

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

[Docket No. FAA-2003-15725; Airspace  
Docket No. 03-ACE-67]

**Modification of Class E Airspace;  
Chariton, IA**

**AGENCY:** Federal Aviation  
Administration (FAA), DOT.

**ACTION:** Direct final rule; confirmation of  
effective date.

**SUMMARY:** This document confirms the  
effective date of the direct final rule  
which revises Class E airspace at  
Chariton, IA.

**EFFECTIVE DATE:** 0901 UTC, December  
25, 2003.

**FOR FURTHER INFORMATION CONTACT:**

Kathy Randolph, Air Traffic Division,  
Airspace Branch, ACE-520C, DOT  
Regional Headquarters Building, Federal  
Aviation Administration, 901 Locust,  
Kansas City, MO 64106; telephone:  
(816) 329-2525.

**SUPPLEMENTARY INFORMATION:** The FAA  
published this direct final rule with a  
request for comments in the **Federal  
Register** on August 21, 2003 (68 FR  
50466). The FAA uses the direct final  
rulemaking procedure for a non-  
controversial rule where the FAA  
believes that there will be no adverse  
public comment. This direct final rule  
advised the public that no adverse  
comments were anticipated, and that  
unless a written adverse comment, or a  
written notice of intent to submit such  
an adverse comment, were received  
within the comment period, the  
regulation would become effective on  
December 25, 2003. No adverse  
comments were received, and thus this  
notice confirms that this direct final rule  
will become effective on that date.

Issued in Kansas City, MO on October 7,  
2003.

**Herman J. Lyons, Jr.**

*Manager, Air Traffic Division, Central Region.*  
[FR Doc. 03-27025 Filed 10-24-03; 8:45 am]

**BILLING CODE 4910-13-M**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

[Docket No. FAA-2003-15726; Airspace  
Docket No. 03-ACE-68]

**Modification of Class E Airspace;  
Clarion, IA**

**AGENCY:** Federal Aviation  
Administration (FAA), DOT.

**ACTION:** Direct final rule; confirmation of  
effective date.

**SUMMARY:** This document confirms the  
effective date of the direct final rule  
which revises Class E airspace at  
Clarion, IA.

**EFFECTIVE DATE:** 0901 UTC, December  
25, 2003.

**FOR FURTHER INFORMATION CONTACT:**

Kathy Randolph, Air Traffic Division,  
Airspace Branch, ACE-520C, DOT  
Regional Headquarters Building, Federal  
Aviation Administration, 901 Locust,  
Kansas City, MO 64106; telephone:  
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an adverse comment, were received  
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December 25, 2003. No adverse  
comments were received, and thus this  
notice confirms that this direct final rule  
will become effective on that date.

Issued in Kansas City, MO on October 7,  
2003.

**Herman J. Lyons, Jr.,**

*Manager, Air Traffic Division, Central Region.*  
[FR Doc. 03-27026 Filed 10-24-03; 8:45 am]

**BILLING CODE 4910-13-M**

## DEPARTMENT OF STATE

## 22 CFR Parts 120, 123, 124 and 125

[Public Notice 4520]

RIN 1400-AB72

**Amendment to the International Traffic  
In Arms Regulations: Mandatory  
Electronic Filing of Shipper's Export  
Declarations With U.S. Customs Using  
the Automated Export System (AES)**

**AGENCY:** Department of State.

**ACTION:** Final rule.

**SUMMARY:** This amendment to the  
International Traffic in Arms  
Regulations (ITAR) implements the  
Congressional requirement of the Arms  
Export Control Act (AECA) for exporters  
of U.S. Munitions List (USML) articles  
to provide to the Department of State a  
report containing all shipment  
information, to include a description of  
the item, quantity, value, port of exit,  
end user and country of destination of  
the item; and, the Congressional  
mandate in Public Law 106-113 that  
amended Section 301, of Title 13 of the  
U.S. Code authorizing the Secretary of  
Commerce to require the mandatory  
electronic filing of export information  
through the Automated Export System  
(AES) for items identified in the  
Commerce Control List (CCL) and the  
Department of State's U.S. Munitions  
List (USML) that require a Shipper's  
Export Declaration (SED). In  
implementing these mandates it was  
determined that for shipments requiring  
a SED the use of the AES system by the  
Department of State would be the least  
burdensome to the exporting  
community. Also, adoption of the AES  
system by the State Department will be  
economically beneficial to the USG and  
provide information on exports of  
defense articles using a U.S. Port in a  
more timely, consistent and accurate  
manner. It will also serve to improve the  
quality, timeliness and consistency of  
Congressionally mandated reports.

**EFFECTIVE DATE:** October 27, 2003.

*Public Comment:* Interested parties  
are invited to submit written comments  
to the Department of State, Office of  
Defense Trade Controls Compliance,  
ATTN: Regulatory Change, ITAR  
Mandatory Electronic Filing of Export  
Information, 12th Floor, SA-1,  
Washington, DC 20522-0112.

**FOR FURTHER INFORMATION CONTACT:**

David C. Trimble, Director, Office of  
Defense Trade Controls Compliance,  
Bureau of Political-Military Affairs,  
Department of State, Telephone (202)  
663-2700 or FAX (202) 261-8199.  
ATTN: Regulatory Change, ITAR

Mandatory Electronic Filing of Export Information.

**SUPPLEMENTARY INFORMATION:** The Automated Export Systems (AES) is the electronic equivalent of filing with the U.S. Bureau of Customs and Border Protection a paper Form No. 7525V, Shipper's Export Declaration (SED). This electronic filing of export information is mandatory for export of USML articles, unless a written exception is granted by the Department of State. Implementation of the electronic filing of the export information using the AES system for shipments of USML articles is mandatory on October 18, 2003. To ensure a seamless transition from paper to electronic reporting, the exporter, or an agent acting on the exporter's behalf, shall, until December 18, 2003, also file with the Bureau of Customs and Border Protection a paper copy of the AES document.

However, there are circumstances (e.g., oral, visual, or electronic transmissions of technical data and defense services) when exports subject to the controls of the ITAR are made and the transfer is not monitored by the Bureau of Customs and Border Protection. The Department has determined that all technical data and defense services export information shall be provided directly to Directorate of Defense Trade Controls (DDTC), regardless of the type of ITAR authorization (e.g., license, agreement, or exemption). A copy of the notification to DDTC shall be provided by the exporter, or an agent acting on the exporter's behalf, to the Bureau of Customs and Border Protection upon request for those shipments that are exported using a U.S. Port (e.g., hand carried exports of technical data). DDTC is finalizing the system for direct electronic reporting of export data to DDTC. Such electronic reporting will be mandatory on January 18, 2004 for reporting exports against DSP-5 technical data licenses, Manufacturing License Agreements, and Technical Assistance Agreements. While AES becomes mandatory on October 18, 2003, the electronic reporting for licenses and agreements to DDTC is being delayed in order to ensure that AES is fully operational prior to implementation of the DDTC direct reporting requirement. Mandatory reporting on all exemptions is being further delayed, and will be implemented in a future **Federal Register** Notice amending Section 122.23. DDTC anticipates reporting will include the applicant's registration code, the USML category of the

technical data or defense service, license and/or exemption number, and country of ultimate and, if applicable, intermediate destination. In the interim period, reporting of the export of technical data under a Form DSP-5 and defense services under an MLA/TAA will be as follows:

1. For reporting exports of technical data that are licensed on a Form DSP-5, the applicant must self validate the initial export on the original of the DSP-5 and return the license to DDTC. Exports of additional copies of the licensed technical data (i.e., the transaction must be identical, to include the same technical data to the identical end use and end users) would be the subject of the exemption in Section 125.4.

2. The initial export of technical data and defense services using an agreement or a license shall be reported by letter to DDTC with the ATTN Line reading "Initial Export Notification for Agreement (or License) [insert agreement/license number]."

Should an instance arise when the technical data authorized by a license or agreement is to be exported using a U.S. Port, the exporter shall file the export information in accordance with Section 123.22(b)(3)(iii) of this subchapter.

Although DDTC is delaying mandating reporting of all exports using an exemption, effective January 18, 2004 all paper filing of export information for USML shipments shall cease. Also, effective on the date of this publication, use of the Department of State's Direct Shipment Validation Program and the Department of Commerce, Bureau of the Census Option 4 SED filing alternative will be discontinued for all shipments of USML articles.

The Proliferation Prevention Enhancement Act of 1999, Public Law 106-113, Appendix G, and Section 38(i) of the Arms Export Control Act (AECA) mandate reporting from U.S. exporters of export shipment data. In particular, the law requires the Department of State to collect electronically all Shipper's Export Declaration (SED) data on exports of USML articles. The Department of Homeland Security, Bureau of Customs and Border Protection and the Department of Commerce, Bureau of Census have implemented a process for the electronic filing of the Form 7525V, Shipper's Export Declaration (SED), using a system known as the Automated Export System (AES). The AES shall serve as the Department of State's primary collection of data on exports of defense articles. To provide the required information, the AES has been enhanced to add additional information

requirements, to include (a) DDTC registration number of the authorized exporter; (b) identification of Significant Military Equipment (SME) as defined in section 120.7 of the ITAR; (c) a certification that all parties in the transaction are eligible in accordance with the ITAR (i.e., section 120.1, paragraphs (c) and (d)); (d) identification of the USML Category (section 121.1 of the ITAR) of the item being shipped; (e) additional fields to report the DDTC quantity and unit of measure as described on the license or exemption; and (f) a field for identification of the ITAR exemption authorizing the export. Further changes to the AES are being considered, such as identification of the article being exported against the line item of the article authorized on the export license.

Also, the AES requires the use of external and internal transaction numbers to track the transaction. The External Transaction Number (XTN) is generated at the time of the AES filing by the DDTC registered applicant/exporter, or an agent acting on the filer's behalf. The Internal Transaction Number (ITN) is generated by the AES and returned to the filer electronically once the submitted information has been verified for accuracy and completeness and accepted by the AES. When an AES submission is rejected by the Bureau of Customs and Border Protection (e.g., Customs is unable to validate the XTN in its system or the exporter does not receive an ITN), it will be considered as not having met the regulatory requirements of the ITAR and export may not be made. Future changes to the regulations may be required to expand the use of the ITN in the AES in order to make obvious that the SED was correctly filed through the AES, to include a requirement for the ITN on the bill of lading, air waybill, or other loading documents. Any additional AES requirements affecting export of USML articles will be the subject of a Department of State **Federal Register** Notice.

A new definition has been added to Part 120 of the ITAR. A new § 120.30 now defines the AES as the electronic filing of the export information. Part 120 is also amended in § 120.28, paragraph (b) to reflect the new name of the Department of Commerce component formerly known as the Bureau of Export Administration. The Bureau is now known as the Bureau of Industry and Security (BIS). Also, while not the subject of an amendment in this publication, exporters are advised that any reference in the ITAR that currently reads "U.S. Customs", refers to the activities of the Bureau of Customs and

Border Protection and the Bureau of Immigration and Customs Enforcement, both of which are now part of the Department of Homeland Security.

In addition, Part 123 is amended in § 123.4 to clarify the procedure for electronic filing of export information and the accompanying documentation. Also, in Part 123, the title of § 123.22 is amended to better reflect the requirements and now reads, "Filing, retention, and return of export licenses and filing of export information." Section 123.22 also has been reformatted to address the specific requirements of the new procedures, to include in paragraph (a) filing and retention of licenses authorized by the DDTC; paragraph (b) filing and reporting of export information; and, paragraph (c) return of licenses.

From time-to-time, exports are required of licensed hardware when the applicant is unable to provide the export information in the mandated timelines. Section 123.22, paragraph (b)(2) provides that the Bureau of Customs and Border Protection may permit the license holder, or an agent acting on the filer's behalf, to electronically file urgent shipments in a shorter time period, provided certain conditions are met.

While all exports of hardware, regardless of the type of approval (e.g., license, agreement, or exemption) controlled by the ITAR will require filing of the export information using AES, exports of technical data and defense services made using a license, agreement or exemption shall be electronically reported directly to DDTC. Section 123.22 has been amended accordingly. Reporting to DDTC of the export data electronically for licensed technical data (DSP-5) and defense services (MLA and TAA) will be mandatory January 18, 2004 to require initial reporting and reporting in any instance where the exporter is using a U.S. port. This delay, and the further delay related to reporting exports using exemptions, should permit sufficient time for implementation of the AES. Guidelines for use of the DDTC export data system will be published on the DDTC Web site (<http://www.pmdtc.org>).

Section 123.24 is also amended to require, for shipments of U.S. Munitions List hardware by the U.S. Postal Service, the electronic filing of export information using the AES and the filing of the license with the Bureau of Customs and Border Protection at a U.S. Port. Shipments of technical data in furtherance of a license or agreement by mail shall be reported directly to DDTC.

Section 124.3(a) has been amended to eliminate the requirement that the U.S.

party to a manufacturing license or technical agreement certify on an SED that the export of unclassified technical data being exported does not exceed the scope of the agreement and any limitations imposed pursuant to this part. This requirement is no longer needed because unclassified technical data exports will no longer be reported using an SED.

Section 125.6 is amended to change the requirement that an exporter, claiming an exemption for the export of technical data under the provisions of sections 125.4 and 125.5, certify on the SED that the proposed export is covered by one of those sections. Section 125.6 will now require that this certification be made by marking the package or letter containing the technical data. The exporter must retain this certification for a period of 5 years. For exports of technical data that are oral, visual or electronic, the certification must still be completed and retained for 5 years.

Finally, section 125.8 is being removed and reserved for future use.

*Regulatory Analysis and Notices:* This amendment involves a foreign affairs function of the United States and, therefore, is not subject to the procedures required by 5 U.S.C. 553 and 554. It is exempt from review under Executive Order 12866 but has been reviewed internally by the Department to ensure consistency with the purposes thereof. This rule does not require analysis under the Regulatory Flexibility Act or the Unfunded Mandates Reform Act. It is not a major rule within the meaning of the Small Business Regulatory Enforcement Act of 1966. It will not have substantial direct effect on the States, the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this rule does not have sufficient federalism implications to warrant application of the consultation provisions of Executive Orders 12372 and 13123. The reporting or record-keeping actions required from the public under the rule require the approval of the Office of Management and Budget (OMB) under the Paperwork Reduction Act. OMB has approved all such actions required under this rule, which are done under four information collections; the Department of State is responsible for three (OMB control numbers 1405-0003, 1405-0093, and 1405-0148), and the Department of Commerce is responsible for one (OMB control number 0607-0152).

**List of Subjects**

22 CFR 120

Arms and munitions, Classified information, Exports.

22 CFR 123

Arms and munitions, Exports.

22 CFR 124

Arms and munitions, Exports, Technical assistance.

22 CFR 125

Arms and Munitions, Exports.

■ Accordingly, for the reasons set forth above, Title 22, Chapter I, Subchapter M, Parts 120, 123, 124 and 125 are amended as follows:

**PART 120—PURPOSE AND DEFINITIONS**

■ 1. The authority citation for part 120 continues to read as follows:

**Authority:** Secs. 2, 38, and 71, Pub. L. 90-629, 90 Stat. 744 (22 U.S.C. 2752, 2778, and 2797); 22 U.S.C. 2794; E.O. 11958, 42 FR 4311; 3 CFR, 1977 Comp. p. 79; 22 U.S.C. 2658; Pub. L. 105-261, 112 Stat. 1920.

■ 2. § 120.28 is amended by revising paragraphs (b) introductory text and (b)(1) to read as follows:

**§ 120.28 Listing of forms referred to in this subchapter.**

\* \* \* \* \*

(b) Department of Commerce, Bureau of Industry and Security:

(1) International Import Certificate (Form BIS-645P/ATF-4522/DSP-53).

\* \* \* \* \*

■ 3. § 120 is amended by adding § 120.30 to read as follows:

**§ 120.30. The Automated Export System (AES).**

The Automated Export System (AES) is the Department of Commerce, Bureau of Census, electronic filing of export information. The AES shall serve as the primary system for collection of export data for the Department of State. In accordance with this subchapter U.S. exporters are required to report export information using AES for all hardware exports. Exports of technical data and defense services shall be reported directly to the Directorate of Defense Trade Controls (DDTC). Also, requests for special reporting may be made by DDTC on a case-by-case basis, (e.g., compliance, enforcement, congressional mandates).

**PART 123—LICENSES FOR THE EXPORT OF DEFENSE ARTICLES**

■ 4. The authority citation for part 123 continues to reads as follows:

**Authority:** Secs. 2, 38, and 71, Pub. L. 90-629, 90 Stat. 744 (22 U.S.C. 2752, 2778, and 2797); 22 U.S.C. 2753; E.O. 11958, 42 FR 4311; 3 CFR, 1977 Comp. p.79; 22 U.S.C. 2658; Pub. L. 105-261, 112 Stat. 1920.

■ 5. § 123.4 is amended by revising paragraph (d)(2) to read as follows:

**§ 123.4 Temporary import license exemptions.**

\* \* \* \* \*

(d) \* \* \*

(1) \* \* \*

(2) At the time of export, in accordance with the Bureau of Customs and Border Protection procedures, the Directorate of Defense Trade Controls (DDTC) registered and eligible exporter, or an agent acting on the filer's behalf, must electronically file the export information using the Automated Export System (AES), and identify 22 CFR 123.4 as the authority for the export and provide, as requested by the Bureau of Customs and Border Protection, the entry document number or a copy of the Bureau of Customs and Border Protection document under which the article was imported.

■ 6. § 123.5(c) is revised to read as follows:

**§ 123.5 Temporary export licenses.**

\* \* \* \* \*

(c) Any temporary export license for hardware that is used, regardless of whether the hardware was exported directly to the foreign destination or returned directly from the foreign destination, must be endorsed by the Bureau of Customs and Border Protection in accordance with the procedures in § 123.22 of this subchapter.

■ 7. § 123.22 is revised to read as follows:

**§ 123.22 Filing, retention, and return of export licenses and filing of export information.**

(a) Any export, as defined in this subchapter, of a defense article controlled by this subchapter, to include defense articles transiting the United States, requires the electronic reporting of export information. The reporting of the export information shall be to the Bureau of Customs and Border Protection using the Automated Export System (AES) or directly to the Directorate of Defense Trade Controls (DDTC). Any license or other approval authorizing the permanent export of hardware must be filed at a U.S. Port before any export. Licenses or other approvals for the permanent export of technical data and defense services shall be retained by the applicant who will send the export information directly to DDTC. Temporary export or temporary

import licenses for such items need not be filed with the Bureau of Customs and Border Protection, but must be presented to the Bureau of Customs and Border Protection for decrementing of the shipment prior to departure and at the time of entry. The Bureau of Customs and Border Protection will only decrement a shipment after the export information has been filed correctly using the AES. Before the export of any hardware using an exemption in this subchapter, the DDTC registered applicant/exporter, or an agent acting on the filer's behalf, must electronically provide export information using the AES (see paragraph (b) of this section). In addition to electronically providing the export information to the Bureau of Customs and Border Protection before export, all the mandatory documentation must be presented to the port authorities (*e.g.*, attachments, certifications, proof of AES filing; such as the External Transaction Number (XTN) or Internal Transaction Number (ITN)). Export authorizations shall be filed, retained, decremented or returned to DDTC as follows:

(1) Filing of licenses and documentation for the permanent export of hardware. For any permanent export of hardware using a license (*e.g.*, DSP-5, DSP-94) or an exemption in this subchapter, the exporter must, prior to an AES filing, deposit the license and provide any required documentation for the license or the exemption with the Bureau of Customs and Border Protection, unless otherwise directed in this subchapter (*e.g.*, § 125.9). If necessary, an export may be made through a port other than the one designated on the license if the exporter complies with the procedures established by the Bureau of Customs and Border Protection.

(2) Presentation and retention by the applicant of temporary licenses and related documentation for the export of unclassified defense articles. Licenses for the temporary export or temporary import of unclassified defense articles need not be filed with the Bureau of Customs and Border Protection, but must be retained by the applicant and presented to the Bureau of Customs and Border Protection at the time of temporary import and temporary export. When a defense article is temporarily exported from the United States and moved from one destination authorized on a license to another destination authorized on the same or another temporary license, the applicant, or an agent acting on the applicant's behalf, must ensure that the Bureau of Customs and Border Protection decrements both

temporary licenses to show the exit and entry of the hardware.

(b) Filing and reporting of export information. (1) Filing of export information with the Bureau of Customs and Border Protection. Before exporting any hardware controlled by this subchapter, using a license or exemption, the DDTC registered applicant/exporter, or an agent acting on the filer's behalf, must electronically file the export information with the Bureau of Customs and Border Protection using the Automated Export System (AES) in accordance with the following timelines:

(i) Air or truck shipments. The export information must be electronically filed at least 8 hours prior to departure.

(ii) Sea or rail Shipments. The export information must be electronically filed at least 24 hours prior to departure.

(2) Emergency shipments of hardware that cannot meet the pre-departure filing requirements. Bureau of Customs and Border Protection may permit an emergency export of hardware by truck (*e.g.*, departures to Mexico or Canada) or air, by a U.S. registered person, when the exporter is unable to comply with the SED filing timeline in paragraph (b)(1)(i) of this section. The applicant, or an agent acting on the applicant's behalf, in addition to providing the export information electronically using the AES, must provide documentation required by the Bureau of Customs and Border Protection and this subchapter. The documentation provided to the Bureau of Customs and Border Protection at the port of exit must include the External Transaction Number (XTN) or Internal Transaction Number (ITN) for the shipment and a copy of a notification to DDTC stating that the shipment is urgent and why. The original of the notification must be immediately provided to DDTC. The AES filing of the export information when the export is by air must be at least two hours prior to any departure from the United States; and, when a truck shipment, at the time when the exporter provides the articles to the carrier or at least one hour prior to departure from the United States, when the permanent export of the hardware has been authorized for export:

(i) In accordance with § 126.4 of this subchapter, or

(ii) On a valid license (*i.e.*, DSP-5, DSP-94) and the ultimate recipient and ultimate end user identified on the license is a foreign government.

(3) Reporting of export information on technical data and defense service. When an export is being made using a DDTC authorization (*e.g.*, technical data license, agreement or a technical data

exemption provided in this subchapter), the DDTC registered exporter will retain the license or other approval and provide the export information electronically to DDTC as follows:

(i) Technical data license. Prior to the permanent export of technical data licensed using a Form DSP-5, the applicant shall electronically provide export information using the system for direct electronic reporting to DDTC of export information and self validate the original of the license. When the initial export of all the technical data authorized on the license has been made, the license must be returned to DDTC. Exports of copies of the licensed technical data should be made in accordance with existing exemptions in this subchapter. Should an exemption not apply, the applicant may request a new license.

(ii) Manufacturing License and Technical Assistance Agreements. Prior to the initial export of any technical data and defense services authorized in an agreement the U.S. agreement holder must electronically inform DDTC that exports have begun. In accordance with this subchapter, all subsequent exports of technical data and services are not required to be filed electronically with DDTC except when the export is done using a U.S. Port. Records of all subsequent exports of technical data shall be maintained by the exporter in accordance with this subchapter and shall be made immediately available to DDTC upon request. Exports of technical data in furtherance of an agreement using a 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.

■ 8. § 123.24 is revised to read as follows:

**§ 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)).

**PART 124—AGREEMENTS, OFF-SHORE PROCUREMENT AND OTHER DEFENSE SERVICES**

■ 9. The authority citation for part 124 continues to read as follows:

**Authority:** Sec. 2, 38, and 71, Pub. L. 90-629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2797); E.O. 11958, 42 FR 4311, 3 CFR 1977 Comp. p. 79; 22 U.S.C. 2658; Pub. L. 105-261.

■ 10. § 124.3 is amended by revising paragraph (a) to read as follows:

**§ 124.3 Exports of technical data in furtherance of an agreement.**

(a) Unclassified technical data. The Bureau of Customs and Border Protection or U.S. Postal authorities shall permit the export without a license of unclassified technical data if the export is in furtherance of a manufacturing license or technical assistance agreement which has been approved in writing by the Directorate of Defense Trade Controls (DDTC) and the technical data does not exceed the scope or limitations of the relevant agreement. The approval of the DDTC must be obtained for the export of any unclassified technical data that may exceed the terms of the agreement.

\* \* \* \* \*

**PART 125—LICENSES FOR THE EXPORT OF TECHNICAL DATA AND CLASSIFIED DEFENSE ARTICLES**

■ 11. The authority citation for part 125 continues to read as follows:

**Authority:** Sections 2 and 38, Pub. L. 90-629, 90 Stat. 744 (22 U.S.C. 2752, 2778); E.O. 11958, 42 FR 4311, 3 CFR, 1977 Comp. p. 79; 22 U.S.C. 2668.

■ 12. § 125.6 is revised to read as follows:

**§ 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.

**§ 125.8 [Removed and Reserved]**

- 13. § 125.8 is removed and reserved.

Dated: October 15, 2003.

**John R. Bolton,**

*Under Secretary, Arms Control and International Security, Department of State.*

[FR Doc. 03-27039 Filed 10-24-03; 8:45 am]

BILLING CODE 4710-25-P

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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[MD146-3103; FRL-7578-1]

**Approval and Promulgation of Air Quality Implementation Plans; Maryland; Modifications to the Attainment Plans for the Baltimore Area and Cecil County Portion of the Philadelphia Area To Revise the Mobile Budgets Using MOBILE6**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is approving State Implementation Plan (SIP) revisions to revise the mobile budgets in the one-hour ozone attainment demonstration plans for the Baltimore nonattainment area (the Baltimore area) and the Cecil County portion of the Philadelphia-Wilmington-Trenton nonattainment area (the Philadelphia area). These revisions were submitted by the Maryland Department of the Environment on September 2, 2003. The intended effect of this action is to approve these SIP revisions as meeting the requirements of the Clean Air Act.

**EFFECTIVE DATE:** This final rule is effective on November 26, 2003.

**ADDRESSES:** Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and at the Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230.

**FOR FURTHER INFORMATION CONTACT:** Martin Kotsch, (215) 814-3335, or by e-mail at [Kotsch.Martin@epa.gov](mailto:Kotsch.Martin@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On July 9, 2003 (68 FR 40861), EPA published a notice of proposed rulemaking (NPR) for the State of Maryland. The NPR proposed approval of revised mobile emission inventories and 2005 motor vehicle emissions budgets which have been developed using MOBILE6, an updated model for calculating mobile emissions of ozone precursors. These inventories and associated motor vehicle emissions budgets are part of the one-hour ozone attainment plans approved for the Metropolitan Baltimore nonattainment area (the Baltimore area) and the Cecil County portion of the Philadelphia-Wilmington-Trenton nonattainment area (the Philadelphia area). The intended effect of this action is to approve SIP revisions that will better enable the State of Maryland to continue to plan for attainment of the one-hour national ambient air quality standard (NAAQS) for ozone in the Baltimore area and the Cecil County portion of the Philadelphia area. This action is being taken under the Clean Air Act.

These SIP revisions were proposed under a procedure called parallel processing, whereby EPA proposes a rulemaking action concurrently with a state's procedures for amending its SIP. The state's proposed SIP revisions were submitted to EPA on May 28, 2003 by the Maryland Department of the Environment (MDE). On July 9, 2003 (68 FR 40861), EPA proposed approval of Maryland's May 28, 2003 submittal. No comments were received during the public comment period on EPA's July 9, 2004 proposal. The MDE formally submitted the final SIP revision on September 2, 2003. That final submittal had no substantial changes from the proposed version submitted on May 28, 2003. A detailed description of Maryland's submittal and EPA's rationale for its proposed approval were presented in the July 9, 2003 notice of proposed rulemaking and will not be restated in its entirety here.

**II. Summary of SIP Revisions**

Maryland's September 2, 2003 SIP revisions contain revised 1990 and 2005 motor vehicle inventories and emissions budgets calculated using the MOBILE6 motor vehicle emissions model. Consistent with EPA's "Policy Guidance on the Use of MOBILE6 for SIP Development and Transportation Conformity" and "Clarification of Policy Guidance for MOBILE6 in Mid-course

Review Areas", regarding the use of MOBILE6 in SIP development, the MDE's submittal included relative reduction comparisons to show that the one-hour ozone attainment demonstration plans for both the Baltimore and Philadelphia areas continue to demonstrate attainment using revised MOBILE6 mobile vehicle emissions. The MDE's methodology for the relative reduction comparison consisted of comparing the new MOBILE6 vehicle emissions with those previously approved using MOBILE5 for the Baltimore and the Philadelphia areas' attainment plans (see October 30, 2001, 66 FR 54687) to determine if attainment will still be predicted by the established attainment dates. Specifically, the State calculated the relative reductions (expressed as percent reductions) in ozone precursors between the 1990 base year and attainment year inventories, both MOBILE5 based. These percent reductions were then compared to the percent reductions between the revised MOBILE6-based 1990 base year and attainment year inventories. These relative reduction comparisons show that the one-hour ozone attainment demonstration plans for both the Baltimore area and the Philadelphia area continue to demonstrate attainment using revised MOBILE6 mobile vehicle emissions.

**III. Final Action**

EPA is taking final action to approve Maryland's September 2, 2003 SIP revisions. These revisions amend the 1990 and 2005 motor vehicle emissions inventories and 2005 motor vehicle emissions budgets of the attainment demonstration plans for the Baltimore area and the Cecil County portion of the Philadelphia area using MOBILE6. In accordance with the parallel processing procedures, EPA has evaluated Maryland's final SIP revisions submitted on September 2, 2003 and finds that no substantial changes were made from the proposed SIP revisions submitted on May 28, 2003. Maryland has demonstrated that the revised one-hour attainment demonstration plans for the Baltimore and the Philadelphia areas continue to demonstrate attainment with the revised MOBILE6-based inventories and budgets. The revised mobile inventories and emissions budgets being approved for the two nonattainment areas are shown below in Tables 1 and 2 respectively.