



## First Round of ITAR Restructuring Amendments Go Into Effect September 6, 2022

**09.06.2022**

The Directorate of Defense Trade Controls (DDTC) has embarked on a series of revisions to the International Traffic In Arms Regulations (ITAR) to clarify and better organize the ITAR. The first round of revisions is to Part 120 to consolidate the purposes and definitions of the regulations. These amendments become effective on September 6, 2022. These are expected to be followed by additional rounds of amendments to other parts of the ITAR. This is the first comprehensive review of the regulations outside of export control reform since the major set of amendments adopted in 1993[1]

On March 23, 2022 the State Department published an Interim Final Rule in the Federal Register announcing a comprehensive "multi-year multi-rule project" to revise the ITAR (available here). In the release, the agency announced its intent to adopt a series of rulemakings to streamline and clarify the subchapter. The release also set out the first round of revisions for Part 120 these are referred to by DDTC as "ITAR Reorg I." The release requested public comments to be submitted until May 9, 2022.

The revisions to Part 120 that are becoming effective currently consist of changes to "consolidate and co-locate authorities, general guidance and definitions that have become dispersed throughout the regulations." The new Part 120 is divided into three subparts that are intended to provide a "roadmap" for the full ITAR: Subpart A: General Information, which consolidates and explains the legislative authority and purpose of the regulations; Subpart B: General Policies and Processes, which outlines the general processes and policies of the ITAR; and Subpart C: Definitions, which provides a consolidated list of defined terms that are applicable throughout the ITAR.[2]

The release states that the amendments are not intended to make substantive changes to the regulations, but rather are designed to keep substantive amendments to a minimum. The notice states:

In making these generally applicable revisions, and necessary revisions to individual sections, DDTC tried to keep substantive revisions to a minimum. The goal of the first reorganization rule is to improve clarity, not to revise existing policies and procedures or impose new regulatory requirements on the regulated community. Summary? p. 1.

While the changes are not intended to be substantive, however, the description of authorities, general policies and definitions are an important foundation in interpreting the remainder of the regulations and hence a critical part of the ITAR picture.

A listing of the new sections to be included in Part 120, divided into the three Subparts, is set out in Exhibit A below.

DDTC has published a series of tools for parties to use in reviewing the revised regulations ? these are:

- Summary of Changes to International Traffic In Arms Regulations ? ITAR Reorg I ? Available here.
- Table of Moves, Edits, Removals, and Additions: Available here.
- Part 120 Redline Showing the Revisions: (Available on the DDTC website).

We expect that DDTC may issue an additional Federal Register Notice regarding any final ?fine tuning? and ?clean-up? changes to the revised Part 120 shortly, and this should be reviewed in conjunction with the revised Part 120 set out in the Interim Final Rule.

Parties should also watch for additional sets of revisions beyond ITAR Reorg I for revisions to other sections of the regulations in the future. In addition, interested parties may wish to submit comments on future proposed revisions to assist DDTC in this important task.

## **EXHIBIT A ? Revised Table of Contents to ITAR Part 120**

Part 120 as revised by the Interim Final Rule would contain the following sections:

### PART 120?PURPOSE AND DEFINITIONS

#### Subpart A?General Information

120.1 General authorities.

120.2 Designation of defense articles and defense services.

120.3 Policy on designating or determining defense articles and services on the U.S. Munitions List.

120.4 Commodity jurisdiction.

120.5 Relation to regulations of other agencies.

120.6 U.S. criminal statutes.

120.7 Relations to other provisions of law.

120.8-120.9 [Reserved]

## Subpart B?General Policies and Processes

- 120.10 Introduction to the U.S. Munitions List.
- 120.11 Order of review.
- 120.12 Commodity jurisdiction determination requests.
- 120.13 Registration.
- 120.14 Licenses and related authorizations.
- 120.15 Exemptions.
- 120.16 Eligibility for approvals.
- 120.17 End-use monitoring.
- 120.18 Denial, revocation, suspension, or amendment of licenses and other approvals.
- 120.19 Violations and penalties.
- 120.20 Administrative procedures.
- 120.21 Disclosure of information.
- 120.22 Advisory opinions and related authorizations.
- 120.23 Organizations and arrangements.
- 120.24-120.29v [Reserved]

## Subpart C?Definitions

- 120.30 Directorate of Defense Trade Controls.
- 120.31 Defense article.
- 120.32 Defense service.
- 120.33 Technical data.
- 120.34 Public domain.
- 120.35 [Reserved]
- 120.36 Significant military equipment.
- 120.37 Major defense equipment.
- 120.38 Classified.
- 120.39 Foreign defense article or defense service.
- 120.40 Compositional terms.
- 120.41 Specially designed.
- 120.42 Form, fit, function, performance capability, equivalent, enumerated, and catch-all control.
- 120.43 Development, production, and related terms; Basic and applied research.
- 120.44 [Reserved]
- 120.45 Maintenance levels.
- 120.46-120.49 [Reserved]
- 120.50 Export.
- 120.51 Reexport.
- 120.52 Retransfer.
- 120.53 Temporary import.
- 120.54 Activities that are not exports, reexports, retransfers, or temporary imports.
- 120.55 Access information.
- 120.56 Release.

- 120.57 Authorization types.
- 120.58 Subject to the Export Administration Regulations (EAR).
- 120.59 [Reserved]
- 120.60 United States.
- 120.61 Person.
- 120.62 U.S. person.
- 120.63 Foreign person.
- 120.64 Regular employee.
- 120.65 Foreign ownership and foreign control.
- 120.66 Affiliate.
- 120.67 Empowered official.
- 120.68 Party to the export.
- 120.69 Port Directors.

[1] See 58 FR 39280 (July 22, 1993).

[2] See Summary of Changes to International Traffic In Arms Regulations ? ITAR Reorg I - Available here.

## Related People

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## Related Services

- Customs & International Trade
- ITAR, Export Controls and Economic Sanctions