

Dated: June 27, 2012.

**Bernadette Dunham,**

*Director, Center for Veterinary Medicine.*

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## DEPARTMENT OF STATE

### 22 CFR Part 126

RIN 1400-AD23

[Public Notice 7944]

#### Amendment to the International Traffic in Arms Regulations: Yemen

**AGENCY:** Department of State.

**ACTION:** Final rule.

**SUMMARY:** The Department of State is amending the International Traffic in Arms Regulations (ITAR) to update the policy toward Yemen. Licenses or other approvals for exports or imports of defense articles and defense services destined for or originating in Yemen will be reviewed, and may be issued, on a case-by-case basis.

**DATES:** *Effective Date:* This rule is effective July 3, 2012.

**FOR FURTHER INFORMATION CONTACT:** Ms. Candace M. J. Goforth, Director, Office of Defense Trade Controls Policy, U.S. Department of State, telephone (202) 663-2792, or email [DDTCResponseTeam@state.gov](mailto:DDTCResponseTeam@state.gov). ATTN: Regulatory Change, Part 126, Yemen.

**SUPPLEMENTARY INFORMATION:** The Department of State published a notice in the **Federal Register** on December 16, 1992, providing that the defense export policy for Yemen included a "presumption of denial" for proposed exports of lethal defense articles or items supporting such articles. On August 8, 2011, the Department amended the ITAR to include Yemen in § 126.1, which describes prohibited exports, imports, and sales to or from certain countries. That policy allowed for the export of non-lethal defense articles and defense services and non-lethal, safety-of-use defense articles for lethal end-items. License applications for the export of lethal defense articles and defense services were denied.

This rule removes the ITAR § 126.1 limitations on defense trade with Yemen. Less restrictive defense trade will further the national security and foreign policy interests of the United States. The Republic of Yemen has taken important steps to stabilize the country, including holding successful presidential elections in February 2012. Furthermore, the Republic of Yemen is a critical partner in the United States'

continuing efforts against terrorism. Defense assistance to the Yemeni government will be critical to increasing stability and security throughout the country and countering this threat.

Therefore, § 126.1(u) is removed, and the Department will review on a case-by-case basis all requests for licenses or other approvals for exports or temporary imports of defense articles and defense services destined for or originating in Yemen.

#### Regulatory Analysis and Notices

##### *Administrative Procedure Act*

The Department of State is of the opinion that controlling the import and export of defense articles and services is a foreign affairs function of the United States Government and that rules implementing this function are exempt from sections 553 (rulemaking) and 554 (adjudications) of the Administrative Procedure Act. Since the Department is of the opinion that this rule is exempt from 5 U.S.C. 553, it is the view of the Department of State that the provisions of § 553(d) do not apply to this rulemaking. Therefore, this rule is effective upon publication. The Department also finds that, given the national security issues surrounding U.S. policy towards Yemen, notice and public procedure on this rule would be impracticable, unnecessary, or contrary to the public interest; for the same reason, the rule will be effective immediately. *See* 5 U.S.C. 808(2).

##### *Regulatory Flexibility Act*

Since the Department is of the opinion that this rule is exempt from the rulemaking provisions of 5 U.S.C. 553, it does not require analysis under the Regulatory Flexibility Act.

##### *Unfunded Mandates Act of 1995*

This amendment does not involve a mandate that will result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

##### *Small Business Regulatory Enforcement Fairness Act of 1996*

This amendment has been found not to be a major rule within the meaning of the Small Business Regulatory Enforcement Fairness Act of 1996.

##### *Executive Orders 12372 and 13132*

This amendment will not have substantial direct effects on the States,

on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this amendment does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this amendment.

##### *Executive Orders 12866 and 13563*

Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributed impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been designated a "significant regulatory action," although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget (OMB).

##### *Executive Order 12988*

The Department of State has reviewed the amendment in light of sections 3(a) and 3(b)(2) of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

##### *Executive Order 13175*

The Department has determined that this rulemaking will not have tribal implications, will not impose substantial direct compliance costs on Indian tribal governments, and will not preempt tribal law. Accordingly, Executive Order 13175 does not apply to this rulemaking.

##### *Paperwork Reduction Act*

This rule does not impose any new reporting or recordkeeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. chapter 35.

#### List of Subjects in 22 CFR Part 126

Arms and munitions, Exports.

Accordingly, for the reasons set forth above, Title 22, Chapter I, Subchapter M, part 126 is amended as follows:

**PART 126—GENERAL POLICIES AND PROVISIONS**

■ 1. The authority citation for part 126 continues to read as follows:

**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; Sec. 1225, Pub. L. 108–375; Sec. 7089, Pub. L. 111–117; Pub. L. 111–266; Section 7045, Pub. L. 112–74; Section 7046, Pub. L. 112–74.

■ 2. Section 126.1 is amended by removing and reserving paragraph (u), as follows:

**§ 126.1 Prohibited exports, imports, and sales to or from certain countries.**

\* \* \* \* \*

(u) [Reserved]

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Dated: June 26, 2012.

**Rose E. Gottemoeller,**

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

[FR Doc. 2012–16283 Filed 7–2–12; 8:45 am]

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**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 100**

[Docket Number USCG–2012–0312]

RIN 1625–AA00

**Special Local Regulation; Upper Mississippi River, Mile 842.0 to 840.0**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary special local regulation for all waters of the Upper Mississippi River, Mile 842.0 to 840.0, extending the entire width of the river. This special local regulation is needed to protect participants and event personnel during the swim leg of the Optum Health Twin Cities Triathlon occurring on the Upper Mississippi River. Entry into this area immediately before, during, and immediately after the swim portion of the triathlon will be prohibited unless specifically authorized by the Captain of the Port Upper Mississippi River or a designated representative.

**DATES:** This rule is effective and enforceable from 7:00 a.m. until 11:00 a.m. on July 22, 2012.

**ADDRESSES:** Documents indicated in this preamble as being available in the

docket are part of docket USCG–2012–0312 and are available online by going to <http://www.regulations.gov>, selecting the Advanced Docket Search option on the right side of the screen, inserting USCG–2012–0312 in the Docket ID box, pressing Enter, and then clicking on the item in the Docket ID column. They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call or email Lieutenant Junior Grade (LTJG) Colin Fogarty, Sector Upper Mississippi River Response Department at telephone 314–269–2546, email [Colin.M.Fogarty@uscg.mil](mailto:Colin.M.Fogarty@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

**SUPPLEMENTARY INFORMATION:****Table of Acronyms**

DHS Department of Homeland Security

FR Federal Register

NPRM Notice of Proposed Rulemaking

**A. Regulatory Information**

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.”

Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not using the NPRM process. The Coast Guard received notice from the sponsor, Optum Health Performance, on March 13, 2012 stating they will be holding a triathlon on the Upper Mississippi River on July 22, 2012. The triathlon is being advertised via press releases to various media outlets to target people on a local, state, and national level to ensure maximum outreach and preparation for the event. Completing the NPRM process is impracticable and contrary to the public interest as it would delay the necessary special local regulation, providing restricted areas and safety measures required to protect participants and event personnel from hazards associated with a swim event in the Mississippi River. Delaying this rule by completing the NPRM would also

unnecessarily interfere with and delay the planned event and possible contractual obligations. For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying this rule by providing 30 days notice would be contrary to public interest because action is needed to protect participants and event personnel during the swim leg of the Optum Health Twin Cities Triathlon.

**B. Background and Purpose**

On July 22, 2012 Optum Health Performance will hold the Optum Health Performance Twin Cities Triathlon between mile 842.0 and 840.0 on the Upper Mississippi River. There are expected to be at least 700 athletes participating in the event. Anticipated traffic on the river, presents safety risks to the athletes swimming the swim section of the triathlon. Under 33 U.S.C. 1233 authority the Coast Guard is establishing this special local regulation to provide for the safety of participants, event personnel, spectators, and other users and vessels on the Upper Mississippi River during the swim section of the Optum Health Triathlon.

**C. Discussion of Rule**

The Coast Guard is establishing a temporary special local regulation for all waters of the Upper Mississippi River, from mile 842.0 to 840.0, extending the entire width of the river. Entry into this zone is prohibited to all vessels and persons, except persons and vessels specifically authorized by the Captain of the Port Upper Mississippi River or designated representative. This rule is effective from 7:00 a.m. until 11:00 a.m. on July 22, 2012. The Captain of the Port Upper Mississippi River will inform the public of the enforcement period by local notice to mariners, and changes to the enforcement by broadcast notice to mariners.

**D. Regulatory Analyses**

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes or executive orders.

**1. Regulatory Planning and Review**

This rule is not a “significant regulatory action” under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under