

## § 123.23

U.S. Port shall be made in accordance with § 125.4 of this subchapter and made in accordance with the procedures in paragraph (b)(3)(iii) of this section.

(iii) *Technical data and defense service exemptions.* In any instance when technical data is exported using an exemption in this subchapter (e.g., §§ 125.4(b)(2), 125.4(b)(4), 126.5) from a U.S. port, the exporter is not required to report using AES, but must, effective January 18, 2004, provide the export data electronically to DDTC. A copy of the electronic notification to DDTC must accompany the technical data shipment and be made available to the Bureau of Customs and Border Protection upon request.

NOTE TO PARAGRAPH (b)(3)(iii): Future changes to the electronic reporting procedure will be amended by publication of a rule in the FEDERAL REGISTER. Exporters are reminded to continue maintaining records of all export transactions, including exemption shipments, in accordance with this subchapter.

(c) *Return of licenses.* All licenses issued by the Directorate of Defense Trade Controls (DDTC) must be returned to the DDTC in accordance with the following:

(1) *License filed with the Bureau of Customs and Border Protection.* The Bureau of Customs and Border Protection must return to the DDTC any license when the total value or quantity authorized has been shipped or when the date of expiration is reached, whichever occurs first.

(2) *Licenses not filed with the Bureau of Customs and Border Protection.* Any license that is not filed with the Bureau of Customs and Border Protection (e.g., oral or visual technical data releases or temporary import and export licenses retained in accordance with paragraph (a)(2) of this section), must be returned by the applicant to the DDTC no later than 60 days after the license has been expended (e.g., total value or quantity authorized has been shipped) or the date of expiration, whichever occurs first.

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## § 123.23 Monetary value of shipments.

District Directors of Customs shall permit the shipment of defense articles identified on any license when the

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total value of the export does not exceed the aggregate monetary value (not quantity) stated on the license by more than ten percent, provided that the additional monetary value does not make the total value of the license or other approval for the export of any major defense equipment sold under a contract reach \$14,000,000 or more, and provided that the additional monetary value does not make defense articles or defense services sold under a contract reach the amount of \$50,000,000 or more.

## § 123.24 Shipments by U.S. Postal Service.

(a) The export of any defense hardware using a license or exemption in this subchapter by the U.S. Postal Service must be filed with the Bureau of Customs and Border Protection using the Automated Export System (AES) and the license must be filed with the Bureau of Customs and Border Protection before any hardware is actually sent abroad by mail. The exporter must certify the defense hardware being exported in accordance with this subchapter by clearly marking on the package “This export is subject to the controls of the ITAR, 22 CFR (identify section for an exemption) or (state license number) and the export has been electronically filed with the Bureau of Customs and Border Protection using the Automated Export System (AES).”

(b) The export of any technical data using a license in this subchapter by the U.S. Postal Service must be notified electronically directly to the Directorate of Defense Trade Controls (DDTC). The exporter, using either a license or exemption, must certify, by clearly marking on the package, “This export is subject to the controls of the ITAR, 22 CFR (identify section for an exemption) or (state license number).” For those exports using a license, the exporter must also state “The export has been electronically notified directly to DDTC.” The license must be returned to DDTC upon completion of the use of the license (*see* § 123.22(c)).

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## § 123.25 Amendments to licenses.

(a) The Office of Defense Trade Controls may approve an amendment to a