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DEPARTMENT OF STATE

[Public Notice: 9550]

Bureau of Political-Military Affairs; Modification of Statutory Debarment Imposed Pursuant to Section 127.7(c) of the International Traffic in Arms Regulations - Rocky Mountain Instrument Company

ACTION: Notice

SUMMARY: Notice is hereby given that the Department of State will consider license applications for the indirect participation of Rocky Mountain Instrument Company (“RMI”) in certain transactions subject to the Arms Export Control Act (AECA) (22 U.S.C 2778) without the submission of a transaction exception request as an element of the application.

DATES: This notice is effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Sue Gainor, Director, Office of Defense Trade Controls Compliance, Bureau of Political-Military Affairs, U.S. Department of State (202) 632-2785

SUPPLEMENTARY INFORMATION: On September 8, 2010, the Department notified the public of a statutory debarment imposed on RMI

pursuant to ITAR § 127.7(c) related to RMI's criminal conviction, 75 FR 54692. The notice provided that RMI is "prohibited from participating directly or indirectly in the export of defense articles, including technical data, or in the furnishing of defense services for which a license or other approval is required." Further, the notice provided that:

Exceptions, also known as transaction exceptions, may be made to this debarment determination on a case-by-case basis at the discretion of the Assistant Secretary of State for Political-Military Affairs, after consulting with the appropriate U.S. agencies. However, such an exception would be granted only after a full review of all circumstances, paying particular attention to the following factors: Whether an exception is warranted by overriding U.S. foreign policy or national security interests; whether an exception would further law enforcement concerns that are consistent with the foreign policy or national security interests of the United States; or whether other compelling circumstances exist that are consistent with the foreign policy or national security interests of the United States, and that do not conflict with law enforcement concerns. Even if exceptions are granted, the debarment continues until subsequent reinstatement.

Notwithstanding the prohibition on indirect participation referenced in the original notice of statutory debarment, and in conformance with the stated policy and procedures regarding transaction exceptions, based on overriding national security and foreign policy concerns and after a thorough review of the circumstances surrounding the conviction and a finding that appropriate steps have been taken to mitigate law enforcement concerns, the Under Secretary for Arms Control and International Security has determined to approve specific exceptions from the debarment of RMI, available to persons other than RMI but excluding persons acting for or on behalf of RMI in contravention of ITAR § 127.1(d), for the following categories of authorization requests:

1. Applications submitted by persons other than RMI for the export or temporary import of defense articles manufactured by RMI (i.e., where RMI is identified as a Source or Manufacturer);
2. Application submitted by persons other than RMI for the export or temporary import of defense articles manufactured by persons other than RMI which incorporate a defense article manufactured by RMI as a component, accessory, attachment, part, firmware, software, or system;

3. The use of other approvals (*see* ITAR § 120.20) by persons other than RMI for the export or temporary import of defense articles described in categories one (1) and two (2) above; and
4. Applications submitted by persons other than RMI for agreements identified in ITAR Part 124 in which RMI is identified as a U.S. signatory to the agreement.

All requests for authorizations, or use of exemptions, involving RMI that fall within the scope of the specific categories above will be reviewed and action taken by the Directorate of Defense Trade Controls in the ordinary course of business and do not require the submission of a separate transaction exception request, but should include reference to, or a copy of, this notice. Including an explanation of how the proposed transaction falls within the scope of an exception category above will facilitate review of the request.

All requests for authorizations involving RMI that do not fall within the scope of the specific categories above must be preceded by the approval of a transaction exception request by the Department. The decision to grant a transaction exception will be made on a case-by-case basis after a full review of all circumstances.

This notice does not provide notice of reinstatement of export privileges for RMI pursuant to the statutory requirements of AECA Sec. 38(g)(4) (22 U.S.C.

2778), nor does this notice provide notice of rescission of the imposition of statutory debarment of RMI pursuant to ITAR § 127.7(c). As required by the statute, the Department will not consider applications from RMI unless accompanied by a specific transaction exception request. Any determination by the Department regarding reinstatement of export privileges for RMI or rescission of the imposition of statutory debarment of RMI will be made in accordance with statutory and regulatory requirements and will be the subject of a separate notice.

Dated: April 25, 2016.

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

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