



June 10, 2024

The Honorable Jessica A. Lewis
Assistant Secretary, Bureau of Political-Military Affairs
U.S. Department of State

Electronic Submission: <http://www.regulations.gov>, DOS-2023-0034

Re: Registration Fees—RIN 1400-AF78

Dear Ms. Lewis,

The National Defense Industrial Association (NDIA) appreciates the opportunity to provide comments on the proposed rule amending the International Traffic in Arms Regulations (ITAR) by increasing and specifying the fees required for registration with the Directorate of Defense Trade Controls (DDTC).

As a 501(c)3 educational nonprofit, NDIA represents more than 1,700 corporate and over 65,000 individual members from small, medium, and large contractors. For more than 100 years, NDIA has provided a platform through which leaders in government, industry, and academia can collaborate and provide solutions to advance the national security and defense needs of the nation.

The proposed Tier 3 fees increase too sharply

While NDIA and its members recognize the need for the DDTC to increase fees to support the increased level of work, the increase for Tier 3 is an overwhelmingly significant increase in such a fee that will affect the vast majority of companies who register with DDTC.

As the Department itself recognizes in the proposed rule's supplementary information, Tier 1 and 2 registrants "will see a 33% and 45% increase, respectively," which tracks closely to the "near 40% inflation rate." The Department also acknowledges that "Tier 3 registrants would see their individual fee amounts increase by over 250%." However, at the high end, the proposed rule would increase a company's current annual registration fee by about 450%. Therefore, under the existing system, if a Tier 3 company had 100 applications approved, they would pay \$25,250 in DDTC registration fees. Under the proposed system, this would increase that payment to \$109,450, which represents a 433% increase.

The Department states that the Tier 3 increase is justified because "Tier 3 registrants derive greater benefits from engaging in regulated activities while also consuming a disproportionate amount of DDTC support services" and will "account for over 22,000 of the roughly 26,000" expected favorable applications. As these numbers indicate, the extreme fee increases for Tier 3 will disproportionately affect the vast majority of companies registering with DDTC.



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The proposed fee increases will hinder small businesses and limit the number and variety of companies who are looking to enter the defense sector

NDIA and its members caution that this increase will have a detrimental impact on the number and variety of companies who are looking to engage in the defense sector. This comes at a time when the U.S. government is increasingly looking to boost and diversify the number and types of businesses who engage in foreign military sales.

Companies, especially non-traditional contractors new or interested in entering the defense sector, might forego business opportunities in the defense sector due to these costs. Additionally, companies may consider the increased cost of exporting defense items and no longer seek to export to foreign markets. Companies are largely driven by profit margins, and a fee increase of this size will impact their returns. A reduction in companies reaching the Tier 3 level may reduce the revenue increases DDTC is expecting.

This fee increase will hit small and medium-sized businesses the hardest, hindering their ability to grow, expand, and compete in the defense industrial base. These companies are more likely to feel the financial impact of an increased fee structure and decide to forego selling their covered products to allies and partners.

The proposed fee increases acts in contrast to existing government demand signals

The proposed fee increase actively works against the U.S. government's signaled demand for industry to grow and support our nation's partners and allies. While a recently proposed rule aims to exempt the requirement of registering for a license with DDTC before exporting, transferring, or importing most defense articles between or among authorized users in the United Kingdom and Australia, those exemptions do not, to the best of our knowledge, apply to other countries receiving a recently heightened level of U.S. arms exports and support – namely Ukraine, Taiwan, and Israel. The defense industrial base feels that it is being asked to ramp up production to assist our allies, yet the government is putting up barriers that are making it more difficult for industry to achieve these objectives.

NDIA appreciates the opportunity to comment on this matter and stands ready to assist. Please direct any questions to Chris Sax at csax@ndia.org or (703) 247-2571.

Sincerely,

National Defense Industrial Association