

Registration Fee Change

Frequently Asked Questions

Why is the Registration Fee changing?

On September 25, 2008, the Department published a Federal Register Notice of Final Rulemaking to increase the registration fee (see 73 FR 55439). The fee is being increased to better align registration fees with the cost of licensing, compliance and other related activities and to meet the requirements of the President's National Security Directive on Export Control Reform. The fees were last adjusted in 2004 (see 69 FR 70889 dated December 8, 2004 and 70 FR 50959 dated August 29, 2005). Previous to that date they were adjusted in 1997 (see 62 FR 27497 dated May 20 1997).

What is the President's National Security Directive on Export Control Reform?

On January 22, 2008, the President signed Nation Security Presidential Directive (NSPD) – 56. The directive mandated a series of reforms in the way defense trade is executed by the executive branch to enhance transparency, timeliness and predictability for industry. These reforms included the process and management improvements, as well as a requirement that DDTC be fully resourced to perform its mission. It also mandated that DDTC's mission be 75 percent "self-funded."

What changes or improvements in DDTC operations will result from the increase in the registration fee?

NSPD-56 requires significant improvements in license processing and automation. For example, the NSPD requires that DDTC electronically receive and adjudicate all licenses. This will require a significant investment in information technology systems. Likewise, additional staff to adjudicate appropriately export licenses and commodity jurisdiction requests will have to be hired and trained.

Who has to pay the higher fees?

Fees must be paid by persons required to register with the Directorate of Defense Trade Controls (DDTC) in accordance with Section 38 of the Arms Export Control Act (AECA) (22 U.S.C. 2778). ITAR registration fees are set forth in Section 22 of the International Traffic in Arms Regulations (ITAR) (22 CFR 120-130). Persons required to register include manufacturers, exporters and brokers of defense articles and defense services. Registrants may not establish new entities for the purpose of reducing registration fees.

Registrants who have already renewed their registration do not have to resubmit. The new fee structure applies to all new (i.e., first time registrants) registration packages submitted to DDTC after September 25, 2008, and to any current registrations that expire at the end of November 2008 and thereafter.

What are the new fees?

The Department is adopting basically a three-tier registration fee schedule. The schedule is as follows:

The first tier is a set fee of \$2,250 per year. This applies to new registrants. It also applies to registrants renewing their registration who did not submit any applications during the twelve month period ending 90 days prior to the expiration of the current registration.

The second tier is a set fee of \$2,750 for registrants renewing their registrations who have submitted and had final action taken on ten or fewer applications during a twelve month period ending 90 days prior to the expiration of their current registration.

The third tier is a calculated fee for registrants who have submitted and had final action taken on more than ten applications during the twelve month period ending 90 days prior to the expiration of the current registration. For these registrants, the fee calculation is \$2,750 plus \$250 times the total number of applications over ten. To insure fairness to those registrants in this third tier who may have many applications but all of a low value, there is a provision for a reduced fee if the fee calculated above is greater than 3 percent of the total value of all of their applications. In such cases, the fee

will be 3 percent of the total value of all applications or \$2,750, whichever is greater.

How will a new registrant know their fee?

The fee for new registrants is set at \$2,250.

How will a registrant that is ready to renew their current registration know their fee?

DDTC will send a written notification of the fee to be paid at least 60 days prior to the expiration date of the current registration. This notification will be addressed to the same senior officer and address on the current registration unless a material change has been submitted per ITAR 122.4.

For registrations expiring on November 30, 2008, letters were mailed on September 26th.

What if I don't receive a notification?

As indicated above, notifications will be sent to the same senior officer and address on the current registration, beginning with those whose registration expires on November 30, 2008. The responsibility for ensuring that the registration is submitted at least 30 days prior to expiration remains with the registrant.

What is the registration fee for non-profit organizations?

Registrants who are wholly exempt from income taxation pursuant to 26 U.S.C. 501(c)(3) may be reduced to the first tier registration fee provided proof of such status (i.e., IRS certification form) is submitted with their registration package. The IRS certification must apply to all entities/affiliates listed in the registration submission.

Can the fee calculation be disputed?

If a registrant believes an error has been made in calculating its fee the registrant may submit a written request explaining the basis for the challenge to the attention of Mr. David C. Trimble, Director, Office of Defense Trade Controls Compliance. If the registrant's registration is set to expire within

30 days or less, registrants should submit the challenge to DDTC with a completed renewal registration submission with a fee of \$2,250 to ensure registration does not expire while the question is being resolved.

Does a registrant's fee calculation change if their registration package is determined to be incomplete and returned?

No. However, registrants should make every effort to submit a complete package.

If a registrant has questions on the registration fee, who should they call?

General questions on the implementation of the Federal Register Notice and new fee structure should be addressed to the DDTC Response Team.

Will a registrant receive a refund if during the year the part of the company doing ITAR business is sold or closed?

DDTC will not refund registration fees.

How will back fees be calculated?

Back fees will be calculated using the fee structure in place during the period of the registrant's expired registration.

What types of applications are used to calculate the registration fee?

Applications used to calculate the fee include DSP-05s, 73s, 61s, 85s, 119s, 53s, and agreements and their amendments. Cases returned without action and denied cases are not included in the fee calculation, per the FRN. Submissions required under 22 CFR 123 through 126 which do not require response from the Department (e.g., sales reports) are not counted when determining the registration fee, nor are disclosures or requests for a commodity jurisdiction determination.

Can I get a list of the licenses counted in determining my registration fee?

A list of those licenses DDTC counted may be requested from the Response Team. All requests for license lists must be submitted in writing (email or fax) and will be provided to the company within 2 business days.

Are there any special circumstances which the Department will consider to delay full payment of the registration fee?

Companies whose registration fee is greater than \$3,500 may appeal to the Department for consideration of an alternate payment schedule. To be considered, companies must provide proof that the registration fee being charged is greater than 1 percent of the total sales in the given year. "Total sales" includes domestic and international sales and is not limited to sales of items controlled on the USML. Applicants must submit a request for special consideration to DDTC not less than 30 days prior to registration expiration. Any request received within the 30 day window will be automatically disapproved. This will remain in effect only until the first anniversary of the Federal Register Notice raising registration fees.