



This document is scheduled to be published in the Federal Register on 07/29/2020 and available online at [federalregister.gov/d/2020-15777](https://www.federalregister.gov/d/2020-15777), and on [govinfo.gov](https://www.govinfo.gov)

DEPARTMENT OF STATE

22 CFR Part 120

[Public Notice: 11157]

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 an extension to certain temporary suspensions, modifications, and exceptions for the durations described herein to certain provisions of the International Traffic in Arms Regulations (ITAR) in order to provide for continued telework operations during the current SARS-COV2 public health emergency. These actions are taken in order to ensure continuity of operations within the Directorate of Defense Trade Controls (DDTC) and among members of the regulated community.

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

FOR FURTHER INFORMATION CONTACT: Sarah Heidema, Office of Defense Trade Controls Policy, U.S. Department of State, telephone (202) 663-1282, or e-mail DDTCResponseTeam@state.gov. ATTN: Extension of Suspension, Modification, and Exception.

SUPPLEMENTARY INFORMATION: On May 1, 2020, the Directorate of Defense Trade Controls (DDTC) 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 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. The President declared a national emergency on March 13, 2020, as a result of this public health crisis.¹

Subsequently, on June 10, 2020 (85 FR 35376), DDTC 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. DDTC received comments from several individual entities and from an industry association. DDTC appreciates the efforts expended by those commenters and took all comments under consideration. In the interest of providing this notice as expeditiously as possible, DDTC will not address each of the comments in turn, but will provide this abridged response. Of the four temporary suspensions, modifications, and exceptions to the ITAR announced in the May 1 notice referenced above, DDTC is allowing number 1 (extension of registrations) and number 2 (duration of ITAR licenses and agreements) to terminate in accordance with the timelines provided therein. The remaining two temporary suspensions, modifications, and

¹ Proclamation 9994 of March 13, 2020, 85 FR 15337 (Mar. 18, 2020).

exceptions, number 3 (§ 120.39(a)(2) allowance for remote work) and number 4 (authorization to allow remote work under technical assistance agreement, manufacturing agreement, or exemption) are extended and shall terminate on December 31, 2020.

The majority of the commenters requested that the telework provisions (numbers 3 and 4) be extended and DDTC agrees. Based upon continued public health recommendations and as informed by responses to request for public comment, it is apparent to DDTC that regulated entities will continue to engage in social distancing measures for the foreseeable future. In order to accommodate teleworking and decentralized workplaces, several commenters recommended extending these temporary modifications through at least the end of October or this calendar year. DDTC is extending the temporary modifications through the end of the calendar year in order to provide regulated entities with staffing flexibilities in the immediate term. DDTC will use this period to fully investigate the possibility and ramifications of making this modification, or a variation thereof, a permanent revision to the ITAR. If necessary, this extension will provide an opportunity to utilize notice and comment rulemaking and to address potential revisions through the interagency process. An extension of this length also will provide an extended operational window for regulated entities during the course of the public health crisis. DDTC believes that a failure to extend these temporary suspensions, modifications, and exceptions will have a negative impact on regulated entities' ability to safely engage in continued operations. As persons and entities subject to the regulations or operating pursuant to a license or other approval are located around the world, it is apparent that physical presence may contradict public health guidance or

legal requirements in many instances. For these reasons, DDTC is extending the termination date prescribed in 85 FR 25287, items number 3 and number 4.

The temporary suspension, modification, and exception to the requirement in ITAR parts 122 and 129 to renew registration as a manufacturer, exporter, and/or broker and pay a fee on an annual basis described at number 1 of 85 FR 25287, is not being extended to subsequent registrations. DDTC did not receive any request from industry for additional extensions to registrations that terminate after June 30. To the contrary, several commenters expressed their appreciation for the original action, but noted that any extension would be unnecessary. DDTC's experience since the original temporary suspension, modification, and exception is that registrants are able to use DDTC's DECCS online system for the purpose of registration in the normal course of business.

The temporary suspension, modification, and exception to the limitations on the duration of ITAR licenses and agreements described at number 2 of 85 FR 25287, is not extended. Although several commenters expressed appreciation for the original action, one commenter indicated a preference that it not be extended. Although three commenters did request extension for various reasons, DDTC is not accepting those requests. DDTC notes that the majority of commenters did not make such a request, and that of those that did, some of the reasons related to internal DDTC operations and coordination with other areas of the government. DDTC believes that progress is being made on those matters and that continued extensions to all existing authorizations is an overbroad response to the current situation. DDTC, its interagency partners, and the regulated entities have had several months to adjust to the current situation and DDTC

believes it is prepared to handle authorizations in accordance with its statutory requirements.

DDTC further notes that several commenters requested additional measures be taken by DDTC. DDTC is not adopting any of those measures at this time. Although DDTC is not providing individual responses to those requests, DDTC notes generally that several of the requests would involve major infrastructure revisions to DDTC automated systems and are therefore not feasible as temporary suspensions, modifications, or exceptions; others were outside the scope of the request; and others involved matters of internal policy and practice and not regulatory matters. For all regulatory matters recommended, DDTC will continue to consider those that may merit future possibility of action.

Therefore, 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 December 31, 2020, 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 December 31, 2020, unless otherwise extended in writing.

This notice makes no other revision to the notice 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)

Zachary A. Parker,

Director,

Office of Directives Management,

U.S. Department of State.

Billing Code: 4710-25

[FR Doc. 2020-15777 Filed: 7/28/2020 8:45 am; Publication Date: 7/29/2020]