

*The International
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February 2010

Have you been staying up-to-date with the change to the ITAR regulations?

It is the responsibility of the exporter to stay up-to-date on the changes to any export control regulations that apply to any exports they may have. If you fall under the **ITAR (*International Traffic in Arms Regulations, 22 CFR, Parts 120 to 130*)** or if you are not sure if you do, you must put forth “Reasonable Care” and exercise “Due Diligence” to insure you are *always* in full compliance.

Are you aware that there have been numerous changes to the ITAR regulations during 2009 and possibly more changes coming in 2010?

- In the April 24, 2009 Federal Register, changes were announced for **Part 121.1 of the Munitions List, Category XII Fire Control, Range Finder, Optical Guidance and Control Equipment**. This change redefined the “second and third generation image intensifying tubes.” The new definition is “A peak response within 0.4 to 1.05 micron wavelength range and incorporating a micro channel plate for electron image amplification having a hold pitch (center-to center spacing) of less than 25 microns and having either:
 - An S-20, S-25 or multi-alkali photocathode; or
 - A GaSa, GaInAs, or other compound semiconductor photocathode”

The text of this change is complicated but critical for anyone who exports image intensification tubes or articles incorporating these tubes. The final rule went into effect May 21, 2009.

- In the August 3, 2009 Federal Register, changes were announced for **Part 123.9 Country of Ultimate Destination and approval of re-exports or retransfers**. To summarize, re-exports or transfers to NATO Agencies of Governments of NATO countries or to the governments of Australia, Japan, New Zealand, or South Korea of U.S. origin components incorporated into defense articles that are not significant military equipment or major defense articles and sold under contract for less than USD\$25,000,000.00 or defense services under contract for less than USD\$100,000,000.00 and are not identified in **part 121 as Missile Technology Control Regime items** are authorized with prior written approval.

Continued...

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**Have you been staying up-to-date with
the change to the ITAR regulations? (Cont.)**

This was a major change that greatly simplified these re-exports and retransfers.

- In the August 6, 2009 Federal Register, changes were announced to **Part 123**. This change was a much needed exemption for the temporary export for body armor. This exemption applies to body armor for exclusively personal use to destinations not subject to restrictions under Part 126.1 and to Afghanistan and Iraq under specified conditions. This exemption went into effect August 6, 2009.
- A number of other changes have occurred in 2009, some of which have changed licensing procedures under D-TRAD-2. These changes have expanded the types of licenses and other applications that can be filed through D-TRADE-2.

There are possibilities for significant changes in 2010. Congress will be debating how and if the ITAR regulations should be made less restrictive so as not to unduly restrict the growth of U.S. Exports. On the other side, the DOD and a number of security agencies see areas where the regulations need to be expanded and strengthened.

Enforcement efforts increased in 2009 and further expansion of these efforts is expected for 2010. The official copy of the ITAR regulations (*22CFR, Parts 120 to 130*) is published each year on April 1; however, changes occur throughout the calendar year. It is important that every exporter have a current copy of the regulations and stay up to date with any and all changes that occur.

It is your responsibility to insure that you have access to the regulations which apply to your exports. Without access to a current and complete copy of the regulations, how can you insure compliance!