Appendix 4—Statement of Commissioner Caroline D. Pham

I support the Foreign Boards of Trade (FBOT) Final Rule because it promotes access to markets for U.S. participants, competition, and liquidity. I would like to thank Maura Dundon, Roger Smith, and Alexandros Stamoulis in the CFTC's Division of Market Oversight for their work on this rulemaking.

I will reiterate key points from my statement on the FBOT proposed rule.[1] As a CFTC Commissioner, I have made it clear that I believe in good policy that enables growth, progress, and access to markets.[2] Accordingly, I am pleased to support Commission efforts that take a pragmatic approach to issues that hinder market access and cross-border activity. I continue to believe that this rulemaking exemplifies policy that ensures a level playing field, and I applaud this step in the right direction for market structure.

FBOTs have been a critical piece of the CFTC's markets for decades and provide access for U.S. market participants to non-U.S. markets in realization of the global economy and international business.[3] The main substantive amendment in the FBOT Final Rule is to Regulation 48.4, which will now include introducing brokers (IBs)[4] as a permissible intermediary, in addition to futures commission merchants (FCMs), commodity pool operators (CPOs), and commodity trading advisors (CTAs), to enter orders on behalf of customers or commodity pools via direct access on a registered FBOT.[5] I believe that the FBOT Final Rule will provide more choice in brokers and broker arrangements for U.S. market participants that trade foreign futures and ensure that appropriate customer protections are in place.

As sponsor of the CFTC's Global Markets Advisory Committee (GMAC),[6] I have devoted a significant part of my Commissionership to supporting solutions that will enhance the resiliency and efficiency of global markets.[7] The FBOT Final Rule is policy that mitigates market fragmentation and the associated impact on liquidity, and promotes the overall competitiveness of our derivatives markets. I am pleased to support the FBOT Final Rule.

[FR Doc. 2024–17828 Filed 8–14–24; 8:45 am]

BILLING CODE 6351–01–P

[1] Statement of Commissioner Caroline D. Pham in Support of Foreign Board of Trade Proposal (Feb. 20, 2024), *https://www.cftc.gov/PressRoom/SpeechesTestimony/phamstatement022024.*

[2] *See, e.g.,* Keynote Address by Commissioner Caroline D. Pham, 98th Annual Convention of the American Cotton Shippers Association (June 22, 2022), *https://www.cftc.gov/PressRoom/SpeechesTestimony/opapham2;* Statement of Commissioner Caroline D. Pham on Staff Letter Regarding ADM Investor Services, Inc. (June 16, 2023), *https://www.cftc.gov/PressRoom/SpeechesTestimony/phamstatement061623.*

[3] While FBOTs initially had operated pursuant to no-action relief, in 2011, following the Dodd-Frank Wall Street and Consumer Protection Act of 2010, the Commission began registering FBOTs. *See* Registration of Foreign Boards of Trade, Final Rule, 76 FR 80674 (Dec. 23, 2011), *https://www.federalregister.gov/documents/2011/12/23/2011-31637/registration-of-foreign-boards-of-trade.*

[4] The Commission generally defines an IB as an individual or organization that solicits or accepts orders to buy or sell futures contracts, commodity options, retail off-exchange forex or commodity contracts, or swaps, but does not accept money or other assets from customers to support these orders. Commodity Exchange Act (CEA) section 1a(31); 17 CFR 1.3(mm). The Commission registers IBs under CEA section 4d(g) and CFTC Regulation 3.4(a). 7 U.S.C. 6d(g) and 17 CFR 3.4(a).

[5] 17 CFR 48.4.

[6] CFTC Global Markets Advisory Committee, *https://www.cftc.gov/About/AdvisoryCommittees/GMAC. See* Commissioner Pham Announces New Members and Leadership of the CFTC's Global Markets Advisory Committee and Subcommittees (June 30, 2023), *https://www.cftc.gov/PressRoom/PressReleases/8740-23.*

[7] *E.g.,* Achieving Growth and Progress: Statement of Commissioner Caroline D. Pham at the Global Markets Advisory Committee June 4 Meeting (June 4, 2024), *https://www.cftc.gov/PressRoom/SpeechesTestimony/phamstatement060424;* Opening Statement of Commissioner Caroline D. Pham before the Global Markets Advisory Committee (Feb. 13, 2023), *https://www.cftc.gov/PressRoom/SpeechesTestimony/phamstatement021323.* To date, the GMAC has advanced 13 recommendations and reports to the Commission on a broad set of significant global markets issues, including U.S. Treasury market liquidity, well-functioning repo and funding markets, capital and margin requirements, exchange volatility controls, T+1 securities settlement, improved collateral management, central counterparty (CCP) default simulation, streamlining trade reporting data to monitor systemic risk, and a foundational digital asset taxonomy to facilitate alignment in regulation across jurisdictions.

DEPARTMENT OF STATE

22 CFR Part 120

[Public Notice: 12422]

RIN 1400–AF26

International Traffic in Arms Regulations: Amendments to the Definition of Activities That Are Not Exports, Reexports, Retransfers, or Temporary Imports

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Department of State (the Department) published a proposed rule on December 16, 2022, to include two new entries to the International Traffic in Arms Regulations (ITAR) to expand the definition of ''activities that are not exports, reexports, retransfers, or temporary imports.'' The Department is now responding to the public comments received in response to that proposed rule and finalizing the proposed rule with changes.

DATES: The rule is effective on September 16, 2024.

FOR FURTHER INFORMATION CONTACT: Sarah Heidema, Office of Defense Trade Controls Policy, Department of State, telephone (202) 634–4981; email *DDTCCustomerService@state.gov* ATTN: Regulatory Change, ITAR 120.54 additions.

SUPPLEMENTARY INFORMATION: On December 16, 2022, the Department of State published a proposed rule (87 FR 77046), to include two new entries to § 120.54 of the International Traffic in Arms Regulations (ITAR) to expand the definition of ''activities that are not exports, reexports, retransfers, or temporary imports.'' Activities listed in ITAR § 120.54 do not require an authorization from the Department's Directorate of Defense Trade Controls (DDTC). The Department has received delegated authority under section 38 of the Arms Export Control Act (AECA) (22 U.S.C. 2778) to issue regulations regarding the export of defense articles and defense services. It has long used this authority to define what events are controlled as exports and what events are not. Moreover, section 38(b) of the AECA also provides supporting authority, as the Department may by regulation except instances where a license would otherwise be required. Accordingly, the Department proposed this rule to amend ITAR § 120.54 in two ways. First, the proposed rule provided that, subject to certain conditions, the taking of U.S. defense articles outside a previously approved country by the armed forces of a foreign government or United Nations personnel on a deployment or training exercise is not an export, reexport, retransfer, or temporary import. Second, the proposed rule provided that a foreign defense article that enters the United States, either permanently or temporarily, and that is subsequently exported from the United States pursuant to a license or other approval under this subchapter, is not subject to the reexport and retransfer requirements of this subchapter, provided it has not been modified, enhanced, upgraded, or otherwise altered or improved or had a U.S.-origin defense article incorporated into it. In that proposed rule, the Department requested comments from the public. The Department now provides responses to those comments and amends the ITAR, with changes from the proposed rule, through this final rulemaking.

Summary of Changes From the Proposed Rule

The following are six changes the Department made in this final rule since the development and publication of the December 16, 2022, proposed rule (87 FR 77046). First, to provide additional clarity, the Department inverted the order of proposed paragraphs (a)(6)(i)

and (ii). The first provision now notes there is no change in end-use or end-user, and the next provision is the requirement that the items be transported by and remain in the possession of the previously authorized armed forces or United Nations military personnel.

Second, the Department amended the text of proposed paragraph (a)(6)(ii), which will now become paragraph (a)(6)(i), by changing ''subject defense article'' to ''defense article'' to reduce unnecessary text.

Third, the Department amended the text of proposed paragraph (a)(6)(i), which will now become paragraph (a)(6)(ii), by adding the phrase ''previously authorized'' before ''armed forces'' to reinforce that the armed forces or United Nations (U.N.) military personnel transporting and in possession of the defense articles must be previously authorized end-users of the defense articles.

Fourth, the Department also amended the text of proposed paragraph (a)(6)(i), which will now become paragraph (a)(6)(ii), by revising the phrase ''U.N. personnel'' to ''U.N. military personnel.'' The Department added the additional word to ensure that non-military persons associated with U.N. missions, such as civilians, including police, working for various U.N. agencies are not mistakenly believed to be described by the provision.

For the fifth and sixth changes, the Department narrowed the scope of the proposed excluded list of activities that are not exports, reexports, retransfers, or temporary imports, by not excluding temporary imports into the United States, or subsequent exports. Although exports and temporary imports were originally included in the proposed rule, since publication and during the review period, the Department reassessed the inclusion of those activities in light of a comment received, information received from an interagency partner, and the intended purpose of the rule. More specifically, one commenter requested clarification that licenses for temporary imports would not be required under the proposed rule text. The response to this comment is discussed more below, but highlighted aspects of the proposed rule the Department was already focused on. In addition, the Department conferred with interagency partners regarding the Automated Commercial Environment (ACE), the system through which imports, including temporary imports, and exports are reported. Considerations of tracking temporary imports and a long process to change ACE reporting and coding options led the Department to reevaluate this aspect of its proposal in this particular rulemaking. Moreover, the intent of the proposed rule was to consider eliminating the need to submit reexport and retransfer requests for activities that are routinely approved and to provide clarity regarding subsequent control of unmodified foreign-origin defense articles that have been subject to ITAR control while in the United States. The resulting change in this rule does not impose any new obligation or requirement. Rather, it is a reduction in the scope of the broader exemption initially proposed.

Accordingly, the Department added a third limitation to proposed paragraph (a)(6). This third limitation in what will now become ITAR § 120.54(a)(6)(iii), ''the defense article is not being exported from or temporarily imported into the United States,'' prohibits the applicability of the provision for exports from the United States and temporary imports into the United States. The Department added this third limitation to avoid complications when transiting the U.S. border and to stay within the intent of this portion of the rule, which is to clarify policy regarding reexports and retransfers of defense articles previously authorized for export from the United States and in the possession of the armed forces of a foreign government or United Nations military personnel. This makes express in the regulations a long-standing practice set forth since 2013 in DDTC's publicly available ''Guidelines for Preparing Agreements.''

Similarly, the Department added a new paragraph (a)(7)(iii), using the same language as found in new paragraph (a)(6)(iii). The new paragraph (a)(7)(iii) states that a transfer of a wholly foreign defense article is not a controlled event, unless it is an export from, or a temporary import into, the United States. This addition is for clarification purposes only and reinforces that the transfer of a wholly foreign defense article outside of the United States and not otherwise subject to the ITAR does not require authorization.

Response to Comments

Two commenters noted the two proposed entries to ITAR § 120.54 help clarify what activities are controlled events subject to the ITAR's jurisdiction. Specifically, both commenters noted the two new entries are appropriately narrow in construing events that are and are not controlled in a manner consistent with U.S. national security interests. One commenter expressed their agreement with proposed paragraph (a)(6) but not paragraph (a)(7). The commenter specifically stated paragraph (a)(7) ''says that foreign defense articles, presumably meaning guns, ammunition, and other weapons, will not be subject to the normal procedures of a controlled event. I disagree with this because I believe controlling the flow of weapons is of the utmost importance, and even if the weapons come from a partner country, they deserve a certain level of scrutiny, even if it causes some frustration from interested parties. . . .'' The Department notes paragraph (a)(7) is an accurate reflection of the current jurisdiction of the ITAR, which does not control transfers of foreign defense articles that originally entered the United States and have since been exported from the United States if the enumerated criteria in paragraph (a)(7)(i) to paragraph (a)(7)(iii) are all met. Like foreign persons who generally become subject to U.S. laws and regulations when they enter the United States, foreign defense articles that enter the United States generally become subject to U.S. laws and regulations, including the ITAR, while in the United States. However, U.S. laws and regulations generally do not govern the activities of foreign persons abroad. Similarly, foreign defense articles that leave the United States are no longer subject to the ITAR under the circumstances described in paragraph (a)(7). To help illustrate this concept, the Department notes the following scenario—U.S. Company A purchases a foreign defense article from Foreign Company B located outside the United States. The purchased foreign defense article is imported into the United States but U.S. Company A later realizes it no longer needs the foreign defense article and obtains the necessary DDTC authorization to export the foreign defense article back to Foreign Company B. Foreign Company B does not subsequently need further Department authorization to sell the returned foreign defense article to a separate party, assuming the criteria in paragraph (a)(7) are met. As a result, no change is being made to proposed paragraph (a)(7) in response to this comment.

Several commenters expressed appreciation for the Department's effort regarding new paragraph (a)(6). Specifically, these commenters noted proposed paragraph (a)(6) provides ''positive assurance to [U.S.] partner countries' armed forces'' of an understanding that was previously ''only noted in DDTC's Guidelines for Preparing Agreements document'' and applauded DDTC for making explicit in the regulations DDTC's long-standing policy expressed in that document that

the taking of a defense article outside a previously approved country by the armed forces of a foreign government or international organization is not a controlled event, provided certain criteria are met. One commenter noted that it would simplify the process their country's armed forces must follow to take U.S. defense articles outside a previously approved country during a deployment or on exercises, while another expressed their belief that new paragraph (a)(6) would enhance interoperability amongst allies.

However, one commenter suggested the language of paragraph (a)(6) is too narrow and requested an expansion to enable other foreign or U.S. parties to an agreement (who are not the armed forces of a foreign government or United Nations personnel) to take defenses articles on operations or deployments outside a previously approved country without requesting additional authorization from the Department. The commenter suggested a specific modification to the ''Deployment Clause'' language included in DDTC's ''Guidelines for Preparing Agreements'' to implement their suggestion. The Department emphasizes the goal of this rulemaking is to memorialize long-standing Department polices that were specified in the ''Guidelines for Preparing Agreements.'' Therefore, the Department notes its purposeful limited intent for this rulemaking to be applicable to activities of armed forces of a foreign government or United Nations military personnel. In contrast, the Department assesses that activities undertaken by other foreign or U.S. parties to an agreement who are not the armed forces of a foreign country or United Nations military personnel still warrant additional review and should continue to require authorization from the Department in order to take defenses articles outside a previously approved country. For these reasons, the Department is not revising the text of proposed paragraph (a)(6) in response to this comment.

Another commenter noted with respect to paragraph (a)(6) ''that the proposed addition lacks any reference to related technical data.'' Specifically, the commenter explained that ''codifying the Department's long-standing policy without an explicit reference to 'related technical data' might lead to confusion [as to] whether separate authorization is required for the export, reexport, retransfer or temporary import of technical data needed to operate the defense article and/or generated by the defense article.'' Subsequently, the commenter suggested adding ''and any related technical data'' to the term ''defense article'' in ITAR § 120.54(a)(6). The Department notes, per ITAR § 120.31, ''defense article'' means any item *or technical data* designated in ITAR § 121.1; therefore, the addition of ''and any related technical data'' would be duplicative. For this reason, the Department is not making the changes proposed by this commenter.

As introduced above, one commenter requested that the Department provide clarification that, as a result of this rulemaking, licenses for temporary imports into the United States that meet the criteria of ITAR § 120.54(a)(6) are not required. The Department declines to adopt this recommendation for the reasons previously expressed in this preamble. Specifically, the Department wishes to stay within the intent of this portion of the rule, which is to clarify long-standing policy regarding reexports and retransfers outside of the United States of properly authorized defense articles previously exported from the United States and in the possession of the armed forces of a foreign government or United Nations military personnel. The comment did, however, bring to the attention of the Department the issues which led to the inclusion of new paragraphs (a)(6)(iii) and (a)(7)(iii), as discussed above. The commenter also recommended a revision to proposed paragraph (a)(6) to enable the armed forces of a foreign government or United Nations personnel to ''[share] equipment with foreign partners that also have access to the same equipment, albeit via different licenses and agreements'' during deployments and training exercises. The Department notes that foreign partners who have access to the same equipment via different licenses and agreements do not always have access to the same configuration of the equipment and thus foreign partners would not always have the ability to make an accurate determination as to whether their specific defense article configurations are the same. Therefore, the Department is not revising the text of the proposed rule as suggested by the commenter.

The same commenter also requested revisions to proposed paragraph (a)(6) to expand the entry to include third-party contractors in addition to the armed forces of a foreign government and United Nations personnel. The Department emphasizes that the goal of this rulemaking is to memorialize long-standing Department polices that were articulated in the ''Guidelines for Preparing Agreements.'' Therefore, the Department notes its purposeful limited intent for this rulemaking to apply only to the activities of the armed forces of a foreign government or United Nations military personnel. In contrast, activities undertaken by other foreign or U.S. persons who are not the armed forces of a foreign country or United Nations military personnel should continue to require additional authorization from the Department. For these reasons, the Department is not making the changes suggested by this commenter.

The same commenter also requested that ''end-use'' be removed from proposed paragraph (a)(6)(ii) since Department export control licenses and agreements do not often explicitly include ''use by a foreign government (armed forces) for deployment or training exercise,'' even though such activity is often an implied end-use. The position of the Department is that the taking of a defense article subject to the reexport or retransfer requirements of the ITAR on a deployment or training exercise outside a previously approved country is not a change in end-use if the enumerated criteria in ITAR § 120.54(a)(6)(i) through (iii) are met. This Department position is applicable even if such deployments or training exercises are not explicitly included on a license or agreement. For this reason, the Department is not revising the text of the proposed rule as proposed by the commenter.

Regarding proposed paragraph (a)(7), the same commenter welcomed this new entry. The commenter further requested the Department provide clarification on several matters. First, the commenter requested clarification as to whether a foreign defense article will become subject to the ITAR's ''reexport/retransfer license obligations if it had been modified, enhanced, upgraded or otherwise altered or improved in a manner that changed the basic performance of the item but did not have a U.S.-origin defense article incorporated while it is in the United States.'' The Department confirms that in such a scenario the foreign defense article will be subject to the ITAR and will require reexport or retransfer authorizations for all subsequent transfers after it leaves the United States.

The commenter also requested the Department provide ''a clear threshold for activities undertaken whilst the wholly foreign defense article is in the United States for controls to be triggered under ITAR § 120.54(a)(7)(i)'' and to provide guidance on the meaning of ''modified, enhanced, upgraded or otherwise altered or improved in a manner that changed the basic performance.'' The Department does not believe it needs to offer definitions of commonly used terms and phrases such as ''modified,'' ''enhanced,'' ''upgraded''

or ''otherwise altered or improved.'' The regulated community should apply the ordinary meaning of those words consistent with how it has interpreted those terms as they already exist in the ITAR (*e.g.,* ITAR § 123.4(b)).

Finally, the commenter also requested the Department put in place ''a mechanism in U.S. export licenses to indicate that a wholly foreign defense article has been modified, enhanced, upgraded or otherwise altered or improved in a manner that changed the basic performance of the item.'' The commenter asserted that, if such a mechanism were not put in place, ''that these changes [would] place the onus of identifying whether controls apply on foreign recipients [which] may lead to excessive and unnecessary licensing to avoid non-compliance.'' The Department notes that an authorization would be required for a person modifying, enhancing, upgrading, or otherwise altering or improving a foreign defense article while in the United States. Therefore, the subsequent recipient of an altered or improved foreign defense article should have clear notice of whether the criteria in paragraph (a)(7)(i) are met. Consequently, the Department does not envision any excessive or unnecessary licensing will occur because of these changes. For this reason, the Department is not adopting the commenter's recommendation.

One commenter requested that the Department provide additional guidance regarding the word ''transported'' in paragraph (a)(6)(i). Specifically, the commenter requested guidance or amendments to the proposed rule that would enable transport of defense articles by third-party contractors in addition to the armed forces of a foreign government or United Nations personnel. The Department notes its purposeful limited intent for this rulemaking to be applicable only to the activities of the armed forces of a foreign government or United Nations military personnel. In contrast, activities undertaken by other foreign or U.S. parties to an agreement that are not the armed forces of a foreign country or United Nations military personnel should generally be reviewed on a case-by-case basis and continue to require authorization from the Department. For this reason, the Department is not revising the text of the proposed rule in response to the comment.

The same commenter expressed their support for proposed paragraph (a)(7), noting that it is a ''welcome clarification over an issue that has caused different risk-based approaches by [companies] over many years.'' The commenter also requested the Department provide additional guidance regarding when a foreign defense article is imported into the United States for testing and how any generated test data should be controlled. In addition, the commenter requested the Department provide further clarification regarding how a foreign defense article that contains U.S.-origin defense articles should be treated when undergoing testing in a foreign country. The Department notes such requests are outside the scope of this rulemaking. For this reason, the Department is not revising the text of the proposed rule in response to this comment.

Regulatory Analysis and Notices

Administrative Procedure Act

This rulemaking is exempt from the requirements of section 553 of the Administrative Procedure Act (APA) as a military or foreign affairs function of the United States. Without prejudice to this determination, the Department elected to solicit comments on the proposed regulatory changes and has responded to those comments in this final rule.

Regulatory Flexibility Act

Since this rule is exempt from the notice-and-comment rulemaking provisions of 5 U.S.C. 553, it does not require analysis under the Regulatory Flexibility Act.

Unfunded Mandates Reform Act of 1995

This rulemaking 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 are deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Congressional Review Act

The Office of Management and Budget has determined that this rulemaking is not a major rule within the definition of 5 U.S.C. 804.

Executive Orders 12372 and 13132

This rulemaking 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 rulemaking.

Executive Orders 12866, 13563, and 14094

Executive Orders 12866, as amended by Executive Orders 13563 and 14094, 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). Because the scope of this rule does not impose additional regulatory requirements or obligations, the Department believes costs associated with this rule will be minimal. Although the Department cannot determine based on available data how many fewer licenses will be submitted as a result of this rule, the amendments to the definition of activities that are not exports, reexports, retransfers, or temporary imports will relieve licensing burdens. Qualitatively, this rule should have significant benefits for industry. The rule will provide more certainty and clarity by expressly stating in regulatory text what was already in Guidelines published by the Department. Additionally, it should have helpful impacts on our nation's foreign policy, more clearly conveying that the Department does not attempt to impose restrictions on other nations transporting defense articles during deployments or training exercises to other foreign countries. In turn, this may also encourage other nations to purchase additional defense articles from U.S. industry. This rule is consistent with Executive Order 13563, which emphasizes the importance of quantifying both costs and benefits, of reducing cost, of harmonizing rules, and of promoting flexibility. This rule has been designated a ''significant regulatory action,'' although not significant within the meaning of section 3(f)(1) of Executive Order 12866, by the Office of Information and Regulatory Affairs under Executive Order 12866.

Executive Order 12988

The Department of State reviewed this rulemaking in light of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

Executive Order 13175

The Department of State 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 final rule does not impose or revise any new information collections subject to 44 U.S.C. chapter 35.

List of Subjects in 22 CFR Part 120

Arms and munitions, Classified information, Exports.

For the reasons set forth above, the Department of State amends title 22, chapter I, subchapter M, part 120 of the Code of Federal Regulations as follows:

PART 120—PURPOSE AND DEFINITIONS

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

Authority: 22 U.S.C. 2651a, 2752, 2753, 2776, 2778, 2779, 2779a, 2785, 2794, 2797; E.O. 13637, 78 FR 16129, 3 CFR, 2013 Comp., p. 223.

■ 2. Amend § 120.54 by:
■ a. Removing the period at the end of paragraph (a)(5)(v) and adding a semicolon in its place; and
■ b. Adding paragraphs (a)(6) and (7).

The additions read as follows:

§ 120.54 Activities that are not exports, reexports, retransfers, or temporary imports.

(a) * * *

(6) The taking of a defense article subject to the reexport or retransfer requirements of this subchapter on a deployment or training exercise outside a previously approved country, provided:

(i) There is no change in end-use or end-user with respect to the defense article;

(ii) The defense article is transported by and remains in the possession of the previously authorized armed forces of a foreign government or United Nations military personnel; and

(iii) The defense article is not being exported from or temporarily imported into the United States; and

(7) The transfer of a foreign defense article previously imported into the United States that has since been exported from the United States pursuant to a license or other approval under this subchapter, provided:

(i) The foreign defense article was not modified, enhanced, upgraded, or otherwise altered or improved in a manner that changed the basic performance of the item prior to its return to the country from which it was imported or a third country;

(ii) A U.S.-origin defense article was not incorporated into the foreign defense article; and

(iii) The defense article is not being exported from or temporarily imported into the United States.

* * * * *

Bonnie D. Jenkins,

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

[FR Doc. 2024–18249 Filed 8–14–24; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

[SATS No. KY–260–FOR; Docket ID: OSM–2018–0008; S1D1S SS08011000 SX064A000 245S180110; S2D2S SS08011000 SX064A000 24XS501520]

Kentucky Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; approval of amendment, with one exception.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are approving an amendment, with one exception, to the Kentucky regulatory program (Kentucky program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). We are approving changes to statutory provisions that involve civil penalty fund distributions, self-bonding, and major permit revisions related to underground mining. We are not approving a provision that involves civil penalty escrow accounts.

DATES: The rule is effective September 16, 2024.

FOR FURTHER INFORMATION CONTACT: Michael Castle, Field Office Director, Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, Telephone: (859) 260–3900, email: *mcastle@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the Kentucky Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, State laws and regulations that govern surface coal mining and reclamation operations in accordance with the Act and consistent with the Federal regulations. *See* 30 U.S.C. 1253(a)(1) and (7). Based on these criteria, the Secretary of the Interior conditionally approved the Kentucky program effective May 18, 1982. You can find background information on the Kentucky program, including the Secretary's findings, the disposition of comments, and conditions of approval in the May 18, 1982, **Federal Register** (47 FR 21434). You can also find later actions concerning Kentucky's program and program amendments at 30 CFR 917.11, 917.12, 917.13, 917.15, 917.16, and 917.17. The regulatory authority in Kentucky is the Kentucky Energy and Environment Cabinet, Department of Natural Resources (herein referred to as the Cabinet).

II. Submission of the Amendment

By letter dated September 19, 2018 (Administrative Record Number KY–2007–01), the Cabinet submitted an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*), docketed as KY–260–FOR. The amendment seeks to revise the Kentucky Revised Statutes (KRS) to include statutory changes that involve civil penalty escrow accounts, civil penalty fund distributions, self-bonding, and major permit revisions related to underground mining.

The General Assembly of the Commonwealth of Kentucky enacted statutory changes through House Bill 261, which was signed by the Governor on April 2, 2018, and became effective on July 14, 2018. *See* 2018 Ky. Acts ch. 85. These changes are codified at KRS Chapter 350, *Surface Coal Mining,* sections 350.0301, 350.064, 350.070, 350.518, and 350.990. The Cabinet was not required to promulgate administrative regulations as a result of the law.

We announced receipt of the proposed amendment in the May 10, 2019, **Federal Register** (84 FR 20595) (Administrative Record No. KY–2007–17). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on these provisions. We did not hold a public hearing or meeting because none was requested. The public comment period ended on June 10, 2019. No public comments were received.

III. OSMRE's Findings

The following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. We are