of 1996

This 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 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 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 rulemaking.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess 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. This rule has been designated “significant regulatory actions,” although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, this rule has been reviewed by the Office of Management and Budget (OMB).

Executive Order 12988

The Department of State has reviewed this 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.

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 123

Arms and munitions, Exports, Reporting and recordkeeping requirements.

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 is revised 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. Section 123.16 is amended by revising paragraph (b)(6) to read as follows:

§123.16 Exemptions of general applicability.

* * * * *

(b) * * *

(6) For exemptions for firearms and ammunition refer to §123.17 of this subchapter.

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3. Section 123.17 is amended by revising paragraph (a) to read as follows:

§123.17 Exports of firearms, ammunition, and personal protective gear.

(a) Port Directors of U.S. Customs and Border Protection shall permit the export without a license of:

(1) Parts and components for USML Category I(a) firearms, except barrels, cylinders, receivers (frames), or complete breech mechanisms, when the total value does not exceed \$100 wholesale in any transaction, except to any of the countries or entities as provided in §126.1 of this subchapter;

(2) Parts, components, accessories, or attachments for USML Category I firearms, except barrels, cylinders, receivers (frames), complete breech mechanisms, or fully automatic firearms and parts and components for such firearms, when:

- (i) The total value does not exceed \$500 wholesale in any transaction;
- (ii) The export is to Canada for end-use in Canada or return to the United States, or temporary import into the United States of Canadian-origin items and return to Canada for a Canadian citizen; and
- (iii) The exporter makes a declaration via the Automated Export System, pursuant to §123.22(a) of this subchapter, and the exporter is eligible to export under this exemption, pursuant to §120.1(c) of this subchapter; or

(3) Parts, components, accessories, or attachments for USML Category I firearms, including fully automatic firearms and parts and components for such firearms, when:

- (i) The total value does not exceed \$500 wholesale in any transaction;
- (ii) The export is to Canada for end-use by the Canadian Federal Government, a Canadian Provincial Government, or a Canadian Municipal Government; and
- (iii) The exporter makes a declaration via the Automated Export System, pursuant to §123.22(a) of this subchapter, and the exporter is eligible to export under this exemption, pursuant to §120.1(c) of this subchapter.

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Rose E. Gottemoeller
Acting Under Secretary,
Arms Control and International Security,
Department of State.

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