



## **22 CFR Part 126**

**Public Notice:** [11294]

**RIN 1400-AF19**

### **International Traffic in Arms Regulations: Addition of Russia**

**AGENCY:** Department of State.

**ACTION:** Final rule.

**SUMMARY:** The Department of State is amending the International Traffic in Arms Regulations (ITAR) to include Russia in the list of enumerated countries with respect to which it is the policy of the United States to deny licenses and other approvals for exports and/or imports of defense articles and defense services, except as otherwise provided. This action reflects a policy determination made by the Secretary of State.

**DATES:** The rule is effective on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**FOR FURTHER INFORMATION CONTACT:** Director, Response Team, Directorate of Defense Trade Controls, U.S. Department of State, telephone (202) 663-1282, or e-mail [DDTCCustomerService@state.gov](mailto:DDTCCustomerService@state.gov).

**ATTN:** Regulatory Change, ITAR § 126.1 Russia.

**SUPPLEMENTARY INFORMATION:** On March 1, 2021, the Secretary of State determined pursuant to Section 306(a) of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (“CBW

Act”) that the Government of Russia used chemical weapons in violation of international law or lethal chemical weapons against its own nationals.

Pursuant to this determination, the Department of State published *Federal Register* Notice “Determination Regarding Use of Chemical Weapons by Russia Under the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991” on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. In order to take additional steps to address such use of chemical weapons, the Department is amending ITAR § 126.1(d)(2) to include Russia in the list of countries subject to a policy of denial for exports of defense articles and defense services. An exception is being made to allow for case-by-case review of exports to Russia that support government space cooperation. In addition, an exception, valid for six months from the date of the Secretary of State’s determination, is being made to allow for case-by-case review of exports to Russia when in support of commercial space launches. Further, the Department is amending ITAR § 126.1(a) to allow exporters to use the exemptions provided in ITAR § 126.4(a)(2) and (b)(2) for exports to Russia when in furtherance of government space cooperation.

## **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), pursuant to 5 U.S.C. 553(a)(1). 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 Section 553(d) do not apply to this rulemaking.

*Regulatory Flexibility Act*

Since this rule is exempt from the notice-and-comment provisions of 5 U.S.C. 553(b), it does not require 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 are deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

*Congressional Review Act*

The Department does not believe this rulemaking is a major rule within the definition of 5 U.S.C. 804.

*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 proposed 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 rulemaking.

*Executive Orders 12866 and 13563*

Executive Orders 12866 and 13563 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). Because the scope of this rule implements a governmental policy limiting defense trade with a country, and does not impose additional regulatory requirements or obligations, the Department believes costs associated with this rule will be minimal. This rule has not been designated a “significant regulatory action” by the Office and Information and Regulatory Affairs under Executive Order 12866.

*Executive Order 12988*

The Department of State has reviewed this rulemaking in light 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 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 rulemaking.

*Paperwork Reduction Act*

This rulemaking does not impose or revise any information collections subject to 44 U.S.C. Chapter 35.

**List of Subjects in 22 CFR Part 126**

Arms and munitions, Exports

For the reasons set forth above, title 22, chapter I, subchapter M, part 126 is amended as follows:

**PART 126 – GENERAL POLICIES AND PROVISIONS**

1. The authority citation for part 126 continues to read as follows:

**Authority:** 22 U.S.C. 2752, 2778, 2780, 2791, and 2797; 22 U.S.C. 2651a; 22 U.S.C. 287c; Sec. 1225, Pub. L. 108-375; Sec. 7089, Pub. L. 111-117; Pub. L. 111-266; Sections 7045 and 7046, Pub. L. 112-74; E.O. 13637, 78 FR 16129.

2. Section 126.1 is amended by revising the second sentence in

paragraph (a), revising the table in paragraph (d)(2), and adding paragraph (l) to read as follows:

**§ 126.1 Prohibited exports, imports, and sales to or from certain countries.**

\* \* \* \* \*

(a) \* \* \* The exemptions provided in this subchapter, except §§ 123.17, 126.4(a)(1) or (3) and (b)(1), and 126.4(a)(2) or (b)(2) when the export is destined for Russia and in support of government space cooperation, and § 126.6, or when the recipient is a U.S. government department or agency, do not apply with respect to defense articles or defense services originating in or for export to any proscribed countries, areas, or persons. \* \* \*

(d) \* \* \*

(2) \* \* \*

<b>Country</b>	<b>Country specific paragraph location</b>
Afghanistan	See also paragraph (g) of this section.
Central African Republic	See also paragraph (u) of this section.
Cyprus	See also paragraph (r) of this section.
Democratic Republic of Congo	See also paragraph (i) of this section.
Eritrea	See also paragraph (h) of this section.
Haiti	See also paragraph (j) of this section.
Iraq	See also paragraph (f) of this section.
Lebanon	See also paragraph (t) of this section.
Libya	See also paragraph (k) of this section.
Russia	See also paragraph (l) of this section.
Somalia	See also paragraph (m) of this section.
South Sudan	See also paragraph (w) of this section.
Sudan	See also paragraph (v) of this section.
Zimbabwe	See also paragraph (s) of this section.

\* \* \* \* \*

(l) *Russia*. It is the policy of the United States to deny licenses or other approvals for exports of defense articles and defense services destined for Russia, except that a license or other approval may be issued, on a case-by-case basis:

(1) For government space cooperation; and

(2) Prior to September 1, 2021, for commercial space launches.

\* \* \* \* \*

**Zachary A. Parker,**

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*Department of State.*

Billing Code 4710-25

[FR Doc. 2021-05530 Filed: 3/17/2021 8:45 am; Publication Date: 3/18/2021]