



22 CFR Part 120

[Public Notice: **11274**]

International Traffic in Arms Regulations: Notification of Temporary Suspension, Modification, or Exception to Regulations

AGENCY: Department of State.

ACTION: Extension of temporary suspensions, modifications, and exceptions.

SUMMARY: The Department of State is issuing this document to inform the public of a second extension to certain temporary suspensions, modifications, and exceptions to certain provisions of the International Traffic in Arms Regulations (ITAR) to provide for continued telework operations during the current SARS-COV2 public health emergency. This extension will terminate on June 30, 2021 unless otherwise extended in writing by the Directorate of Defense Trade Controls (DDTC). This action is taken in order to ensure continuity of operations among members of the regulated community.

DATES: This document is issued [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Ms. Engda Wubneh, Office of Defense Trade Controls Policy, U.S. Department of State,

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ATTN: June 2021 Extension of Suspension, Modification, and Exception.

SUPPLEMENTARY INFORMATION: In March 2020, the President declared a national emergency as a result of the COVID-19 pandemic. On May 1, 2020, the Department of State (the Department) published in the *Federal Register* a notification of certain temporary suspensions, modifications, and exceptions to the ITAR, necessary in order to ensure continuity of operations within the Directorate of Defense Trade Controls (DDTC) and among entities registered with DDTC pursuant to part 122 of the ITAR (85 FR 25287). These actions were taken pursuant to ITAR § 126.2, which allows for the temporary suspension or modification of provisions of the ITAR, and ITAR § 126.3, which allows for exceptions to provisions of the ITAR. These actions were taken in the interest of the security and foreign policy of the United States and warranted as a result of the exceptional and undue hardships and risks to safety caused by the public health emergency related to the SARS-COV2 pandemic.

Subsequently, on June 10, 2020, the Department published in the *Federal Register* a request for comment from the regulated community regarding the efficacy and termination dates of the temporary suspensions, modifications, and exceptions provided in 85 FR 25287, and requesting comment as to whether additional measures should be considered in response to the public health crisis. Of the four temporary suspensions,

modifications, and exceptions to the ITAR announced in the May 1 notification referenced above, DDTC reviewed the public comments and decided to extend two measures until December 31, 2020: 1) ITAR § 120.39(a)(2) allowance for remote work; and 2) authorization to allow remote work under technical assistance agreement, manufacturing agreement, or exemption.

Based upon continued public health recommendations and as informed by responses to request for public comment in June 2020, it is apparent to DDTC that regulated entities will continue to engage in social distancing measures for the foreseeable future. Many commenters, one industry association, and several individual entities endorsed the telework provisions and requested that these measures be effective until the end of the year, if not extended indefinitely. DDTC agreed and extended the two measures until the end of 2020. DDTC is now extending these measures again until June 30, 2021 because DDTC believes that a failure to extend these temporary suspensions, modifications, and exceptions would have a negative impact on regulated entities' ability to safely engage in continued operations in the midst of the ongoing global public health emergency.

This second extension beyond December 31, 2020 is also necessary to provide time for DDTC to consider a permanent revision to the ITAR provisions relating to remote work. Although the Department is of the opinion that the notice and comment requirements of the Administrative

Procedure Act are not applicable, in the coming months the Department intends to provide notice of and solicit comment related to proposed revisions to the ITAR provisions related to remote work. The notice and comment process will require additional time, including to allow DDTC to address any potential revisions through the interagency process.

Pursuant to ITAR §§ 126.2 and 126.3, in the interest of the security and foreign policy of the United States and as warranted by the exceptional and undue hardships and risks to safety caused by the public health emergency related to the SARS-COV2 pandemic, notice is provided that the following temporary suspensions, modifications, and exceptions are being extended as follows:

1. As of March 13, 2020, a temporary suspension, modification, and exception to the requirement that a regular employee, for purposes of ITAR § 120.39(a)(2), work at the company's facilities, to allow the individual to work at a remote work location, so long as the individual is not located in Russia or a country listed in ITAR § 126.1. This suspension, modification, and exception shall terminate on June 30, 2021, unless otherwise extended in writing.
2. As of March 13, 2020, a temporary suspension, modification, and exception to authorize regular employees of licensed entities who are working remotely in a country not currently authorized by a technical assistance agreement, manufacturing license agreement, or exemption

to send, receive, or access any technical data authorized for export, reexport, or retransfer to their employer via a technical assistance agreement, manufacturing license agreement, or exemption so long as the regular employee is not located in Russia or a country listed in ITAR § 126.1. This suspension, modification, and exception shall terminate on June 30, 2021, unless otherwise extended in writing.

This notification makes no other revision to the document published at 85 FR 25287, nor does it make any other temporary suspension, modification, or exception to the requirements of the ITAR.

(Authority: 22 CFR 126.2 and 126.3)

Michael F. Miller,

Deputy Assistant Secretary for Defense Trade Controls,

U.S. Department of State.

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