

higher learning, a governmental research center or an established government funded private research center located within the countries identified in § 123.16(b)(10)(i) of this subchapter; and

(iii) Limited to discussions on assembly of any article described in § 123.16(b)(10) of this subchapter and or integrating any such article into a scientific, research, or experimental satellite.

(2) The exemption in paragraph (d)(1) of this section, while allowing accredited U.S. institutions of higher learning to participate in technical meetings with foreign nationals from countries specified in § 123.16(b)(10)(i) of this subchapter for the purpose of conducting space scientific fundamental research either in the United States or in these countries when working with information that meets the requirements of § 120.11 of this subchapter in activities that would generally be controlled as a defense service in accordance with § 124.1(a) of this subchapter, does not cover:

(i) Any level of defense service or information involving launch activities including the integration of the satellite or spacecraft to the launch vehicle;

(ii) Articles and information listed in the Missile Technology Control Regime (MTCR) Annex or classified as significant military equipment; or

(iii) The transfer of or access to technical data, information, or software that is otherwise controlled by this subchapter.

[58 FR 39310, July 22, 1993, as amended at 65 FR 45284, July 21, 2000; 66 FR 35900, July 10, 2001; 67 FR 15101, Mar. 29, 2002]

§ 125.5 Exemptions for plant visits.

(a) A license is not required for the oral and visual disclosure of unclassified technical data during the course of a classified plant visit by a foreign person, provided (1) the classified visit has itself been authorized pursuant to a license issued by the Office of Defense Trade Controls; or (2) the classified visit was approved in connection with an actual or potential government-to-government program or project by a U.S. Government agency having classification jurisdiction over the classified defense article or classified technical

data involved under Executive Order 12356 or other applicable Executive Order; and (3) the unclassified information to be released is directly related to the classified defense article or technical data for which approval was obtained and does not disclose the details of the design, development, production or manufacture of any other defense articles. In the case of visits involving classified information, the requirements of the Defense Industrial Security Manual (Department of Defense Manual 5220.22M) must be met.

(b) The approval of the Office of Defense Trade Controls is not required for the disclosure of oral and visual classified information to a foreign person during the course of a plant visit approved by the appropriate U.S. Government agency if (1) the requirements of the Defense Industrial Security Manual have been met, (2) the classified information is directly related to that which was approved by the U.S. Government agency, (3) it does not exceed that for which approval was obtained, and (4) it does not disclose the details of the design, development, production or manufacture of any defense articles.

(c) A license is not required for the disclosure to a foreign person of unclassified technical data during the course of a plant visit (either classified or unclassified) approved by the Office of Defense Trade Controls or a cognizant U.S. Government agency provided the technical data does not contain information in excess of that approved for disclosure. This exemption does not apply to technical data which could be used for design, development, production or manufacture of a defense article.

§ 125.6 Certification requirements for exemptions.

(a) To claim an exemption for the export of technical data under the provisions of this subchapter (e.g., §§ 125.4 and 125.5), the exporter must certify that the proposed export is covered by a relevant section of this subchapter, to include the paragraph and applicable subparagraph. Certifications consist of clearly marking the package or letter containing the technical data “22 CFR [insert ITAR exemption] applicable.” This certification must be made in

written form and retained in the exporter's files for a period of 5 years (see § 123.22 of this subchapter).

(b) For exports that are oral, visual, or electronic the exporter must also complete a written certification as indicated in paragraph (a) of this section and retain it for a period of 5 years.

[68 FR 61102, Oct. 27, 2003]

§ 125.7 Procedures for the export of classified technical data and other classified defense articles.

(a) All applications for the export or temporary import of classified technical data or other classified defense articles must be submitted to the Office of Defense Trade Controls on Form DSP-85.

(b) An application for the export of classified technical data or other classified defense articles must be accompanied by seven copies of the data and a completed Form DSP-83 (see § 123.10 of this subchapter). Only one copy of the data or descriptive literature must be provided if a renewal of the license is requested. All classified materials accompanying an application must be transmitted to the Office of Defense Trade Controls in accordance with the requirements of the Defense Industrial Security Manual (Department of Defense Manual Number 5220.22-M).

§ 125.8 [Reserved]

§ 125.9 Filing of licenses and other authorizations for exports of classified technical data and classified defense articles.

Licenses and other authorizations for the export of classified technical data or classified defense articles will be forwarded by the Office of Defense Trade Controls to the Defense Investigative Service of the Department of Defense in accordance with the provisions of the Department of Defense Industrial Security Manual. The Office of Defense Trade Controls will forward a copy of the license to the applicant for the applicant's information. The Defense Investigative Service will return the endorsed license to the Office of Defense Trade Controls upon completion of the authorized export or expiration of the license, whichever occurs first.

PART 126—GENERAL POLICIES AND PROVISIONS

Sec.

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- 126.15 Expedited processing of license applications for the export of defense articles and defense services to Australia or the United Kingdom.

AUTHORITY: Secs. 2, 38, 40, 42, and 71, Pub.L. 90-629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2780, 2791, and 2797); E.O. 11958, 42 FR 4311; 3 CFR, 1977 Comp. p. 79; 22 U.S.C. 2651a; 22 U.S.C. 287c; E.O. 12918, 59 FR 28205, 3 CFR, 1994 Comp. p. 899.

SOURCE: 58 FR 39312, July 22, 1993, unless otherwise noted.

§ 126.1 Prohibited exports and sales to certain countries.

(a) *General.* It is the policy of the United States to deny licenses and other approvals for exports and imports of defense articles and defense services, destined for or originating in certain countries. This policy applies to Belarus, Cuba, Iran, Libya, North Korea, Syria and Vietnam. This policy also applies to countries with respect to which the United States maintains an arms embargo (e.g., Burma, China, Haiti, Liberia, Somalia, and Sudan) or whenever an export would not otherwise be in furtherance of world peace and the security and foreign policy of the United States. Information regarding certain other embargoes appears elsewhere in this section. Comprehensive arms embargoes are normally the