

and vote on all such requests. The time frames, procedures and right of escalation by a member agency that is dissatisfied with the results that apply to proposals made by a member agency shall apply to these requests. The decision of the ERC (or the ACEP or EARB or the President, as may be applicable in a particular case) shall be the final agency decision on the request and shall not be appealable under part 756 of the EAR. The chairman will prepare the response to the party who made the request. The response will state the decision on the request and the fact that the response is the final agency decision on the request. The response will be signed by the Deputy Assistant Secretary for Export Administration.

The End-User Review Committee will conduct a review of the entire Entity List at least once per year for the purpose of determining whether any listed entities should be removed or modified. The review will include analysis of whether the criteria for listing the entity are still applicable and research to determine whether the name(s) and address(es) of each entity are accurate and complete and whether any affiliates of each listed entity should be added or removed.

#### **PART 756—[AMENDED]**

■ 8. The authority citation for part 756 is revised to read as follows:

**Authority:** 50 U.S.C. app. 2401 et seq.; 50 U.S.C. 1701 et seq.; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of July 23, 2008, 73 FR 43603 (July 25, 2008).

■ 9. In § 756.1, add a new paragraph (a)(3) to read as follows:

##### **§ 756.1 Introduction.**

(a) \* \* \*

(3) A decision on a request to remove or modify an Entity List entry made pursuant to § 744.16 of the EAR.

\* \* \* \* \*

Dated: August 7, 2008.

**Christopher R. Wall,**

*Assistant Secretary for Export Administration.*

[FR Doc. E8-19102 Filed 8-20-08; 8:45 am]

**BILLING CODE 3510-33-P**

## **DEPARTMENT OF COMMERCE**

### **Bureau of Industry and Security**

#### **15 CFR Parts 740, 742, 744, 748, 750, 754, 764 and 772**

[Docket No. 0612242559-8545-02]

RIN 0694-AD94

#### **Mandatory Electronic Filing of Export and Reexport License Applications, Classification Requests, Encryption Review Requests, and License Exception AGR Notifications**

**AGENCY:** Bureau of Industry and Security, Commerce.

**ACTION:** Final rule.

**SUMMARY:** This rule requires that export and reexport license applications, classification requests, encryption review requests, License Exception AGR notifications and related documents be submitted to the Bureau of Industry and Security (BIS) via its Simplified Network Application Process (SNAP-R) system. This requirement does not apply to applications for Special Comprehensive Licenses or in certain situations in which BIS authorizes paper submissions.

**DATES:** Effective date October 20, 2008.

**FOR FURTHER INFORMATION CONTACT:** For information about this rule contact William Arvin, e-mail [warvin@bis.doc.gov](mailto:warvin@bis.doc.gov) or tel. 202-482-2440. For information about registering for or using the SNAP-R system contact Lisa Williams at 202-482-2148.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

BIS administers a system of export and reexport controls in accordance with the Export Administration Regulations (EAR). In doing so, BIS requires that parties wishing to engage in certain transactions apply for licenses, submit encryption review requests, or submit certain notifications to BIS. BIS also reviews, upon request, specifications of various items and determines their proper classification under the EAR. Currently, members of the public submit these applications, requests and notifications to BIS in one of three ways: via SNAP-R, via BIS's Electronic License Application Information Network (ELAIN), or via the paper BIS Multipurpose Application Form BIS 748-P and its two appendices, the BIS 748-P A (item appendix) and the BIS 748-P B (end user appendix). In many instances, BIS needs additional documents to act on the submission. For documents that relate to paper submissions, the documents can be

mailed or delivered to BIS with the BIS 748-P form. For submissions made electronically via ELAIN, the documents must be sent to BIS separately and matched up with the applications when they arrive.

In 2006, BIS replaced its then existing Simplified Network Application Processing system (SNAP) with an improved system referred to as "SNAP Redesign (SNAP-R)". The improvements include the ability to include documents related to a submission in the form of PDF (portable document format) files as "attachments" to the submission. Other improvements include a feature that allows BIS personnel to securely request additional information from the submitting party and for the party to submit that information in a manner that ties the chain of communication to the submission.

BIS believes that use of SNAP-R will reduce processing times and simplify compliance with and administration of export controls. SNAP-R provides not only improved efficiency in submission and processing, but improved end-user security through rights management and an updated application and security infrastructure.

Therefore, beginning October 20, 2008 all export and reexport license applications (other than Special Comprehensive License and Special Iraq Reconstruction License applications), classification requests, encryption review requests, License Exception AGR notifications, and "attached" related documents must be submitted to BIS via its Simplified Network Application Process Redesign (SNAP-R) system unless BIS authorizes paper submissions. This rule also sets forth the criteria under which BIS authorizes paper submissions.

##### **Changes Made by This Rule**

The changes that this rule makes center on part 748 of the EAR, which sets forth the principal procedures governing the submission of the applications, review requests and notifications affected by this rule. The changes are in § 748.1 "General provisions," § 748.3 "Classification requests, advisory opinions, and encryption review requests," and in § 748.6 "General instructions for license applications." The rule also makes conforming changes to a number of EAR provisions that currently employ language related to the paper forms.

##### *Substantive Changes*

Section 748.1 is revised to emphasize electronic filing over paper and to set forth the basic requirement that license

applications (other than Special Comprehensive License or Special Iraq Reconstruction License applications), encryption review requests, License Exception AGR notifications, and classification requests and any accompanying documents must be submitted via SNAP-R unless BIS authorizes submission via paper. Revised section 748.1 continues to specify that for paper submissions, only original BIS paper forms may be used and that reproductions or facsimiles are not acceptable.

Section 748.1 also sets forth the criteria under which BIS will authorize paper submissions. Those criteria are: (1) BIS has received no more than one submission from the party in the twelve months immediately preceding the current submission, *i.e.*, the combined total of the party's license applications (other than Special Comprehensive Licenses), encryption review requests, License Exception AGR notifications, and classification requests could not exceed one; (2) the party does not have access to the Internet; (3) BIS has rejected the party's electronic filing registration or revoked its eligibility to file electronically; (4) BIS has requested that the party submit on paper for a particular transaction; or (5) BIS has determined that urgency, a need to implement government policy or a circumstance outside the submitting party's control justifies allowing paper submissions on a particular instance.

Parties who wish to submit on paper must submit the BIS Form 748-P. In addition to the information relevant to the substance of the submission itself, the submitter must include, either on the form or as an attachment, a statement explaining which of the five foregoing criteria justifies a paper submission and provide supporting information. If BIS agrees that at least one of the criteria is met, it will process the submission in accordance with its regular procedures. If BIS finds that none of the criteria asserted by the submitter are met, it will return the form without action and inform the submitter of the reason for rejecting the request to file on paper. A decision by BIS to reject the request to file on paper is subject to appeal under part 756 of the EAR. This rule also moves the address for paper submissions from § 748.2 to § 748.1.

Section 748.3 is revised to replace instructions about where and how to submit classification requests, with a reference to the procedures in § 748.1 and to require that documents submitted with the classification request be submitted in PDF format as attachments to the SNAP-R submission unless BIS had authorized a paper

submission pursuant to § 748.1 of the EAR. Section 748.3 continues to state requirements about the kinds of information that must be included in classification requests.

Section 748.6 is revised to require that any documents submitted in support of any license application submitted via SNAP-R be submitted via the SNAP-R system as PDF (portable document format) files. Section 748.6 also is revised to remove the statement that application control numbers are preprinted on the paper forms. The paper forms will continue to bear a preprinted application control number, but for electronic submissions, application control numbers are communicated to the submitter electronically once BIS accepts the submission.

#### *Conforming Changes*

Prior to publication of this rule, a number of EAR provisions stated that a particular submission must be made on the BIS 748-P paper form or its electronic equivalent. If such a provision referred to a classification request or encryption review request, this rule revises that provision to state that the submission must be made in accordance with §§ 748.1 and 748.3. If such a provision referred to a license application (other than a Special Comprehensive License application or Special Iraq Reconstruction License), this rule also would revise that provision to state that the submission must be in accordance with §§ 748.1, 748.4 and 748.6. The changes described in this paragraph are to be made in:

- § 740.8(b)(2), relating to classification requests pursuant to License Exception "Key Management Infrastructure (KMI)";
- § 740.9(a)(4)(i) and (iii), relating to authorizations to sell or dispose of or to retain abroad more than one year items exported under License Exception "Temporary imports, exports and reexports (TMP)";
- § 740.12(a)(2)(iii)(C), relating to applications to exceed the frequency limits for individual gift parcels under License Exception "Gift parcels and humanitarian donations (GFT)";
- § 740.15, footnote number 4, relating to certain exports to U.S. or Canadian vessels;
- § 740.17(d)(1), relating to the submission of encryption review requests under License Exception "Encryption commodities and software (ENC)";
- § 742.15(b)(2)(i), relating to submission of review requests for certain encryption items;

- Supplement No. 6 to part 742, relating to submission of review requests for certain "mass market" encryption commodities and software;
- § 754.2(g)(1), relating to applications for export of certain California crude oil;

- § 754.4(d)(1), relating to applications to export unprocessed Western Red Cedar; and
- § 764.7(b)(2)(i), relating to applications to take certain actions with respect to certain items in Libya.

This rule replaces the requirement to use the form BIS 748-P in § 740.18(c)(2) when submitting notice to the government in advance of shipments under License Exception "Agricultural Commodities (AGR)" with a requirement to submit such notices in accordance with § 748.1 of the EAR.

This rule also replaces references to the BIS 748-P Multipurpose Application Form with the word "application" in provisions that describe certain information that must be submitted with particular types of license applications. This change emphasizes that the same information is required regardless of whether an application is submitted on paper or electronically. The change described in this paragraph is made in:

- § 742.2(e)(1), relating to certain license requirements imposed for chemical and biological weapons proliferation concerns;
- § 744.21(d), relating to applications to export or reexport certain items to known military end-uses in the People's Republic of China;
- § 748.4(b)(1), relating to disclosure of parties on a license application;
- § 748.4(b)(2)(ii), relating to written authority of certain agents to submit on a principal's behalf;
- § 748.5 introductory paragraph and paragraph (b), relating to parties on the application;
- § 754.4(d)(2) and (d)(3), relating to applications for export of unprocessed western red cedar;
- § 754.5(b)(2), relating to applications to export horses by sea;
- Supplement No. 2 to Part 754, relating to applications for export of western red cedar; and
- § 772.1, definition of "Other party authorized to receive license."

This rule removes the reference to date time stamping in § 754.2(g)(5)(i) by BIS of applications to export crude oil because that process occurs only with paper applications. However, the rule retains the policy in § 754.2(g)(5)(i) of issuing licenses for approved applications in the order in which the applications are received.

This rule also changes the references to § 748.2(c) as a source of BIS's address

in §§ 748.3, 750.7(h)(3), 750.8(b) and 750.9(a) to a reference to § 748.1(h)(3) because the rule removes § 748.2(c) and includes the address in § 748.1(h)(3).

### Public Comments

#### *Comments Related to Lack of Direct Data Interface Between SNAP-R and Corporate Databases*

BIS received comments on the proposed rule from eleven commenters. Eight commenters stated that SNAP-R should be modified to include capability for direct data transfer from corporate databases. Five of these eight stated that SNAP-R should not be made mandatory until it includes such a function. Two of the eight stated that a direct data interface was needed but did not state that they were opposed to making use of SNAP-R mandatory without such an interface. One of the eight supported making use of SNAP-R mandatory, but noted the need for a direct data interface. Four of the eight commenters stated that “rather than terminate ELAIN replace it with a program interface that incorporates SNAP-R data formats and document attachment capabilities.”

The eight commenters who addressed direct data transfer offered the following points in support of the need for a direct data interface. Not all of the eight commenters offered all of these points and some of these points were offered by more than one commenter.

- Lack of a direct interface forces users to go outside corporate computer systems that provide internal compliance checks, a practice that creates a compliance risk because it reduces management’s ability to see the information and removes a basis for analysis and audits of best practices throughout the corporation.

- Manual data entry is a potential source of errors and is inefficient and costly. One commenter estimated that it will have to spend \$50,000 in additional labor costs to do data entry in SNAP-R.

- Other government programs that require submission of export related information to the government have direct data interfaces. Commenters specifically mentioned the D-TRADE (used for State Department export license applications) and the Automated Export System (used to collect shippers’ export data).

- The application of current Internet technologies (including file transfer and XML data formats) to parallel the SNAP-R Web site make the development of a SNAP-R automated interface a very modest information systems project.

- Allowing direct data interface would allow large users to employ their own business compliance rules in the application submission process. In some cases, these internal rules might be stricter than the minimum EAR requirements.

- Allowing direct data interface would allow large users to incorporate automated denied persons list screening, automated status checking, message handling and notifications into the industry side of the system.

- Although BIS addressed the impact of the rule on small entities, it did not address the fact that a large percentage of submissions come from a small number of submitters and the burden that manual data entry would impose on them.

BIS acknowledges the convenience and potential cost savings that can be provided to the public by a direct data transmission from the applicants’ computer systems to BIS. However, BIS must also consider the security requirements of its computer systems. These security needs are based on both Federal information system security requirements and a statutory provision that precludes BIS from disclosing certain information in those systems, except as provided by law. As a government agency, BIS must comply with these requirements in a manner that treats similarly situated parties in a similar manner.

The data provided to BIS through the submissions affected by this rule can include sensitive international trade information about pricing, technical design or the identity of potential customers. The systems that contain the data are high security impact systems in accordance with Federal Information Processing Standards Publication 199, Standards for Security Categorization of Federal Information Systems and the National Institute of Standards and Technology Special Publication (SP) 800-60, Guide for Mapping Types of Information and Information Systems to Security Categories. These standards did not exist when ELAIN was created in the 1980s.

In addition to the need to comply with government standards for high security impact systems, BIS is obligated to implement the provisions of Section 12(c) of the Export Administration Act of 1979, as amended (EAA). Section 12(c) of the EAA prohibits the release of information that was obtained for the purpose of consideration of or that concerns license applications without a determination that the release of such information is in the national interest. To meet this obligation, BIS, among other things,

makes efforts to guard against unauthorized access to its computer systems that contain information that is protected by Section 12(c) of the EAA.<sup>1</sup>

Meeting these obligations poses ever increasing challenges for BIS. Over the last decade, the number and sophistication of cyber attacks on government systems has increased. BIS is a confirmed target of these attacks and in order to prevent the loss or compromise of the data that it is obligated to protect, BIS has adopted stringent measures.

BIS requires extraordinary IT Security measures due to its: (1) International trade data which per FIPS-199 referenced above, carries a “high” security impact level, and (2) confirmation by the Department of Homeland Security (DHS) U.S. Computer Emergency Response Team (USCERT) that BIS is a target of international actors engaging in broad federal level cyber espionage. The former requires data security exceeding even the requirements of personal privacy information; the latter requires security infrastructure over and above that provided by commercially available products.

The general nature of the cyber-espionage threat is that BIS has been and continues to be the target of attempts by external actors to exfiltrate data. The history and pattern of these attacks support the premise that their frequency and sophistication are likely to increase. BIS bases its information technology security planning upon that premise.

The most effective BIS response to the cyber-espionage threat is to implement a compartmentalized network and security infrastructure to secure mission critical export control system applications and data from foreign intrusions. Physical and logical segregation is the same concept applied to classified systems and data protection. BIS has implemented this approach for the same reasons that it is applied in classified environments—the cyber espionage vulnerabilities exceed the protections provided by commercial products in a non-compartmentalized environment. As confirmed with DHS and other independent federal and

<sup>1</sup> Although the EAA expired in August 2001, the President has ordered that “the provisions of the [EAA] and the provisions for administration of the [EAA] shall be carried out \* \* \* so as to continue in full force and effect \* \* \* the export control system.” Executive Order 13222 (Aug. 17, 2001). The Department has determined, and federal courts have agreed, that this order has the effect of preserving the confidentiality requirements of Section 12(c). See e.g. *Wisconsin Project on Nuclear Arms Control v. U.S. Dept. of Commerce*, 317 F.3d 275 (DC Cir. 2003).

private security experts, a compartmentalized system is the only approach which will, with a high degree of certainty, yield results. Selective targeted IT security measures have not been and are not effective because of the breadth, resources, sophistication and nature of the attack methods. For example, the BIS compartmentalization includes, but is not limited to, export control system segregation from general internet access, and particular e-mail message formats and attachments. This not only allows BIS to continue to mitigate, with 100% effectiveness, the risk of BIS systems losing sensitive data, but to ensure its systems are not used to launch an attack against the exporter community or other agencies.

Finally, this security posture must be implemented with the principle that any direct computer interface standard to be implemented for the purpose of submitting data to BIS should not arbitrarily exclude any party.

With these considerations in mind, BIS has assessed options for accomplishing the goals of the commenters without breaching its security and fairness obligations. This examination included, but was not limited to, review of procedures used by the other agencies referenced by the commenters.

For example, one method to achieve the commenters' objectives would be to allow direct data interface between private sector computer systems and the BIS licensing systems. BIS rejected this alternative. Allowing a system of unknown security standards to interface directly with a high impact security system is, in BIS's view, inconsistent with the security controls specified in National Institute of Standards and Technology publication 800-53A, Guide for Assessing the Security Controls in Federal Information Systems. This position is reinforced by the information provided by Federal and private security sources, and the knowledge BIS has acquired in responding to previous attempts by outside parties to gain access to data in its information systems. BIS has determined that this method would pose an unacceptable risk of compromise and unauthorized system and data access.

BIS also considered the option of allowing data transmission from private sector computers to a logically and physically segregated BIS computer that would be isolated from BIS systems that would store sensitive data. There are options to mitigate but not to eliminate the risk posed by malicious code which may be embedded in transmissions and data content. Given sufficient time and resources, BIS could implement an

isolation and containment solution that would provide an acceptable level of risk mitigation. However, the cost of the solution would increase as the number of unique user systems authorized to interface directly with BIS computer systems increased. The possibility of concealing harmful code in a data transmission and the corresponding costs and technical challenges of detecting and removing that code exist regardless of the data interface method or format; they will simply differ in nature if BIS applies an XML schema as suggested by one commenter.

Because costs and complexity would increase as the number of unique user systems increased, providing opportunity for direct data transmission to all parties who submitted comments requesting direct data transmission to BIS would not be cost effective given current information technology security requirements and capabilities. Moreover, BIS could not in fairness limit such costs and complexity by restricting direct data transmission to a few parties or to a limited number of service providers. Doing so would favor some private sector parties over others and could be viewed as fostering a government protected oligopoly.

After considering the foregoing factors, BIS concludes that eliminating the ELAIN system and requiring use of the SNAP-R Web based data entry system is the best available alternative given current information technology capabilities and fiscal constraints. Accordingly, BIS intends to discontinue use of ELAIN and require the use of the SNAP-R system unless one of the reasons for authorizing paper submissions set forth in this rule applies in particular case.

#### *Comment Related to Cost Reduction Afforded by SNAP-R*

One commenter noted that use of SNAP-R would likely reduce costs and processing time compared to paper forms.

BIS agrees. One of the main advantages of an electronic system such as SNAP-R is reduced costs and processing time.

#### *Comments Proposing Changes to SNAP-R That Are Not Related to the Proposed Rule*

BIS received several comments proposing changes to SNAP-R that do not address the issues in the proposed rule. BIS will consider these comments as it further develops the SNAP-R system and may implement them as resources become available. These comments are:

- SNAP-R should provide status checking ability similar to STELA, either in addition to STELA or instead of STELA;
- Licensing officers should be able to enter remarks about the status of a submission that would be readable by the applicant;
- SNAP-R should list the licensing officer assigned to the application;
- SNAP-R should allow edits to the commodity field after the field is saved by the user;
- Improve SNAP-R rights management to allow better management oversight via access to all of the company's submissions, employee reassignments, assignment of access rights, systematic peer review and coordination of export control compliance policies, and practices among affiliated companies (Consider the United Kingdom's SPIRE system as an example);
- Allow exporters to designate third parties to submit on their behalf and to monitor the activities of those third parties;
- Include application control numbers or reference numbers in the drop down menu;
- Interact with the National Security Agency (NSA) so that encryption requests submitted via SNAP-R are automatically routed to NSA instead of requiring applicant to submit a copy of its SNAP-R submission to NSA; and
- Revise the "View Messages" screen in SNAP-R to add columns that show the (submitter's) reference number and the application control number and allow the submitter to sort the display on these columns.

These comments embody proposals to make SNAP-R more useful or effective. BIS believes that they need not be addressed in connection with this rule. BIS will consider these comments in connection with its future efforts to improve SNAP-R.

#### *Comments Proposing Changes That Cannot Be Implemented at This Time Because of Legacy System Limitations*

Two comments proposed changes to SNAP-R that cannot be implemented at this time because of limitations of the legacy Export Control Automated Support System (ECASS). ECASS, which has been operational since the early 1980s, is the computer system that BIS uses for internal processing of license applications, classification requests, encryption review requests and License Exception AGR notifications. BIS will consider these comments in connection with its multi-year incremental ECASS redesign and deployment of the ECASS Redesign

(ECASS–R) system. However, the expectation is that the changes proposed in these two comments, if adopted, will not be implemented until the final stage of the ECASS–R system deployment when the legacy ECASS system is retired. This is because the legacy ECASS system architecture is an outdated “monolithic” design; although the new ECASS–R system is being implemented in modules incrementally, the legacy system must be retired in its entirety to implement broad data element changes cost effectively.

These two comments are:

- Increase the number of characters permitted in the line item field; and
- Increase the number of characters permitted in the technical note field.

*Comment Related to the Ability of SNAP–R To Accept Data Required by the Export Administration Regulations*

One commenter stated that BIS should change the computer/microprocessor performance field to accommodate APP (adjusted peak performance) rather than MTOPS (millions of theoretical operations per second).

In April 2006, the EAR were amended to replace the computer performance metric composite theoretical performance (CTP) measured in millions of theoretical operations per second (MTOPS) with a new metric called adjusted peak performance (APP) measured in weighted teraFLOPS (WT). In November 2007, another EAR amendment replaced CTP with APP for microprocessor performance measurement. In the preamble to the April 2004 rule, BIS noted that a computer with a CTP of 190,000 MTOPS would have an APP of approximately 0.75 WT. A change of this magnitude requires an adjustment to the range of values that may be entered into the relevant field in SNAP–R. Currently SNAP–R will accept a range of values ranging from 0.0000001 to 9.9999999 WT. After considering applications and licenses currently in its database and estimating the rate of future increases in computer performance, BIS believes that SNAP–R as currently configured is adequate for data input of currently available computers and microprocessors. However, BIS estimates that computers with a performance level of 10 WT or greater are likely to be available sometime in the year 2009 or 2010. Therefore, BIS will begin the change control review process to modify SNAP–R to accept values exceeding 10 WT in the APP field.

*Comments Concerning Electronically “Attaching” Files to SNAP–R Submissions*

BIS received comments concerning the requirements for electronically “attaching” documents to the SNAP–R submissions. These comments are:

- Expand the size of supporting documents allowed via SNAP (SNAP–R). Exporters must use both paper and electronic means for submission of a single application.
- Not all submissions are paper and exporters must use both paper and electronic means for submission of a single application.

BIS contacted the commenter who provided this comment for clarification and queried its licensing officers to identify instances of the problems alluded to in these comments. With the information obtained from those sources, BIS concluded that these comments are intended to address the following three issues:

- A submitter may not have a PDF version of the document. In one instance identified by a BIS licensing officer, the only electronic copy was in JPEG (joint photography experts group) format.
- A document may be too large to fit into the submitter’s scanner.
- The submitter’s PDF file is larger than the maximum file size that SNAP–R accepts for attachments.

BIS believes that no changes to the rule or to SNAP–R are needed because of the issues raised in these comments. BIS selected PDF as the file format for attachments in SNAP–R because it is widely available, low cost and BIS can effectively implement security measures that provide a high level of protection against the Adobe related attack vectors. BIS notes that PDF files are widely used for transmission of technical documents. Although some documents are too large to scan in desktop scanners, commercial services that can scan such documents exist. SNAP–R will accept attachment files up to 10 Mb in size. BIS has reviewed the SNAP–R submissions that it has received and determined that the typical file size is approximately 5 Mb. SNAP–R does not place a limit on the number of files that may be attached to a submission. In some cases, the submitter may be able to split the file into more than one file to get below the file size limitations. Finally, BIS notes that one of the criteria under which BIS will authorize paper submissions is “BIS has determined that urgency, a need to implement U.S. government policy or a circumstance outside the submitting party’s control justify allowing paper submissions in a

particular instance.” BIS believes that this criterion provides it with adequate discretion to authorize paper submissions in instances where circumstances truly make attaching PDF files impracticable.

*Comment Related to SNAP–R Registration Procedures*

One commenter stated a two-week period to issue a Personal Identification Number is not suitable if SNAP (SNAP–R) is mandatory.

BIS agrees that, in nearly all cases, two weeks should not be needed to issue a PIN. BIS believes that most PINs are issued substantially less than two weeks time. BIS encourages persons who believe that the issuance of a PIN is taking inordinately long to contact the Export Management and Compliance Division at 202 482 2148 or 202 482 0062.

**Changes in This Final Rule Compared to the Proposed Rule**

After review of the comments, BIS is making no changes to the substantive points of the proposed rule in response to the comments. BIS is making only the following technical and conforming changes compared to the proposed rule.

The proposed rule did not state whether the applications for a Special Iraq Reconstruction License (SIRL) would be required to be filed via SNAP–R. SIRL applications are similar to Special Comprehensive License (SCL) applications. This final rule explicitly states the SNAP–R filing is not required for SIRLS, thereby giving the two similar applications the same treatment.

In § 740.17, footnote number 4 is revised to refer to §§ 748.1, 748.4 and 748.6, the sections that govern license application submission under this rule.

In § 742.2(e)(1), the reference to the BIS form 748–P is changed to a reference to an application.

In § 750.7(h)(3), 750.8(b), and 750.9(a) the reference to § 748(c) is replaced with § 748.1(d)(2) because this rule removes § 748.2(c) and includes the relevant information in § 748.1(d)(2).

**Rulemaking Requirements**

1. This rule has been determined to be significant for purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to nor be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget

(OMB) Control Number. This regulation involves collections previously approved by the OMB under control number 0694-0088, "Simplified Network Application Processing System" which carries a burden hour estimate of 58 minutes to prepare and submit form BIS-748. Miscellaneous and recordkeeping activities account for 12 minutes per submission. This proposed rule would require persons seeking authorization to submit paper filings to state, either in the additional information block on the paper form or an attachment, which of the criteria for paper submissions they meet and the reasons therefore. BIS believes that requests seeking authorization to submit paper filings would impose a minimal burden on applicants as the information requirements are small and the number of requests is expected to be low. Applicants making a request would identify one or more of the 5 criteria under which BIS would authorize a paper submission, and provide the factual basis for the authorization to submit on paper. BIS estimates that only a small number of submissions will seek authorization to file on paper. In 2008, more than 96% of all submissions affected by this rule were submitted to BIS via SNAP-R. Therefore, BIS estimates that this requirement will make no material change of the estimated time of 58 minutes needed to prepare and submit a BIS-748. Send comments regarding these burden estimates or any other aspect of these collections of information, including suggestions for reducing the burden, to David Rostker, OMB Desk Officer, by e-mail at [david\\_rostker@omb.eop.gov](mailto:david_rostker@omb.eop.gov) or by fax to (202) 395-7285; and to the Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce, Room H 2705, 14th Street and Pennsylvania Ave., NW., Washington, DC 20230.

3. This rule does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

4. The Chief Counsel for Regulation at the Department of Commerce certified to the Chief Counsel for Advocacy at the Small Business Administration that this rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis was published in the proposed rule and is not repeated here. BIS received no comments that addressed the economic impact of this rule on small entities, therefore a final regulatory flexibility analysis was not prepared.

**List of Subjects**

*15 CFR Parts 740, 750 and 748*

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements.

*15 CFR Part 742*

Exports, Terrorism.

*15 CFR Part 744*

Exports, Reporting and recordkeeping requirements, Terrorism.

*15 CFR Part 754*

Agricultural commodities, Exports, Forests and forest products, Horses, Petroleum, Reporting and recordkeeping requirements.

*15 CFR Part 764*

Administrative practice and procedure, Exports, Law enforcement, Penalties.

*15 CFR Part 772*

Exports.

■ Accordingly, parts 740, 742, 744, 748, 750, 754, 764 and 772 of the Export Administration Regulations (15 CFR 730-774) are amended as follows:

**PART 740—[AMENDED]**

■ 1. The authority citation for 15 CFR part 740 is revised to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; Sec. 901-911, Public Law 106-387; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 3, 2006, 71 FR 44551 (August 7, 2006); Notice of July 23, 2008, 73 FR 43603 (July 25, 2008).

■ 2. In § 740.8 revise paragraph (b)(2) to read as follows:

**§ 740.8 Key management infrastructure (KMI).**

\* \* \* \* \*

(b) \* \* \*

\* \* \* \* \*

(2) For such classification requests, indicate "License Exception KMI" in Block 9 on the application. Submit the request to BIS in accordance with §§ 748.1 and 748.3 of the EAR and send a copy of the request to: Attn: ENC Encryption Request Coordinator, 9800 Savage Road, Suite 6940, Fort Meade, MD 20755-6000.

\* \* \* \* \*

■ 3. In § 740.9 revise the first sentences of paragraphs (a)(4)(i) and (a)(4)(iii) to read as follows:

**§ 740.9 Temporary imports, exports and reexports (TMP).**

\* \* \* \* \*

(a) \* \* \*

(4) \* \* \*

(i) \* \* \* If the exporter or the reexporter wishes to sell or otherwise dispose of the items abroad, except as permitted by this or other applicable provision of the EAR, the exporter or reexporter must request authorization by submitting a license application to BIS in accordance with §§ 748.1, 748.4 and 748.6 of the EAR.

\* \* \* \* \*

(iii) \* \* \* If the exporter wishes to retain an item abroad beyond the 12 months authorized by paragraph (a) of this section, the exporter must request authorization by submitting a license application in accordance with §§ 748.1, 748.4 and 748.6 of the EAR to BIS 90 days prior to the expiration of the 12 month period.

\* \* \* \* \*

■ 4. In § 740.12, revise paragraph (a)(2)(iii)(C) to read as follows:

**§ 740.12 Gift parcels and humanitarian donations (GFT).**

(a) \* \* \*

(2) \* \* \*

(iii) \* \* \*

(C) Parties seeking authorization to exceed these frequency limits due to compelling humanitarian concerns (*e.g.*, for certain gifts of medicine) should submit a license application in accordance with §§ 748.1, 748.4 and 748.6 of the EAR to BIS with complete justification.

\* \* \* \* \*

■ 5. In § 740.15, revise footnote 4 to paragraph (c), introductory text to read as follows:

**§ 740.15 Aircraft and vessels (AVS).**

\* \* \* \* \*

<sup>4</sup> Where a license is required, see §§ 748.1, 748.4 and 748.6 of the EAR.

\* \* \* \* \*

■ 6. In § 740.17 revise paragraph (d)(1) to read as follows:

**§ 740.17 Encryption commodities and software (ENC).**

\* \* \* \* \*

(d) \* \* \*

\* \* \* \* \*

(1) *Instructions for requesting review.* Review requests submitted to BIS must be submitted as described in §§ 748.1 and 748.3 of the EAR. See paragraph (e)(5)(ii) of this section for the mailing address for the ENC Encryption Request Coordinator. To ensure that your review request is properly routed, insert the phrase "License Exception ENC" in Block 9 (Special Purpose) of the application. Also, place an "X" in the box marked "Classification Request" in Block 5 (Type of Application) of Form

BIS-748P or select "Commodity Classification" if filing electronically. Neither the electronic nor paper forms provide a separate block to check for the submission of encryption review requests. Failure to properly complete these items may delay consideration of your review request.

\* \* \* \* \*

- 7. In § 740.18 revise paragraph (c)(2) to read as follows:

**§ 740.18 Agricultural commodities (AGR).**

\* \* \* \* \*

(c) \* \* \*

\* \* \* \* \*

(2) *Procedures.* You must provide prior notification of exports and reexports under License Exception AGR by submitting a completed application in accordance with § 748.1 of the EAR. The following blocks must be completed, as appropriate: Blocks 1, 2, 3, 4, 5 (by marking box 5 "Other"), 14, 16, 17, 18, 19, 21, 22 (a), (e), (f), (g), (h), (i), (j), 23, and 25 according to the instructions described in Supplement No. 1 to part 748 of the EAR. If your commodity is fertilizer, western red cedar or live horses, you must confirm that BIS has previously classified your commodity as EAR99 by placing the Commodity Classification Automatic Tracking System (CCATS) number in Block 22(d). BIS will not initiate the registration of an AGR notification unless the application is complete.

\* \* \* \* \*

**PART 742—[AMENDED]**

- 8. The authority citation for 15 CFR part 742 is revised to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; Sec 1503, Public Law 108-11, 117 Stat. 559; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Presidential Determination 2003-23 of May 7, 2003, 68 FR 26459, May 16, 2003; Notice of July 23, 2008, 73 FR 43603 (July 25, 2008); Notice of November 8, 2007, 72 FR 63963 (November 13, 2007).

- 9. Revise the first sentence of § 742.2(e)(1) to read as follows:

**§ 742.2 Proliferation of chemical and biological weapons.**

\* \* \* \* \*

(e) \* \* \*

(1) Supplement No. 1 to part 748 of the EAR provides general instructions for completing license applications

\* \* \* \* \*

\* \* \* \* \*

- 10. In § 742.15, revise paragraph (b)(2)(i) to read as follows:

**§ 742.15 Encryption items.**

\* \* \* \* \*

(b) \* \* \*

\* \* \* \* \*

(2) \* \* \*

\* \* \* \* \*

(i) *Procedures for requesting review.* To request review of your mass market encryption products, you must submit to BIS and the ENC Encryption Request Coordinator the information described in paragraphs (a) through (e) of Supplement No. 6 to this part 742, and you must include specific information describing how your products qualify for mass market treatment under the criteria in the Cryptography Note (Note 3) of Category 5, Part 2 ("Information Security"), of the Commerce Control List (Supplement No. 1 to part 774 of the EAR). Submit review requests to BIS in accordance with §§ 748.1 and 748.3 of the EAR. To ensure that your review request is properly routed, insert the phrase "Mass market encryption" in Block 9 (Special Purpose) and place an "X" in the box marked "Classification Request" in Block 5 (Type of Application) Block 5 does not provide a separate item to check for the submission of encryption review requests. Failure to properly complete these items may delay consideration of your review request. Submissions to the ENC Encryption Request Coordinator should be directed to the mailing address indicated in § 740.17(e)(5)(ii) of the EAR. BIS will notify you if there are any questions concerning your request for review (e.g., because of missing or incomplete support documentation).

\* \* \* \* \*

- 11. In Supplement No. 6 to part 742 revise the first sentence to read as follows:

**Supplement No. 6 to Part 742 Guidelines for Submitting Review Requests for Encryption Items**

Review requests for encryption items must include all of the documentation described in this supplement and be submitted to BIS in accordance with §§ 748.1 and 748.3 of the EAR.

\* \* \* \* \*

**PART 744—[AMENDED]**

- The authority citation for part 744 is revised to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of July 23, 2008, 73 FR 43603 (July 25, 2008); Notice of November 8, 2007, 72 FR 63963 (November 13, 2007).

- 12. Revise § 744.21(d) to read as follows:

**§ 744.21 Restrictions on certain military end-uses in the People's Republic of China.**

\* \* \* \* \*

(d) *License application procedure.* When submitting a license application pursuant to this section, you must state in the "additional information" block of the application that "this application is submitted because of the license requirement in § 744.21 of the EAR (Restrictions on Certain Military End-uses in the People's Republic of China)." In addition, either in the additional information block or in an attachment to the application, you must include all known information concerning the military end-use of the item(s). If you submit an attachment with your license application, you must reference the attachment in the "additional information" block of the application.

\* \* \* \* \*

**PART 748—[AMENDED]**

- 13. The authority citation for 15 CFR part 748 is revised to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of July 23, 2008, 73 FR 43603 (July 25, 2008).

- 14. In § 748.1, revise paragraph (a) and add a paragraph (d) to read as follows:

**§ 748.1 General provisions.**

(a) *Scope.* In this part, references to the Export Administration Regulations or EAR are references to 15 CFR chapter VII, subchapter C. The provisions of this part involve requests for classifications and advisory opinions, export license applications, encryption review requests, reexport license applications, and certain license exception notices subject to the EAR. All terms,

conditions, provisions, and instructions, including the applicant and consignee certifications, contained in electronic or paper form(s) are incorporated as part of the EAR. For the purposes of this part, the term "application" refers to both electronic applications and the Form BIS-748P: Multipurpose Application.

(d) *Electronic Filing Required.* All export and reexport license applications (other than Special Comprehensive License or Special Iraq Reconstruction License applications), encryption review requests, license exception AGR notifications, and classification requests and their accompanying documents must be filed via BIS's Simplified Network Application Processing system (SNAP-R), unless BIS authorizes submission via the paper forms BIS 748-P (Multipurpose Application Form), BIS-748P-A (Item Appendix) and BIS-748P-B, (End-User Appendix). Only original paper forms may be used. Facsimiles or reproductions are not acceptable.

(1) *Reasons for authorizing paper submissions.* BIS will process paper applications notices or requests if the submitting party meets one or more of the following criteria:

(i) BIS has received no more than one submission (i.e. the total number of export license applications, reexport license applications, encryption review requests, license exception AGR notifications, and classification requests) from that party in the twelve months immediately preceding its receipt of the current submission;

(ii) The party does not have access to the Internet;

(iii) BIS has rejected the party's electronic filing registration or revoked its eligibility to file electronically;

(iv) BIS has requested that the party submit a paper copy for a particular transaction; or

(v) BIS has determined that urgency, a need to implement U.S. government policy or a circumstance outside the submitting party's control justify allowing paper submissions in a particular instance.

(2) *Procedure for requesting authorization to file paper applications, notifications, or requests.* The applicant must state in Block 24 or as an attachment to the paper application (Form BIS 748-P) which of the criteria in paragraph (d)(1) of this section it meets and the facts that support such statement. Submit the completed application, notification or request to Bureau of Industry and Security, U.S. Department of Commerce, 14th Street and Pennsylvania, NW., Room H2705, Washington DC 20230.

(3) *BIS decision.* If BIS authorizes or requires paper filing pursuant to this section, it will process the application, notification or request in accordance with Part 750 of the EAR. If BIS rejects a request to file using paper, it will return the Form BIS-748P and all attachments to the submitting party without action and will state the reason for its decision.

**§ 748.2 [Amended]**

■ 15. In § 748.2, remove paragraph (c).

■ 16. In § 748.3 revise; paragraph (b) introductory text, the final sentence of paragraph (b)(1), paragraph (b)(2) and first sentence of paragraph (c) to read as follows:

**§ 748.3 Classification requests, advisory opinions, and encryption review requests.**

\* \* \* \* \*

(b) \* \* \* Submit classification requests in accordance with the procedures in § 748.1.

(1) \* \* \* Classification requests must be supported by any descriptive literature, brochures, precise technical specifications or papers that describe the items in sufficient technical detail to enable classification by BIS submitted as PDF files attached to the SNAP-R submission unless a paper submission is authorized pursuant to § 748.1 of the EAR.

(2) When submitting a classification request, you must complete Blocks 1 through 5, 14, 22(a), (b), (c), (d), and (i), 24, and 25 on the application. You must provide a recommended classification in Block 22(a) and explain the basis for your recommendation based on the technical parameters specified in the appropriate ECCN in Block 24. If you are unable to determine a recommended classification for your item, include an explanation in Block 24, identifying the ambiguities or deficiencies that precluded you from making a recommended classification.

(c) \* \* \* Advisory opinion requests must be in writing and be submitted to the address listed in § 748.1(d)(2). \* \* \*

■ 17. In § 748.4, revise the third sentence of paragraph (b)(1) and the first sentence of paragraph (b)(2)(ii) to read as follows.

**§ 748.4 Basic guidance related to applying for a license.**

\* \* \* \* \*

(b) \* \* \* (1) \* \* \* If there is any doubt about which persons should be named as parties to the transaction, the applicant should disclose the names of all such persons and the functions to be performed by each in Block 24 of the application. \* \* \*

(2) \* \* \*

(ii) \* \* \* Block 7 of the application (documents on file with applicant) must be marked "other" and Block 24 (Additional information) must be marked "748.4(b)(2)" to indicate that the power of attorney or other written authorization is on file with the agent.

\* \* \* \* \*

■ 18. In § 748.5, revise the first sentence of the introductory paragraph and the second sentence of paragraph (b) to read as follows:

**§ 748.5 Parties to the transaction.**

The following parties may be entered on the application. \* \* \*

(a) \* \* \*

(b) \* \* \* If a person and address is listed in Block 15 of the application, the Bureau of Industry and Security will send the license to that person instead of the applicant.

\* \* \* \* \*

■ 19. In § 748.6, revise paragraph (a), the first sentence of paragraph (b) and paragraph (e) to read as follows:

**§ 748.6 General instructions for license applications.**

(a) *Instructions.* General instructions for filling out license applications are in Supp. No. 1 to this part. Special instructions for applications involving certain transactions are listed in § 748.8 and described fully in Supp. No. 2 to this part.

(b) \* \* \* Each application has an application control number. \* \* \*

\* \* \* \* \*

(e) *Attachments to applications.* Documents required to be submitted with applications filed via SNAP-R must be submitted as PDF files using the procedures described in SNAP-R. Documents required to be submitted with paper applications must bear the application control number to which they relate and, if applicable, be stapled to the paper form. Where necessary, BIS may require you to submit additional information beyond that stated in the EAR confirming or amplifying information contained in your license application.

\* \* \* \* \*

**PART 750—[AMENDED]**

■ 20. The authority citation for part 750 is revised to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; Sec. 1503, Public Law 108-11, 117 Stat. 559; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Presidential Determination 2003-23 of May 7, 2003, 68 FR 26459, May 16, 2003;

Notice of July 23, 2008, 73 FR 43603 (July 25, 2008).

■ 21. Revise the last sentence of § 750.7(h)(3) to read as follows:

**§ 750.7 Issuance of licenses.**

\* \* \* \* \*

(h) \* \* \*  
(3) \* \* \* The written request must be submitted to BIS at the address listed in § 748.1(d)(2) of the EAR.

\* \* \* \* \*

■ 22. Revise the second sentence of § 750.8(b) to read as follows:

**§ 750.8 Revocation or suspension of licenses.**

\* \* \* \* \*

(b) \* \* \* The license must be returned to BIS at the address listed in § 748.1(d)(2) of the EAR, Attn: "Return of Revoked/Suspended License".

\* \* \* \* \*

■ 23. Revise the first sentence of § 750.9(a) to read as follows:

**§ 750.9 Duplicate licenses.**

(a) \* \* \* If a license is lost, stolen or destroyed, you, as the licensee, may obtain a duplicate of the license by submitting a letter to the BIS at the address listed in § 748.1(d)(2) of the EAR, Attention: "Duplicate License Request".

\* \* \* \* \*

**PART 754—[AMENDED]**

■ 24. The authority citation for 15 CFR part 754 is revised to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 30 U.S.C. 185(s), 185(u); 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; E.O. 11912, 41 FR 15825, 3 CFR, 1976 Comp., p. 114; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 3, 2006, 71 FR 44551 (August 7, 2006); Notice of July 23, 2008, 73 FR 43603 (July 25, 2008).

■ 25. In § 754.2, revise paragraphs (g)(1) and (g)(5)(i) to read as follows:

**§ 754.2 Crude oil.**

\* \* \* \* \*

(g) \* \* \*

\* \* \* \* \*

(1) Applicants must submit their applications in accordance with §§ 748.1, 748.4 and 748.6 of the EAR.

\* \* \* \* \*

(5) \* \* \*

(i) BIS will issue licenses for approved applications in the order in which the applications are received, with the total quantity authorized for any one license not to exceed 25 percent of the annual authorized volume of California heavy crude oil.

\* \* \* \* \*

■ 26. In § 754.4, revise paragraphs (d)(1), (d)(2), and the introductory text of paragraph (d)(3) to read as follows:

**§ 754.4 Unprocessed Western Red Cedar.**

\* \* \* \* \*

(d) \* \* \*

(1) Applicants requesting to export unprocessed western red cedar must apply for a license in accordance with § 748.1, 748.4 and 748.6 of the EAR, submit any other documents as may be required by BIS, and submit a statement from an authorized representative of the exporter, reading as follows:

I, (Name) (Title) of (Exporter) HEREBY CERTIFY that to the best of my knowledge and belief the (Quantity) (cubic meters or board feed scribner) of unprocessed western red cedar timber that (Exporter) proposes to export was not harvested from State or Federal lands under contracts entered into after October 1, 1979.

Signature

Date

(2) In Blocks 16 and 18 of the application, "Various" may be entered when there is more than one purchaser or ultimate consignee.

(3) For each application submitted, and for each export shipment made under a license, the exporter must assemble and retain for the period described in part 762 of the EAR, and produce or make available for inspection, the following:

\* \* \* \* \*

■ 27. In § 754.5 revise the second sentence of paragraph (b)(2) to read as follows:

**§ 754.5 Horses for export by sea.**

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \* You must provide a statement in the additional information section of the application certifying that no horse under consignment is being exported for the purpose of slaughter.

\* \* \* \* \*

■ 28. In Supplement No. 2 to Part 754, revise footnote number 2 to read as follows:

**Supplement No. 2 to Part 754—Western Red Cedar**

<sup>2</sup> Report commodities on license applications in the units of quantity indicated.

\* \* \* \* \*

**PART 764—[AMENDED]**

■ 29. The authority citation for 15 CFR part 764 is revised to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 3, 2006, 71 FR 44551 (August 7, 2006); Notice of July 23, 2008, 73 FR 43603 (July 25, 2008).

■ 30. In § 764.7, revise the second sentence of paragraph (b)(2)(i) to read as follows:

**§ 764.7 Activities involving items that may have been illegally exported or reexported to Libya.**

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(i) \* \* \* License applications should be submitted in accordance with §§ 748.1, 748.4 and 748.6 of the EAR, and should fully describe the relevant activity within the scope of § 764.2(e) of this part which is the basis of the application.

\* \* \* \* \*

**PART 772—[AMENDED]**

■ 31. The authority citation for 15 CFR part 772 is revised to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 3, 2006, 71 FR 44551 (August 7, 2006); Notice of July 23, 2008, 73 FR 43603 (July 25, 2008).

■ 32. In § 772.1 revise the second sentence of the definition of the term "Other party authorized to receive license."

**§ 772.1 Definitions of terms as used in the Export Administration Regulations (EAR).**

\* \* \* \* \*

*Other party authorized to receive license.* \* \* \* If a person and address is listed in Block 15 of the application, the Bureau of Industry and Security will send the license to that person instead of the applicant.

\* \* \* \* \*

Dated: August 7, 2008.

**Christopher R. Wall,**

*Assistant Secretary for Export Administration.*

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