

**RECORD OF COMMENTS: MANDATORY USE OF SIMPLIFIED NETWORK APPLICATION PROCESSING SYSTEM**

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COMMENT	SOURCE	SIGNER (S) OF LETTERS	DATE	NUMBER OF PAGES
1	<a href="#"><u>Cross Hüller North America</u></a>	Phil Ventura	Nov. 13, 2003	1
2	<a href="#"><u>Stanford Research Systems, Inc.</u></a>	Daniel R. Melick	Nov. 13, 2003	1
3	<a href="#"><u>PCC Structurals Inc.</u></a>	Steve Flury	Dec. 3, 2003	1
4	N/A	Candice Graf	Jan. 9, 2004	1
5	<a href="#"><u>Regulations and Procedures Technical Advisory Committee - Practices and Procedures Working Group</u></a>	Vickey Roberts	Jan. 9, 2004	4
6	<a href="#"><u>MSR International</u></a>	Paul Davies	Jan. 12, 2004	1
7	<a href="#"><u>Crucible Research</u></a>	Joseph F. Muha	Jan. 12, 2004	1
8	<a href="#"><u>Bayer Corporation Business Services</u></a>	Karen Niedermeyer	Jan. 23, 2004	1
9	<a href="#"><u>Video Scope International</u></a>	Thomas F. Lynch	Jan. 23, 2004	1
10	<a href="#"><u>Ceramare Corp.</u></a>	Robert Uhrin	Feb. 3, 2004	1
11	<a href="#"><u>Price Pump Company</u></a>	Bob Piazza	Feb. 5, 2004	1
12	<a href="#"><u>E.I. Du Pont de Nemours and Company</u></a>	Marcella D. Stewart	Feb. 10, 2004	4
13	<a href="#"><u>Industry Coalition on Technology Transfer</u></a>	Edward F. Gerwin, Jr. Eric L. Hirschorn	Feb. 12, 2004	9

14	<b>American Electronics Association</b>	AnnMarie Treglia	Feb. 12, 2004	3
15	<b>Chevron Texaco Global Downstream</b>	Diane L. Holmes	Feb. 12, 2004	1
16	<b>The National Council on International Trade Development</b>	Mary O. Fromyer	Feb. 9, 2004	4

entities under the criteria of the Regulatory Flexibility Act.

#### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

#### The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

#### PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854; 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

##### § 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9K, dated September 16, 2003, and effective September 15, 2004, is proposed to be amended as follows:

*Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.*

\* \* \* \* \*

##### AEA NY E5 Jamestown, NY (Revised)

Chautauqua County/Jamestown Airport, Jamestown, NY

(Lat. 42°09'12" N., long. 74°15'29" W.)

WCA Hospital Heliport

(Lat. 42°05'24" N., long. 79°13'50" W.)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Chautauqua County/Jamestown Airport and within 2.2 miles each side of the Runway 31 extended centerline extending from the 6.6-mile radius to 7 miles northwest of the runway and within 2.2 miles each side of Runway 13 extended centerline extending from the 6.6-mile radius to 7.9 miles southeast of the runway and within a 6-mile radius of WCA Hospital Heliport.

\* \* \* \* \*

Issued in Jamaica, New York, on September 15, 2003.

**John G. McCartney,**

*Assistant Manager, Air Traffic Division, Eastern Region.*

[FR Doc. 03–28346 Filed 11–10–03; 8:45 am]

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## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

#### 15 CFR Parts 740, 742, 748, 754, and 772

[Docket No. 030425102–3102–01]

RIN 0694–AC20

#### Mandatory Use of Simplified Network Application Processing System

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

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would amend the Export Administration Regulations (EAR) to implement a revised version of the Bureau of Industry and Security's (BIS) Simplified Network Application Processing (SNAP+) system (hereinafter, the version of the Bureau of Industry and Security's Simplified Network Application Processing system that currently exists shall be referred to as SNAP, while the version that is proposed in this rule shall be referred to as SNAP+). This proposed rule also would mandate use of SNAP+ for all filings of Export License applications (except Special Comprehensive Licenses), Reexport Authorization requests, Classification requests, Encryption Review requests, and License Exception AGR notifications unless BIS authorizes paper filing for a particular user or transaction. The requirement to use SNAP+ also would apply to any documentation required to be submitted with applications, requests or notifications. This proposed rule also would continue some provisions of the regulations associated with SNAP and other electronic filing systems that BIS has used in the past until a SNAP user's account is converted to SNAP+. Examples of these provisions include the requirements imposed on companies and individuals to protect the integrity of identification numbers. Other provisions, such as the requirement to maintain a log of submissions filed before being converted to SNAP+ would continue in effect even after an existing user is converted to SNAP+ for the period of time specified by Part 762 of the regulations. This proposed rule also would amend the EAR to require that requests for advisory opinions include the Export Control Classification Number of the item(s) at issue, to require item Classification Requests include a recommended ECCN, to replace some address listings in the regulations with references to BIS forms that contain those addresses, and to

correct some omissions, misstatements and typographical errors.

**DATES:** Comments must be received by January 12, 2004.

**ADDRESSES:** Written comments should be e-mailed to: *rpdb@bis.doc.gov*, faxed to 202–482–3355, or mailed or delivered to Regulatory Policy Division, Office of Exporter Services, Bureau of Industry and Security, Department of Commerce, 14th and Pennsylvania Avenue, NW., Room 2705, Washington, DC 20230. Reference Regulatory Identification Number 0694–AC20 in all comments.

**FOR FURTHER INFORMATION CONTACT:** For information concerning SNAP+, contact George Ipock, Office of Administration: e-mail *gipock@bis.doc.gov*, telephone: (202) 482–5469. For information concerning other matters raised by this proposed rule, contact William Arvin, Office of Exporter Services: e-mail *warvin@bis.doc.gov*, telephone (202) 482–2440.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Bureau of Industry and Security (BIS) administers export license, notification, and reporting requirements for a number of export and reexport transactions based on the nature of the item being exported or reexported, its intended destination, the end-user, and the end-use. In addition, BIS provides advice to persons concerning the classification of items that may be subject to the Export Administration Regulations and advisory opinions regarding the applicability of the Export Administration Regulations to particular transactions. The public obtains all of these services, except advisory opinions, by submitting a paper form or by submitting the information electronically, either through the SNAP system or through one of several systems maintained by private vendors. Recently, a majority of the submissions for which an electronic vehicle is available have been submitted electronically. Heretofore, the electronic submission vehicles have not provided for electronic submission of supporting documents or other documents that relate to an application, request, or report. SNAP+ would permit submissions via the World Wide Web using a Web browser and would have the capability to "attach" images (as PDF files) of related documents to applications or requests. It would also incorporate security features that were not available when electronic filing of export license applications began in the mid 1980s. Accordingly, BIS is proposing to amend the Export Administration Regulations to require

that all export license applications (except Special Comprehensive Licenses), reexport license applications, Classification Requests, encryption review requests, and notifications prior to shipments of food and agricultural commodities to Cuba under License Exception AGR, along with any supporting or related documents be submitted via SNAP+. Any supporting or related documents attached to the submission would have to be in PDF format and, if they contain text, would have to be text searchable. BIS would consider requests for exceptions to the mandatory electronic filing rule and grant them in the following circumstances:

- A filer who has made no more than three submissions to BIS in the preceding twelve months;
- A filer who lacks access to the Internet;
- BIS has rejected the filer's request or revoked its eligibility to file electronically;
- BIS has requested that the filer submit a paper document for a particular transaction; or
- BIS determines that urgent circumstances or circumstances beyond the filer's control require allowing paper filing in a particular case.

BIS is aware of the possibility that some applicants might have to acquire certain hardware or software to be able to comply with this proposed rule. BIS also is aware that current electronic filers who use systems other than SNAP would have to begin using SNAP+ (or have an authorized agent acting on their behalf use SNAP+) in order to comply with this proposed rule unless one of the foregoing exceptions applies. BIS is interested in comments that address the benefits and burdens associated with these requirements.

SNAP+ would eliminate the registration of individual users by paper communication with BIS. Instead, a person may begin the registration process on behalf of himself or herself or may register an entity such as a corporation online. That person would be required to provide the following information concerning the SNAP+ applicant:

- Name of SNAP+ applicant;
- Address of SNAP+ applicant;
- "Organization Type," whether the SNAP+ applicant is an individual or an entity other than an individual;
- Its "Employee Identification Number" if the SNAP+ applicant is not an individual and is located in the United States;
- The name, telephone number, and e-mail address of the SNAP+ applicant's "designated official;" and

- The name, telephone number, and e-mail address of the SNAP+ applicant's initial organization administrator.

The SNAP+ system would then generate a paper document called an electronic submission certification, which explains the major responsibilities of SNAP+ users, for the designated official to sign and submit to BIS. BIS would notify the designated official by e-mail of its approval or rejection of the application to use SNAP+.

BIS is also proposing to convert existing SNAP users to SNAP+ through the following process. BIS would send a letter to each existing SNAP user informing it of the date on which it will be converted to the new system. The letter will also inform the existing SNAP user that a person who knows the existing user's current SNAP company identification number must log onto the system to provide the name and contact information of the individuals who the existing user determines will be Organization Administrator and Designated Official in the SNAP+ system. Existing SNAP users will not be able to use SNAP on or after the conversion date until this step is taken. In addition, the letter will describe the roles of the Organization Administrator and Certifiers, as set forth below. BIS anticipates that it will not convert all of the existing SNAP users to SNAP+ at the same time and that the conversion process may take several months starting on the day that SNAP+ is implemented.

SNAP+ would also create some new roles with specific responsibilities in the SNAP+ system. Those roles, which apply to both new SNAP+ users and to existing SNAP users when they are converted to the SNAP+ system by BIS would be:

- SNAP+ Applicant. The entity or individual that applies to use SNAP+ to submit documents to BIS.
- SNAP+ User. The individual or entity that has been authorized to submit documents via SNAP+.
- Designated Official. The individual who executes, on behalf of the SNAP+ applicant, the application to use the SNAP+ system.
- Organization Administrator. An individual who can enable other people to use the SNAP+ system on a particular SNAP+ user's behalf and who can assign roles to, remove roles from, or eliminate all access to SNAP+ for those people. Those roles include additional organization administrators (who can do all of the tasks that the initial organization administrator can do), as well as certifiers, stagers and viewers.

• Certifier. An individual who can submit to BIS, on behalf of a SNAP+ user, any type of submission that is available via the SNAP+ system at the time of submission, even if that type of submission was not available at the time that he/she became a certifier, and who can make representations to BIS, on the SNAP+ user's behalf, as to the truth, accuracy and completeness of that submission. BIS will treat submissions made in the SNAP+ system by any of the SNAP+ user's certifiers as representations by the SNAP+ user to the United States Government until the certifier's role is terminated in the SNAP+ system by one of SNAP+ user's organization administrators or by BIS.

• Stager. An individual who can enter information and documents into the SNAP+ system on behalf of a SNAP+ User for submission to BIS by a certifier.

• Viewer. An individual who is able to view information and documents in the SNAP+ system, but is unable to enter, modify or certify any information or documents.

• Agents. An individual or entity who submits documents via SNAP+ for another party. An agent would be required to notify BIS immediately if his authority to do so is terminated. This provision is needed so that BIS can terminate any access that the agent would have in the SNAP+ system to information about a former client that is protected from disclosure by the confidentiality provisions of the Export Administration Act. Within the SNAP+ system, such agents are referred to as "third parties."

BIS is also proposing to eliminate some obsolete, redundant or incorrect references in Part 748 of the Export Administration Regulations, eliminate an inconsistency, add information that had been omitted and replace some addresses listed in the regulations with references to BIS forms containing those addresses.

This proposed rule would make the following specific amendments to the Export Administration Regulations.

In part 740, § 740.17(d)(1) would be amended to make clear that review requests for License Exception ENC must be filed via SNAP+ unless BIS authorizes use of the paper form BIS-748P, that documents submitted in connection with SNAP+ submissions must be in "PDF" format and, if they contain text, must be text searchable. The reference to § 748.2(c) for the addresses for submitting license applications would be replaced with a reference to the addresses preprinted on the form. Section 740.18(c)(2) would be amended to replace language that makes use of electronic filing optional with

language that makes use of SNAP+ mandatory unless BIS has approved the applicant for paper filing, that documents submitted in connection with SNAP+ submissions must be in "PDF" format and, if they contain text, must be text searchable. Language referring to block numbers on the form would be replaced by names of blocks or fields because SNAP+ does not use block numbers.

In part 742, § 742.15(b)(2)(i) would be amended to make clear that SNAP+ must be used for requests to review encryption items exceeding 64 bit key length for mass market status and to replace the reference to § 748.2(c) for the addresses for submitting license applications with a reference to the addresses preprinted on the form. Supplement No. 6 to part 742 would be amended by having its introductory paragraph revised to replace language that makes use of electronic filing optional with language that makes use of SNAP+ mandatory unless BIS has approved the applicant for paper filing. Provisions regarding use of couriers or fax for paper documents related to electronic applications would also be removed because the new SNAP+ system will provide for "attachment" of electronic images of such documents to filings.

In part 748, §§ 748.1, 748.2, 748.3, 748.4, 748.5, 748.6, 748.7, 748.9, 748.10, 748.11, 748.12, 748.14, Supplement No. 1, and Supplement No. 2 would be amended as follows.

Section 748.1, paragraph (a) would be amended to reverse the order in which paper and electronic submissions are mentioned to emphasize electronic submissions. It would also be amended to add encryption review requests and license exception notifications to the listing of submission to which part 748 applies. The last sentence of this paragraph would also be removed because it is superfluous. Two new paragraphs (d) and (e) would be added. Paragraph (d) would make use of SNAP+ mandatory for all license applications (except Special Comprehensive Licenses), Classification Requests, Encryption Review requests, and License Exception AGR notifications unless BIS authorizes paper filing. Paragraph (e) would establish the grounds under which BIS would grant authorization to use paper filing, the procedures for requesting authorization to use paper filing and the method by which BIS would notify a party of its decision. The proposed grounds justifying paper filing are: three or fewer filings in the preceding 12 months, lack of access to the Internet, rejection or revocation of electronic

filing authorization by BIS, request by BIS that a filing for a particular transaction be submitted on paper, and when BIS determines that urgent circumstances or circumstances beyond the filer's control require paper filing in a particular instance.

Section 748.2 paragraph (c) would be amended by changing the first word from "All" to "Paper" because it provides the mailing address for paper applications and to replace the listing of the addresses to which paper applications may be submitted with a reference to the addresses listed on the paper forms.

Section 748.3 would be amended to revise paragraph (b) to make electronic filing via SNAP+ mandatory unless BIS grants an exception pursuant to § 748.1(e) and to replace references to block numbers on the paper application form with names or by describing the information that must be provided when seeking a Classification. This change is needed because SNAP+ will not contain block numbers. The proposal would require that documents submitted in connection with a Classification Request be submitted in "PDF" format and be text searchable, if they contain text. It would also amend paragraph (b) to replace the listing of addresses to which Classification Requests must be sent to a reference to the addresses on the application form. Paragraph (c)(2)(iii) would be amended to require the requestor to provide an Export Control Classification Number or a statement that the item is EAR99 for all Advisory Opinion requests. Classification Requests will be clearly designated as such and evaluated separately from Advisory Opinions. BIS will not provide both a Classification and an Advisory Opinion in a response to a single request. This change will allow BIS to ensure that all Classification Requests are properly recorded and will help promote consistent results when evaluating Classification Requests.

Section 748.4 would be amended by revising the third sentence in paragraph (b)(1) to replace the word "should" with the word "must" in describing the responsibility to disclose all parties to a transaction and the functions to be performed by each party. Block numbers throughout the paragraph would be replaced with names. Paragraph (b)(2)(ii) would be amended to implement the SNAP+ requirement that an agent who files on behalf of others and who is required to have a power of attorney or other written authorization to do so, register as a "Third Party" in SNAP+ and to replace block numbers with names. Paragraph (g) also would be

amended to replace block numbers with names.

Section 748.5 would be amended by revising the introductory paragraph to replace separate references to paper and electronic applications with the single term "applications" and by revising paragraph (b) to replace a block number with a name.

Section 748.6 would be amended by revising paragraph (a) to make clear that license applications must be filed via SNAP+ unless BIS has authorized paper filing. Paragraph (e) would be amended to provide that references to the application control number must appear on documents submitted in connection with license applications submitted on paper; and that documents submitted in connection with applications filed via SNAP+ must be in "PDF" format and must be text searchable if they contain text.

Section 748.7 would be almost entirely rewritten. Provisions relating to applying by mail to use electronic filing, registration by BIS of each individual who is to use electronic filing, and assignment of company identification numbers and personal identification numbers would be removed. Requirements relating to use of company identification numbers and personal identification numbers would continue to apply to companies and individuals already authorized to file electronically until their accounts are converted to SNAP+. BIS anticipates that these requirements can be removed once all electronic filers are converted to SNAP+, a process that may take several months starting on the date that SNAP+ is implemented initially. The prohibitions against copying, stealing or using another person's personal identification number would remain in effect without limitation as would the requirement to keep a log of electronic filings made prior to conversion to SNAP+ (users of SNAP+ would not be required to keep such a log). New material would be added as follows. Paragraph (a) would reiterate that all electronic submissions must be made through SNAP+. Paragraph (b)(1) would establish the procedures for new applicants to use SNAP+. It would set forth the information that a SNAP+ applicant must provide and how to provide it, how BIS would communicate its response to the SNAP+ applicant and would establish some specific responsibilities for users of SNAP+. This section would require applicants to use SNAP+ to provide the name and address of the SNAP+ applicant, and whether the SNAP+ applicant is an individual or an entity other than an individual (referred to as "industry" in

SNAP+). If the SNAP+ applicant is not an individual and is located in the United States, this section requires it to provide its Employer Identification Number. All SNAP+ applicants are also required to provide name, telephone number and e-mail address of the SNAP+ applicant's "Designated Official" and initial Organization Administrator. Paragraph (b)(2) establishes a procedure for notifying existing SNAP Users of the conversion to SNAP+ and of the information that the existing user must provide at the time of conversion. The SNAP User would have to provide that name and contact information of its initial Designated Official and Organization Administrator. Paragraph (c) would describe the roles and responsibilities of parties related to SNAP+. Paragraph (d) would describe requirements and prohibitions of SNAP that would continue in force after implementation of SNAP+. Paragraph (e) would describe responsibilities of parties who use current electronic submission systems that would continue until conversion to SNAP+.

Section 748.9 would be amended by revising paragraph (c) to make clear that license applicants using electronic submissions must designate on the appropriate data entry screen the type of supporting document they have obtained.

Sections 748.10(f), 748.11(a)(2), 748.12(d)(1), 748.14(b) would be amended to replace block numbers with names. In addition, § 748.10(g) would be amended to allow an electronic image of the PRC End User Certificate to be submitted in support of license applications filed via SNAP+ provided the applicant retains the original in its files. The original certificate would continue to be required for applications submitted on paper. Section 748.12(d) would be amended to make clear that requests for exceptions to a support document requirement may be submitted as electronic attachments to a license application filed via SNAP+. Section 748.14(b) would be amended to make clear that all of the recordkeeping requirements of part 762 and not just § 762.2 apply to firearms import certificates retained by a license applicant and § 748.14(e) would be amended to replace the term "BIS Form-748P" with "application" because it applies to both paper and electronic applications.

Supplement No. 1 to Part 748 would be amended to add references to SNAP+, Export License applications, Reexport Application requests, Classification Requests, Encryption Review requests, and License Exception

AGR notifications and to state that its requirements apply to all of those types of submissions, unless specifically noted, regardless of whether submitted via SNAP+ or on paper. The descriptions of transactions that constitute reexports would be revised to make them more completely reflect the definition of that term in part 772. Clarifying language would be added to describe when information about ultimate consignees must be submitted. Language that makes submission of an item in SNAP+ the equivalent of a signature would be added. This supplement would also be amended to place in a single paragraph, the requirement to include the earlier application control number when reapplying for a transaction that has been previously denied or returned without action (RWA). The existing supplement lists this requirement separately for denials and RWA's.

Supplement No. 2 to Part 748 would be amended throughout to replace references to block numbers with block or field names because SNAP+ does not use block numbers. In addition, paragraph (c)(2) would be amended to delete references to Advisory Notes 3 and 4 in Category 4 of the Commerce Control List because those Advisory Notes no longer exist. Paragraph (c)(2)(i) would be amended to allow submission of facsimiles of required signed statements by the end-user or importing agency because electronic images of such documents will have to be submitted under SNAP+. A new paragraph (c)(3) would be created requiring that originals be retained in accordance with the recordkeeping requirements of the EAR. In paragraph (f), a reference to § 734.2(b)(8) would be corrected to read § 736.2(b)(8). In paragraph (g)(2)(v), the words "if possible" would be removed from the second sentence to more clearly reflect long-standing policy, which requires full disclosure of how the item proposed for export will be used in the sensitive nuclear end-uses to which this paragraph applies.

In part 754, §§ 754.2(g)(1), 754.4(d)(1) and (3), 754.5(b)(2) and supplement No. 2, footnote number 2 would all be revised to replace language requiring use of the paper form BXA-748P with a requirement to use SNAP+ unless BIS approves the use of the paper form and to replace other references to the BXA-748P with the term "application," which could apply to both electronic and paper applications. § 754.4(d) also would be amended to allow applications for exports of unprocessed western red cedar filed through SNAP+ to include the exporter's statement in

the additional information field of the SNAP+ application screen or as an electronic attachment to the application and to make the electronic certification of the application act as a signature on the statement rather than requiring a separate signed statement as is done with paper applications.

Section 772.1 would be amended by adding a sentence to the end to the definition of the term "Applicant" to make clear that the definition does not apply to the term "SNAP+ Applicant" in § 748.7. This change is needed to make sure that rules that apply uniquely to applications to use SNAP+ are clearly distinguished from the rules governing applications in general.

#### Rulemaking Requirements

1. This proposed rule has been determined to be not significant for purposes of E.O. 12866.

2. This proposed rule contains revised collection-of-information requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). The OMB control number for this collection is 0694-0088. The requirement for most exporters to register with and use Simplified Network Application Processing (SNAP+) will be submitted to OMB for approval. The public reporting burden for this collection of information is estimated to average 58 minutes per application, depending on the nature of the submission and any relevant supplemental information required to support the submission, as well as the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this collection of information to Ms. Marna Dove; Information Collection Budget Liaison, room H6622, Bureau of Industry and Security, U.S. Department of Commerce, Washington, DC 20230 and to OMB at the Office of Information and Regulatory Affairs, Washington, DC 20503 (Attention: BIS Desk Officer). Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

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

4. The Chief Counsel for Regulation of the Department of Commerce has

certified to the Counsel for Advocacy of the Small Business Administration that this proposed rule would not have a significant economic impact on a substantial number of small entities. An entity's potential burden under this rule would vary based on four factors; whether its submissions require additional documents; its pre-existing hardware and software; whether its documents are already in text searchable PDF format; and, if they are not, whether documents in such format can be created directly from other computer files or whether they must be scanned from paper documents.

Some entities might incur no additional burden because of this rule. These are the entities whose submissions require no accompanying documents, those who are already creating the documents in text searchable PDF format and those who are already creating the documents using software that is capable of producing the same documents in PDF text searchable format. BIS does not have accurate data on the number of entities that fall into this category, but based on a recent sample from its internal database, BIS projects that as many as half of the submissions that it receives do not require any accompanying documents.

Some entities might incur only a software acquisition burden because of this rule. These are the entities whose accompanying documents are already created using software that cannot produce PDF files directly, but that can produce such files with additional software that the entity can purchase. BIS estimates that such an entity with a small operation would incur an initial expense of approximately \$325 to acquire that software necessary to comply with this rule. This estimate is based on the price of Adobe Acrobat® Standard Edition (\$299) as posted on the Adobe Corporation Web site on August 13, 2003 plus any taxes or shipping charges.

Some entities might incur software and hardware acquisition costs and labor costs associated with a submission. These are the entities who will need to scan in paper documents and make them text searchable and who do not presently have either hardware or software capable of performing these functions. In some instances, the entity could utilize software that comes bundled with a scanner to comply with this requirement. In such instances, BIS estimates that the entity would incur an initial cost of approximately \$300 (to purchase the scanner) to comply with this rule. In some cases, particularly if the entity has to scan numerous

complex paper documents and make them text searchable, the costs could be higher. BIS estimates that the initial costs for an entity facing such a situation would be approximately \$1,100. This estimate is based on a price of \$300 for Adobe Acrobat® Standard Edition software, \$400 for Adobe Capture® software, \$300 for a scanner and \$100 for taxes and shipping charges.

Entities who have to scan paper documents may also incur labor costs to proofread and correct mistakes that may occur when a computer converts images to text. BIS estimates that, depending on the complexity of the document, proofreading could take from 5 minutes to 20 minutes per page. In a recent random sampling of submissions recorded in BIS's databases, the number of supporting or explanatory pages associated with an individual submission varied from a low of zero to a high of 33 pages. A typical submission with attachments had about eight pages attached. However, BIS has no way of telling which attachments could be generated electronically and which would require scanning and proofreading. Assuming an average of 8 pages per document and labor costs for proofreading documents at \$25 per hour, this cost would range from \$16.67 to \$100 per submission. BIS believes that this cost would not be incurred by entities that are able to produce the PDF documents from an electronic source because of the accuracy of the process for generating text in PDF files produced from such sources.

Electronic filing would yield some cost savings to offset part or all of these costs. If a submission relates to attachments from an earlier submission, the submitter could refer to the previous file instead of supplying new attached documents. Currently, in many instances, attachments are submitted to BIS by overnight courier. Electronic filing would eliminate these courier costs. In addition, BIS internally uses an electronic system to process all submissions that are subject to this proposed rule, whether it receives the submission on paper or electronically. However, the attachments are all on paper, creating delays as paper documents are moved to the technical personnel in BIS and in other government agencies. Electronic attachments are likely to reduce evaluation time, *i.e.*, the total time from submission to final decision, by several days.

BIS does not collect data on the size of entities that file these submissions. However, based on the information that it does possess, BIS believes that fewer

than 400 small entities are likely to be affected by this rule. BIS arrived at this conclusion by identifying all of the entities that filed four or more submissions during the period from January 1, 2002 to May 13, 2003. A total of 591 entities were identified. BIS determined that 120 of these are not small businesses because they are corporations, or affiliates thereof, that were listed in the Fortune 500 listing of April 14, 2003, or the Fortune Global 500 listing of July 22, 2002, or because the entity's Web site indicated sales in the most recent year in excess of \$100 million. The lowest reported sales figures for 2003 Fortune 500 and the 2002 Fortune Global 500 were \$2.9 billion and \$10 billion, respectively. Of the remaining 471 entities, 44 submitted export license applications totaling more than \$10 million and an additional 21 submitted license applications between \$5 million and \$10 million during the period. Although BIS does not know their sales volumes or employment levels, companies anticipating such levels of export sales are unlikely to be small businesses.

Because many industries may be involved in exporting, BIS could not directly relate its data to the "Small Business Size Standards Matched to North American Industry Classification System" published by the Small Business Administration (SBA). However, BIS notes that the range of annual sales among industries in that publication that could be involved in exporting is from \$0.75 to \$6 million.<sup>1</sup> It is likely that many of the 406 remaining entities would not meet the small business standard established by the SBA. In addition, some of these entities may either file submissions that do not require attachments or already create text searchable PDF files of the documents that must be attached or already create the documents using software that can create PDF files directly. For these entities, the rule creates no new burden.

For two industries that are included in BIS's data, the SBA criteria is number of employees. These two industries are semiconductor manufacturing for which the level is 500 employees and small arms manufacturing, for which the level is 1,000 employees. BIS identified employee levels via the Web sites for several semiconductor manufacturers that appeared in its data. All of these had more than 500 employees. In addition, they all had more than \$100

<sup>1</sup> Several categories of construction contractors had sales cutoff levels ranging up to \$28.5 million. However, such companies are unlikely to engage in activities that require export licenses.

million in annual sales. BIS was unable to identify the employment level for the firearms manufacturers in its data.

However, most BIS firearms export applications are for shotguns that BIS can evaluate based on the applicant's furnishing of the manufacturer's name and the shotgun model number. Such applications typically require no attachments.

Overall the number of small entities affected by this proposed rule is likely to be small. For those that are affected, the savings from re-use of documents for multiple submissions, reduced courier fees and faster processing times are likely to fully or partially compensate for the cost of compliance with this rule.

#### Request for Comments

BIS is seeking public comments on this proposed rule. The period for submission of comments will close January 12, 2004. BIS will consider all comments received on or before that date in developing a final rule. Comments received after that date will be considered if possible, but their consideration cannot be assured. BIS will not accept public comments accompanied by a request that a part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. BIS will return such comments and materials to the persons submitting the comments and will not consider them in the development of the final rule. All public comments on this proposed rule must be in writing (including fax or e-mail) and will be a matter of public record, available for public inspection and copying. The Office of Administration, Bureau of Industry and Security, U.S. Department of Commerce, displays these public comments on BIS's Freedom of Information Act (FOIA) Web site at <http://www.bis.doc.gov/foia>. This office does not maintain a separate public inspection facility. If you have technical difficulties accessing this Web site, please call BIS's Office of Administration at (202) 482-0637 for assistance.

#### List of Subjects

##### 15 CFR Parts 740 and 748

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

##### 15 CFR Parts 742 and 772

Exports, Foreign Trade.

##### 15 CFR Part 754

Exports, Foreign trade, Forests and forest products, Petroleum, Reporting and recordkeeping requirements.

Accordingly, Parts 740, 742, 748, 754, and 772 of the Export Administration Regulations (15 CFR Parts 730-799) are proposed to be amended as follows:

#### PART 740—[AMENDED]

1. The authority citation for 15 CFR Part 740 is revised read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; Sec. 901-911, Pub. L. 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 7, 2003, 68 FR 47833, August 11, 2003.

2. Section 740.17 is amended by revising paragraph (d)(1) to read as follows:

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

\* \* \* \* \*

(d) *Review requirement.* (1) *Review request procedures.* To request review of your encryption products under License Exception ENC, you must submit to BIS and to the ENC Encryption Request Coordinator the information described in paragraphs (a) through (e) of Supplement 6 to part 742 of the EAR (Guidelines for Submitting Review Requests for Encryption Items). Review requests must be submitted to BIS via SNAP+ or, if authorized by BIS, on the Form BIS-748P (as described in § 748.3 of the EAR). Any documents related to review requests submitted to BIS via SNAP+ must be in "PDF" format and, if they contain text, must be text searchable. To ensure that your review request is properly routed, insert the phrase "License Exception ENC" in the Special Purpose block or field of the application form and select "Classification Request" from the work item menu in SNAP+ or place an "X" in the box marked "Classification Request" in the Type of Application block on the BIS-748P. Failure to properly complete these items may delay consideration of your review request. Review requests that are not submitted electronically to BIS should be sent to one of the addresses preprinted on the form BIS-748P. See paragraph (e)(5)(ii) of this section for the mailing address for the ENC Encryption Request Coordinator. BIS will notify you if there are any questions concerning your request for review under License Exception ENC (e.g., because of missing or incomplete support documentation). Once your review has been completed, BIS will notify you in writing concerning the eligibility of your

products for export or reexport, under the provisions of this license exception. BIS reserves the right to suspend your eligibility to export and reexport under License Exception ENC and to return your review request without action, if you have not met the review requirements. You may not export or reexport retail encryption commodities, software, or components under this license exception to government end-users headquartered outside of Canada and the countries listed in Supplement 3 to this part 740, unless you have received prior authorization from BIS.

\* \* \* \* \*

3. In § 740.18, revise paragraph (c)(2) to read as follows:

#### § 740.18 Agricultural Commodities AGR.

\* \* \* \* \*

(c) \* \* \*

(2) *Procedures.* You must submit your License Exception AGR notification via SNAP+ or, if BIS authorizes you to use paper filing pursuant to § 748.1(e) of the EAR, on the BIS-748P form. In SNAP+, AGR notifications must be designated by selecting "Agricultural License Exception Notice" from the SNAP+ work item menu. Any documentation submitted via SNAP+ in connection with the License Exception AGR notification must be submitted as a "PDF" file and must be text searchable if the documentation contains text. Paper notifications must be designated by selecting "Other" in the "Type of Application" block. If any of the required information is missing, BIS will return without action notifications submitted via SNAP+ and will not initiate registrations of paper submissions. If a paper notification is not signed, BIS will not initiate registration. Each notification must include:

- (i) The name, telephone number, and facsimile number (if available), of a contact person;
- (ii) The name, address (including city, state, postal code and country) of the applicant, the purchaser, any intermediate consignee, the ultimate consignee, and the end-user;
- (iii) The Employer Identification Number of the applicant if applicable;
- (iv) The specific end-use;
- (v) Because only EAR99 items are eligible for this License Exception, enter EAR99 in the ECCN field;
- (vi) Quantity, units, unit price, and total price;
- (vii) Date of filing if filing on paper, SNAP+ notices are automatically dated;
- (viii) A description of the items;
- (ix) The total value in U.S. dollars; and

(x) If the item to be exported is fertilizer, Western Red Cedar or live horses, you must include the Commodity Classification Automatic Tracking System (CCATS) number to confirm that BIS has classified the item as EAR99.

\* \* \* \* \*

#### PART 742—[AMENDED]

4. 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.*; 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; Sec. 901–911, Pub. L. 106–387; Sec. 221, Pub. L. 107–56; 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; Notice of November 9, 2001, 66 FR 56965, 3 CFR, 2001 Comp., p. 917; Notice of August 7, 2003, 68 FR 47833, August 11, 2003.

5. 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 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). Review requests must be submitted via SNAP+, or if authorized by BIS, on the Form BIS–748P, as described in § 748.3 of the EAR. To ensure that your review request is properly routed, insert the phrase “mass market encryption” in the Special Purpose block or field of the application form and select “Classification Request” from the SNAP+ work item menu or place an “X” in the box marked “Classification Request” on the form BIS–748P. Failure to properly complete these items may delay consideration of your review request. Review requests that are not submitted electronically to BIS should be sent to one of the addresses preprinted on the BIS–748P. 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).

6. In supplement No. 6 to part 742 revise the introductory paragraph to read as follows:

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

Review requests for encryption items and all accompanying documents must be submitted electronically via BIS’s Simplified Network Application Process (SNAP+) or, if authorized by BIS (see § 748.1(e) of the EAR), on Form BIS–748P (Multipurpose Application) with accompanying paper documentation in accordance with the procedures in § 748.3 of the EAR. Requests must be supported by the documentation described in this Supplement. To ensure that your review request is properly routed, insert the phrase “mass market encryption” or “License Exception ENC” (whichever is applicable) in the “Special Purpose” block or field of the application. Select “Commodity Classification” from the SNAP+ work item menu or, if filing a paper application, place an “X” in the box marked “Classification Request” in the “Type of Application” block. That block 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. Paper review requests must be sent to one of the addresses pre-printed on the form. In addition, you must send a copy of your review request and all support documents to: Attn: ENC Encryption Request Coordinator, 9800 Savage Road, Suite 6131, Fort Meade, MD 20755–6000. For all review requests of encryption items, you must provide brochures or other documentation or specifications related to the technology, commodity or software, relevant product descriptions, architecture specifications, and as necessary for the review, source code. You also must indicate whether there have been any prior reviews of the product, if such reviews are applicable to the current submission. In addition, you must provide the following information in a cover letter accompanying your review request:

\* \* \* \* \*

#### PART 748—[AMENDED]

7. 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 August 7, 2003, 68 FR 47833, August 11, 2003.

8. In § 748.1, revise paragraph (a) and add paragraphs (d) and (e) 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 license exception notices subject to the EAR. All terms, conditions, provisions, and instructions, including the applicant and consignee certifications, contained in such 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 license applications, reexport 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 (SNAP+) system unless:

(i) BIS approves the applicant for paper filing under paragraph (e) of this section; or

(ii) The application is for a Special Comprehensive License.

(e) *Paper Filing Authorization.* BIS may grant approval to use the paper forms (Form BIS–748P, Multipurpose Application (revised June 15, 1996 or later), and Form BIS–748P–A, Item Appendix, and Form BIS–748P–B, End-User Appendix) for export license applications, reexport license applications, encryption review requests, license exception AGR notifications, or Classification Requests under the conditions described in this paragraph.

(1) *Reasons for authorizing paper applications.* The party submitting the application must meet one or more of the following criteria:

(i) BIS has received no more than three applications, requests or notices from that party in the twelve months immediately preceding its receipt of the current application notification, or request;

**Note to paragraph (e)(1)(i):** The party’s export license applications, reexport license applications, encryption review requests, license exception AGR notifications, and Classification Requests will be added together to determine if this limit is met;

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

(iii) BIS has rejected the party’s request 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 determines that urgent circumstances or circumstances beyond the filer's control require allowing paper filing in a particular instance.

(2) Procedure for requesting authorization to file paper applications, notifications, or requests. Include, in the Additional Information block on the BIS-748P Multipurpose Application Form, the criterion(a) listed in paragraph (e)(1) of this section upon which the request is based. If you are relying upon paragraph (e)(1)(ii) or (v), explain why you lack access to the Internet or why you believe that urgent circumstances or circumstances beyond your control require allowing paper filing in this instance. If you need additional space, attach a plain sheet of paper with the additional explanation to the Form BIS-748P.

(3) BIS decision. If BIS authorizes or requires you to file using paper, it will process your application or request in accordance with Part 750 of the EAR. If BIS rejects your request to file using paper, it will return your Form BIS-748P and all attachments to you without action and will state the reason for the rejection.

9. In § 748.2, revise paragraph (c) to read as follows:

§ 748.2 Obtaining forms; mailing addresses.

\* \* \* \* \*

(c) Paper applications should be mailed or submitted using an overnight courier to one of the addresses preprinted on the application form. BIS will not accept applications sent C.O.D.

10. In § 748.3, revise paragraph (b) introductory text, add a sentence to the end of paragraph (b)(1), and revise paragraphs (b)(2) and (c)(2)(iii) to read as follows:

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

\* \* \* \* \*

(b) Classification requests. You must submit your Classification Request electronically via SNAP+ unless BIS approves your request to use Form BIS-748P pursuant to § 748.1(e) of the EAR. See the instructions contained in supplement No. 1 to Part 748 to complete the fields or blocks identified for this type of request. Classification Requests submitted on Form BIS-748P must be sent to BIS at one of the addresses preprinted on the form. Related documents submitted in connection with these requests must be submitted as "PDF" files if the request is submitted via SNAP+. If the document contains text, the file must be text searchable.

(1) \* \* \* Unless BIS has authorized paper filing pursuant to § 748.1(e) of the

EAR, the documents must be in "PDF" format and, if they contain text, be text searchable.

(2) When submitting a Classification Request, you must provide the name of a contact person, telephone number, facsimile number, if available, and specify that you are seeking a Classification Request in the designated fields or blocks on the electronic form or the BIS-748P. You must provide a recommended classification in the designated field or block and explain the basis for your recommendation based on the technical parameters specified in the appropriate ECCN, if any, in the "additional information" field or block. Describe in the "additional information" field or block, any ambiguities or deficiencies that could affect the accuracy of your recommended classification.

(c) \* \* \*

(2) \* \* \*

(iii) The Export Control Classification Number or, if appropriate, EAR99 for each item; and

\* \* \* \* \*

11. In § 748.4, revise the third and fourth sentence of paragraph (b)(1), and revise paragraphs (b)(2)(ii) and (g) to read as follows:

§ 748.4 Basic guidance related to applying for a license.

\* \* \* \* \*

(b) Disclosure of parties on license applications and the power of attorney.

(1) Disclosure of parties. \* \* \* If there is any doubt about which persons should be named as parties to the transaction, the applicant must disclose the names of all such persons and the functions to be performed by each in the "additional information" field of the electronic application or block of the BIS-748P Multipurpose Application form. Note that when the foreign principal party in interest is the ultimate consignee or end-user, the name and address need not be repeated in the "additional information" field or block. See "Parties to the transaction" in § 748.5 of this part.

(2) \* \* \*

(i) \* \* \*

(ii) Application. Agents who are required to obtain a power of attorney or other written authorization under this section must select "Third Party" when registering to use the SNAP+ system. When completing applications, whether electronically or on the BIS-748P Multipurpose Application Form, the agent must select "other" in the "documents on file with applicant" field or block and insert "748.4(b)(2)" in the Additional Information field or block to indicate that the power of

attorney or other written authorization is on file with the agent. See § 758.3(d) of the EAR for power of attorney requirement, and see also part 762 of the EAR for recordkeeping requirements.

\* \* \* \* \*

(g) Resubmission. If a license application is returned without action to you by BIS or your application represents a transaction previously denied by BIS, and you want to resubmit the license application, a new license application must be completed in accordance with the instructions contained in Supplement No. 1 to part 748. Cite the Application Control Number on your original application in the "Resubmission Application Control Number" field or block on the new license application.

\* \* \* \* \*

12. In § 748.5, revise the introductory paragraph and paragraph (b) to read as follows:

§ 748.5 Parties to the transaction.

The following parties may be entered on the export license application or reexport license application. The definitions, which also appear in part 772 of the EAR, are set out here for your convenience to assist you in filling out your application correctly.

(a) \* \* \*

(b) Other party authorized to receive license. The person authorized by the applicant to receive the license. If a person and address are listed in "Other Party Authorized to Receive License" field or block of the SNAP+ data entry screen or the BIS-748P Multipurpose Application Form, the Bureau of Industry and Security will send the license to that person instead of the applicant. Designation of another party to receive the license does not alter the responsibilities of the applicant, licensee or exporter.

\* \* \* \* \*

13. In § 748.6, revise paragraphs (a), (e), and the last sentence of paragraph (g) to read as follows:

§ 748.6 General instructions for license applications.

(a) Form and instructions. An application for a license, whether to export or reexport, must be submitted electronically via the SNAP+ system or, if BIS authorizes paper filing pursuant to § 748.1(e) of the EAR, on Form BIS-748P, Multipurpose Application (revised June 15, 1996 or later), and Form BIS-748P-A, Item Appendix, and Form BIS-748P-B, End-User Appendix. Facsimiles or copies of these forms are not acceptable. Instructions for

preparing the application are in supplement No. 1 to this part 748.

\* \* \* \* \*

(e) *Assembly and additional information.* Any paper documents or correspondence relating to your paper license applications should bear the Application Control Number, and be stapled together. Any documents related to an application filed in SNAP+ must be "attached" to the application as a "PDF" file. If the document contains text, the PDF file must be text searchable. 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.

\* \* \* \* \*

(g) *Request for extended license validity period.* \* \* \* To request an extended validity period, include justification for your request in the "additional information" field or block on the application.

14. Revise § 748.7 to read as follows:

**§ 748.7 Electronic submission of license applications and other documents.**

(a) *Scope.* This section applies to electronic submissions of export and reexport license applications, license exception notifications, encryption review requests, and Classification Requests. All such electronic submissions must be made through the Simplified Network Application Processing (SNAP+) system.

(b) *Registration Procedures.* (1) *Procedures for parties not authorized to use SNAP+ prior to [implementation date of SNAP+].* Parties who were not authorized to use SNAP+ on [implementation date of SNAP+] must begin the application process electronically at [Web site URL to be announced in the final rule] and must supply the information listed in paragraphs (b)(1)(i) through (b)(1)(viii) of this section. To complete the application process, the SNAP+ applicant must print the document that is generated by the on-line registration process on the SNAP+ applicant's letterhead, and the SNAP+ applicant's designated official must sign it and submit it to BIS at the address printed on the document. BIS will notify the SNAP+ applicant via e-mail at the e-mail address of the designated official as entered on the on-line registration form of its decision as to whether the applicant may file applications via SNAP+. The following information must be supplied:

- (i) Name of SNAP+ applicant;
- (ii) Address of SNAP+ applicant;

(iii) The SNAP+ applicant's "organization type," *i.e.*, whether the applicant is an individual or industry (industry means any entity other than an individual);

(iv) The SNAP+ applicant's "industry role", *i.e.*, whether it is an exporter or an agent for a principal party in interest who is required to have a power of attorney or other written authorization by § 748.4(b)(2)(i) of the EAR (such an agent is designated as a "third party" in SNAP+);

(v) The SNAP+ applicant's employer identification number, if the SNAP+ applicant's organization type is "industry" and the SNAP+ applicant is located in the Untied States;

(vi) The name, telephone number, facsimile number (optional), and e-mail address of the SNAP+ applicant's "designated official;" and

(vii) The name, telephone number, facsimile number (optional), e-mail address, user name and initial password of the SNAP+ applicant's initial organization administrator.

(2) *Procedures for parties authorized to use SNAP prior to [implementation date of SNAP+].* Parties authorized to use SNAP prior to [implementation date of SNAP+] will be notified in writing by BIS of the date on which BIS will convert their accounts to SNAP+, the requirements regarding organization administrators and certifiers described in paragraph (c) of this section, and of the requirement that they log onto the SNAP+ Web site [URL to be included in the final rule] and provide the information described in subparagraphs (b)(1)(vi) and (b)(1)(vii) of this section.

(c) *Parties to the SNAP+ system, their roles and responsibilities.* The roles and responsibilities in this section are in addition to any other roles or responsibilities imposed elsewhere in the EAR or other applicable law.

(1) *SNAP+ applicant.* The SNAP+ applicant is the entity or individual that applies to use SNAP+ to submit documents to BIS.

(2) *SNAP+ user.* The SNAP+ user is the entity or individual that has been authorized to submit documents to BIS via SNAP+. SNAP+ users who are registered as "Third Parties" to submit on behalf of other entities and SNAP+ users who wish to submit on behalf of their subsidiaries must register the name and address information of those other entities or subsidiaries on the designated entry screens in SNAP+ prior to submitting any documents on their behalf.

(3) *Designated official.* The designated official is the individual who makes, on behalf of the SNAP+ applicant, the application to use the SNAP+ system.

(4) *Organization administrator.*

Organization administrator(s) are individuals who can enable other individuals to use the SNAP+ system, terminate an individual's access to the SNAP+ system, and who can assign or change the roles of those individuals, all on the SNAP+ user's behalf. The roles which an organization administrator may assign to an individual are organization administrator (who has all of the authorities in the SNAP+ system that the initial organization administrator has), certifier, stager and viewer.

(5) *Certifier.* Certifiers are individuals who can submit to BIS, on behalf of the SNAP+ user, any type of application, form, report, document or other information that may be submitted via the SNAP+ system at the time of the submission, even if it was not available at the time that he/she became a certifier, and make representations to BIS on the SNAP+ user's behalf as to the truth, accuracy and completeness of the application, form, report, document or other information submitted.

(i) BIS will treat submissions made in the SNAP+ system by any of the SNAP+ user's certifiers as representations by the SNAP+ user to the United States Government until the certifier's role is terminated in the SNAP+ system by one of the SNAP+ user's organization administrators or by BIS.

(ii) Although BIS reserves the right to remove any individual or SNAP+ user from the SNAP+ system at its sole discretion, it is the responsibility of the SNAP+ user's organization administrator, and not BIS, to remove a certifier from SNAP+ or remove the role of certifier from an individual who ceases to be authorized by the SNAP+ user to certify submissions to BIS on the SNAP+ user's behalf.

(6) *Stager.* A stager can enter information and documents into the SNAP+ system on behalf of the SNAP+ user for submission to BIS by a certifier.

(7) *Viewer.* A viewer can view information and documents in the SNAP+ system, but may not enter any information or attach any documents to a submission.

(8) *Agents.* An agent (regardless of whether it is required to have a power of attorney or other written authorization or whether its authority derives from a relationship described in § 748.4(b)(2)(i) of the EAR) who submits via SNAP+ for another party must notify BIS immediately if his authority to do so is terminated. Such notification must be in writing and sent to:

Office of Exporter Services, P.O. Box 273,  
Washington, DC 20044, Attention: SNAP+.

(d) *Continuing requirements.* The requirements of this paragraph relate to electronic filing authorizations issued prior to [implementation date of SNAP+] and continue in effect after that date.

(i) No person may use, copy, steal or otherwise compromise a PIN assigned to another person; and no person may use, copy, steal or otherwise compromise the company identification number where the company has not authorized such person to have access to the number.

(ii) Companies authorized to file electronically prior to [insert effective date of SNAP+] must maintain a log of submissions made under SNAP prior to that party being converted to SNAP+. The log may be maintained either manually or electronically, specifying the date and time of each electronic submission, the ECCNs of items included in each electronic submission, and the name of the employee or agent submitting the license application. This log may not be altered. Written corrections must be made in a manner that does not erase or cover original entries. If the log is maintained electronically, corrections may only be made as notations. This log must be maintained in accordance with the requirements of part 762 of the EAR.

(e) *Continuation of requirements for existing electronic filers prior to conversion to SNAP+.* Entities and individuals authorized to file electronically prior to [implementation date of SNAP+] must continue to comply with procedures described in this paragraph until their accounts are converted to SNAP+.

(i) *Use of company identification numbers.* The company may reveal the company identification number assigned to it by BIS only to the personal identification number (PIN) holders, their supervisors, employees, or agents of the company with a commercial justification for knowing the company identification number.

(ii) *Use of personal identification numbers.* An individual who has been assigned a personal identification number (PIN) system may not:

- (A) Disclose the PIN to anyone;
- (B) Record the PIN either in writing or electronically;
- (C) Authorize another person to use the PIN; or
- (D) Use the PIN following termination by BIS or the SNAP user company of his or her authorization to do so.

(iii) *Other continuing requirements.* (A) If a PIN is lost, stolen or otherwise compromised, the company and the PIN holder must report the loss, theft or compromise of the PIN immediately by telephoning BIS at (202) 482-0436. You

must confirm this notification in writing within two business days to BIS at the address provided in paragraph (c)(8) of this section.

(B) A company authorized to file electronically must immediately notify BIS whenever a PIN holder leaves the employ of the company or otherwise ceases to be authorized by the company to submit applications electronically on its behalf.

(C) A company authorized to file electronically must notify BIS of any change in its name or address.

15. In § 748.9, revise paragraph (c) introductory text to read as follows:

**§ 748.9 Support documents for license applications.**

\* \* \* \* \*

(c) *License applications requiring support documents.* License applications requiring support by either a Statement by the Ultimate Consignee and Purchaser or an Import or End-User Certificate must indicate the type of support document obtained by placing an "X" in the appropriate box either in the designated field on the electronic form or, if filing a paper application, in the "Documents Submitted with Application" or the "Documents on File with Applicant" block. If the support document is an Import or End-User Certificate, you must also identify the originating country and number of the certificate in the designated block or field on your application. License applications submitted without so designating the document type, country, and document number will be returned without action unless satisfactory reasons for failing to obtain the document are supplied in the additional information block or field or in an attachment.

\* \* \* \* \*

16. In § 748.10, revise paragraphs (f) and (g) to read as follows:

**§ 748.10 Import and End-user Certificates.**

\* \* \* \* \*

(f) *Multiple license applications supported by one certificate.* An Import or End-User Certificate may cover more than one purchase order and more than one item. Where the certificate includes items for which more than one license application will be submitted, you must include in the Additional Information field or block on your application, or in an attachment to each license application submitted against the certificate, the following certification:

I (We) certify that the quantities of items shown on this license application, based on the Certificate identified in the Import/End-User Certificate Country and Number fields or blocks of this license application, when

added to the quantities shown on all other license applications submitted to BIS based on the same Certificate, do not total more than the total quantities shown on the above cited Certificate.

(g) *Submission of Import and End-User Certificates.* Applications for which a PRC End-User Certificate is required that are filed via SNAP+ must have a complete, accurate image of the original certificate attached electronically with the SNAP+ submission and the applicant must retain the original certificate for the time period specified in § 762.6 of the EAR. Applications for which a PRC End-User Certificate is required that are filed on paper must be accompanied by the original certificate. All other certificates must be retained on file in accordance with the recordkeeping provisions of the part 762 of the EAR and not submitted with the license application.

\* \* \* \* \*

17. In § 748.11 revise the first sentence of paragraph (a)(2) to read as follows:

**§ 748.11 Statement by Ultimate Consignee and Purchaser.**

(a) \* \* \*

(2) The applicant is the same person as the ultimate consignee, provided the required statements are contained in the "Additional Information" field or block on the license application. \* \* \*

\* \* \* \* \*

18. In § 748.12, revise paragraph (d)(1) to read as follows:

**§ 748.12 Special provisions for support documents.**

\* \* \* \* \*

(d) *Procedures for requesting an exception.* (1) Requests for an exception must be submitted with the license application to which the request relates. Requests relating to more than one license application should be submitted with the first license application and referred to in the "Additional Information" field or block on any subsequent license application. The request for an exception must be on the applicant's letterhead and may be attached electronically to an application filed via SNAP+ or submitted as a paper attachment to an application filed on paper.

\* \* \* \* \*

19. In § 748.14 revise the section heading, the third, fourth and fifth sentences of paragraph (b) introductory text, and revise paragraph (e) to read as follows:

**§ 748.14 Import Certificate for firearms destined for Organization of American States (OAS) member countries.**

*(b) Import Certificate Procedure.*

\* \* \* All the recordkeeping provisions of part 762 of the EAR apply to this requirement. The applicant must clearly note the number and date of the Import Certificate or equivalent official document on all export license applications supported by that Certificate or equivalent official document. The applicant must also indicate in the "Documents on File with Applicant" field or block of the application that the Certificate or equivalent official document has been received and will be retained on file.

\* \* \*

\* \* \* \* \*

*(e) Use of Import Certificate.* An Import Certificate or equivalent official document may be used to support only one license application. The application must include the same items as those listed on the Import Certificate or equivalent official document.

\* \* \* \* \*

20. Revise supplement No. 1 to part 748 to read as follows:

**Supplement No. 1 to Part 748—SNAP+, BIS-748p, BIS-748p-a: Item Appendix, and BIS-748p-b: End-User Appendix; Information Requirements**

All information must be entered in the designated fields in SNAP+ or, if you are submitting a paper application, legibly typed within the lines for each block or box, on the BIS-748P, BIS-748P-A, or BIS-748P-B forms except where a signature is required on the paper forms. On the paper forms, enter only one typed line of text per block or line. Except as noted below, you must supply the following information with export and reexport license applications, classification requests, License Exception AGR notices, and encryption review requests.

*Contact Person.* This should be a person who can answer questions concerning the application, request or notice. In SNAP+, the contact person must be a person who has been authorized access to the SNAP+ system on behalf of the applicant as a viewer, stager, certifier or organization administrator. On paper applications, enter the name of the contact person.

*Telephone.* In SNAP+, this information was entered when the contact person was given access to the system and need not be reentered with each application. For paper submissions, enter the telephone number of the contact person.

*Facsimile.* In SNAP+, this information was entered when the contact person was given access to the system and need not be reentered with each application. For paper submissions, enter the facsimile number, if available, of the person who can answer questions concerning the application.

*Date of Application.* In SNAP+, the computer automatically records the date of

submission. For paper applications enter the current date.

*Type of Submission.* If you are filing via SNAP+, select the type of submission from the work item menu as follows:

For items in the United States that you wish to export or for technology or software (source code) that you wish to reveal to foreign nationals in the United States, select "Export." See § 734.2(b)(9) for the definition of "export" that applies to encryption source code and object code software subject to the EAR.

For items located outside the United States that you wish to move from one foreign country to another foreign country, or for technology or software (source code) that you wish to reveal to foreign nationals in a foreign country, select "Reexport."

If you are requesting BIS to classify your item against the Commerce Control List (CCL), select "Commodity Classification."

For License Exception AGR notifications, select "License Exception AGR."

For Encryption Review requests select "Commodity Classification" and then select the check box labeled "Encryption Item."

**Note:** You may not use SNAP+ to file Special Comprehensive License applications.

If you are filing a paper form BIS-748P, place an "X" in the appropriate box in the "Type of Application" block as follows:

For items located within the United States that you wish to export or for technology or software (source code) that you wish to reveal to foreign nationals in the United States mark the box labeled "Export" with an "X."

For items located outside the United States that you wish to move from one foreign country to another foreign country, or for technology or software (source code) that you wish to reveal to foreign nationals in a foreign country, mark the box labeled "Reexport" with an "X."

If you are requesting BIS to classify your item against the Commerce Control List (CCL), place an "X" in the box labeled "Classification Request."

If you are submitting a Special Comprehensive License application in accordance with the procedures described in part 752 of the EAR, place an "X" in the box labeled "Special Comprehensive License."

If you are submitting a License Exception AGR notification, place an "X" in the box labeled "Other."

If you are submitting an encryption review request place an "X" in the box labeled "Commodity Classification."

*Documents submitted with Application.* Review the documentation you are required to submit with your application in accordance with the provisions of part 748 of the EAR, and mark all applicable boxes with an "X".

Mark the box labeled "Foreign Availability" with an "X" if you are submitting an assertion of foreign availability with your license application. See part 768 of the EAR for instructions on foreign availability submissions.

Mark the box labeled "Tech. Specs" with an "X" if you are submitting descriptive literature, brochures, technical specifications, etc. with your application.

*Documents on File with Applicant.* Certify that you have retained on file all applicable documents as required by the provisions of part 748 by placing an "X" in the appropriate box(es).

*Special Comprehensive License.* You may not use SNAP+ if you are applying for a Special Comprehensive License. On the BIS-748P, complete this block only if you are submitting an application for a Special Comprehensive License in accordance with part 752 of the EAR.

*Special Purpose.* If Supplement No. 2 to this part requires that you enter certain information about your items or transaction in this field or block, enter that information. If you are submitting an encryption review request for License Exception ENC (§ 740.17 of the EAR) enter "License Exception ENC." If you are submitting an encryption review request under the mass market provisions (§ 742.15(b)(2) of the EAR), enter "mass market encryption." If you are submitting an encryption review request for any other reason, enter "encryption—other."

*Resubmission Application Control Number.* If your original application or License Exception AGR notice was denied or returned without action (RWA), provide the Application Control Number of the original application. This requirement does not apply to paper applications that were returned to you without being registered. You do not need to supply this information for Classification Requests or Encryption Review Requests.

*Replacement License Number.* If you have received a license for identical items to the same ultimate consignee, but would like to make a modification that is not excepted in § 750.7(c) of the EAR to the license as originally approved, enter the original license number. Include a statement in the additional information field or block regarding what changes you wish to make to the original license. You do not need to supply this information for Classification Requests or encryption review requests.

*Items Previously Exported.* This information need be completed only for reexport license applications. Enter the license number, License Exception symbol (for exports under General Licenses, enter the appropriate General License symbol), or other authorization under which the items were originally exported, if known, in the "Items Previously Exported" field or block on the BIS-748P form.

*Import/End-User Certificate.* Enter the name of the country and number of the Import or End User Certificate obtained in accordance with the provisions of this part. You do not need to supply this information for Classification Requests or Encryption Review Requests.

*Applicant.* In SNAP+, the following information about the applicant must be entered at the time of registration. On BIS-748P forms, it must be entered with each submission. Enter the applicant's name, street address, city, state/country, postal code, and, on applications for export licenses, the applicant's Employer Identification Number unless the applicant is an individual or is an agent who is required to obtain written authorization under

§ 748.4(b)(2) of the EAR to file on behalf of the applicant. Regardless of the method of filing, provide a complete street address. P.O. boxes are not acceptable. Refer to § 748.5(a) of this part for a definition of "applicant." The Employer Identification Number is assigned by the Internal Revenue Service for tax identification purposes. Accordingly, you should consult your company's financial officer or accounting division to obtain this number.

**Other Party Authorized to Receive License.** If you would like BIS to transmit the approved license to another party designated by you, select "Other Party Authorized to Receive License" from the parties menu in SNAP+, or if filing on paper, fill in all information in the corresponding block. Complete all information, including name, street address, city, country, postal code and telephone number. Leave this space blank if the license is to be sent to the applicant. Designation of another party to receive the license does not alter the responsibilities of the applicant.

**Purchaser.** If the purchaser is not also the ultimate consignee, enter the purchaser's complete name, street address, city, country, postal code, and telephone or facsimile number. Refer to § 748.5(c) of this part for a definition of "purchaser." You must provide this information even if the purchaser is also the ultimate consignee. You do not need to supply this information for Classification Requests or Encryption Review Requests.

**Intermediate Consignee.** Enter the intermediate consignee's complete name, street address, city, country, postal code, and telephone or facsimile number. Provide a complete street address. P.O. boxes are not acceptable. Refer to § 748.5(d) of this part for a definition of "intermediate consignee." If your proposed transaction does not involve use of an intermediate consignee, enter "None." If your proposed transaction involves more than one intermediate consignee, provide the same information in the additional information field or block for each additional intermediate consignee. You must provide this information even if the intermediate consignee is the purchaser. You do not need to supply this information for Classification Requests or Encryption Review Requests.

**Ultimate Consignee.** This information must be supplied if you are submitting an export license application. Enter the ultimate consignee's complete name, street address, city, country, postal code, and telephone or facsimile number. Provide a complete street address. P.O. boxes are not acceptable. The ultimate consignee is the principal party in interest who receives the exported or reexported items. Refer to § 748.5(e) of this part for a definition of "ultimate consignee." A bank, freight forwarder, forwarding agent, or other intermediary may not be identified as the ultimate consignee unless it will receive the item for its own use. Government purchasing organizations are the sole exception to this requirement. A government purchasing organization may be identified as the ultimate consignee if the actual end user(s) is (are) an entity(ies) of the same government and the actual end-user and end-use are clearly identified in the "specific end

use" field or block or in the additional documentation attached to the application.

If your application is for the reexport of items previously exported, enter the new ultimate consignee's complete name, street address, city, country, postal code, and telephone or facsimile number. Provide a complete street address. P.O. boxes are not acceptable. If your application involves a temporary export or reexport, the applicant should be shown as the ultimate consignee in care of a person or entity who will have control over the items abroad.

You do not need to supply this information for Classification Requests or Encryption Review Requests.

**End-User.** Enter this information only if the ultimate consignee you have identified is not the actual end-user. If there will be more than one end-user, select "end-user" from the parties menu in SNAP+, or if filing a paper application, use Form BIS-748P-B to identify each additional end-user. Enter each end-user's complete name, street address, city, country, postal code, and telephone or facsimile number. Provide a complete street address; P.O. boxes are not acceptable. You do not need to supply this information for Classification Requests or Encryption Review Requests.

**Original Ultimate Consignee.** If your application involves the reexport of items previously exported, enter the original ultimate consignee's complete name, street address, city, country, postal code, and telephone or facsimile number. Provide a complete street address; P.O. boxes are not acceptable. The original ultimate consignee is the entity identified in the original application for export as the ultimate consignee or the party currently in possession of the items. You do not need to supply this information for Classification Requests or Encryption Review Requests.

**Specific End-Use.** This information must be completed if you are submitting a license application. Provide a complete and detailed description of the end-use intended by the ultimate consignee and/or end-user(s). If you are requesting approval of a reexport, provide a complete and detailed description of the end-use intended by the new ultimate consignee or end-user(s) and indicate any other countries for which resale or reexport is requested. If additional space is necessary, use the "additional information" block on Form BIS-748P-A or B. Be specific. Such general descriptions such as "research", "manufacturing", or "scientific uses" are not acceptable. You do not need to supply this information for Classification Requests or Encryption Review Requests.

**ECCN or EAR99.** Enter the Export Control Classification Number (ECCN) that corresponds to the item you wish to export or reexport or, if appropriate, EAR99. If you are submitting a Classification Request, provide a recommended classification for the item.

**CTP.** You must furnish this information only if your application involves a digital computer or equipment containing a digital computer as described in Supplement No. 2 to this part. Instructions on calculating the CTP are contained in a Technical Note at the end of Category 4 in the CCL.

**Model Number.** Enter the correct model number for the item.

**CCATS Number.** If you have received a classification for this item from BIS, provide the CCATS number shown on the classification issued by BIS.

**Quantity.** Identify the quantity to be exported or reexported, in terms of the "Unit" described in the "Units" paragraph of the ECCN entry. If the "Unit" for an item is "\$ value", enter the quantity in units commonly used in the trade. You do not need to supply this information for Classification Requests or Encryption Review Requests.

**Units.** The "Unit" paragraph within each ECCN will list a specific "Unit" for those items controlled by the entry. If an item is licensed in terms of "\$ value", the unit of quantity commonly used in trade must also be shown. On license applications for items on the CCL, the unit must be supplied unless the "Unit" for the applicable ECCN reads "N/A" on the CCL. For License Exception AGR notifications use the unit of quantity commonly used in the trade. You do not need to supply this information for Classification Requests or Encryption Review Requests.

**Unit Price.** Provide the fair market value of the items you wish to export or reexport. Round all prices to the nearest whole dollar amount. Give the exact unit price only if the value is less than \$0.50. If normal trade practices make it impractical to establish a firm contract price, state in the "Additional Information" field or block, the precise terms upon which the price is to be ascertained and from which the contract price may be objectively determined. You do not need to supply this information for Classification Requests or Encryption Review Requests.

**Total Price.** Provide the total price of the item(s) listed on the application or notification. You do not need to supply this information for Classification Requests or Encryption Review Requests.

**Manufacturer.** Provide the name only of the manufacturer, if known, for each of the items you wish to export, reexport, or have BIS classify, if different from the applicant.

**Technical Description.** Provide a description of the item(s) you wish to export, reexport, or have BIS classify. Provide details when necessary to identify the specific item(s); include all characteristics or parameters shown in any applicable ECCN using measurements identified in the ECCN (e.g., basic ingredients, composition, electrical parameters, size, gauge, grade, horsepower, etc.). These characteristics must be identified for the items in the proposed transaction when they are different from the characteristics described in promotional brochure(s).

**Total Application Dollar Value.** Enter the total value of all items contained on the application in U.S. Dollars. The use of other currencies is not acceptable.

**Additional Information.** Enter additional data pertinent to the application as required in the EAR. Include special certifications, names of parties of interest not disclosed elsewhere, explanation of documents attached, or any other additional information that you want BIS to consider in the

submission. Before entering information in this field or block, make sure that it is not required to be entered in one of the specific fields or blocks listed in this supplement.

If you are submitting a Classification Request, use this field or block to explain why you believe the recommended ECCN that you entered in the ECCN field or block is appropriate. This explanation must contain an analysis of the item in terms of the technical control parameters specified in the appropriate ECCN, if any. Describe any ambiguities or deficiencies that could affect the accuracy of your recommended classification.

If additional space is necessary, submit an "attachment" to your SNAP+ submission or, if filing on paper, use the "Additional Information" block on the Form BIS-748P-A or B.

**Signature.** In SNAP+, electronically submitting an application, request, or notification operates as a signature. Paper forms must be manually signed in the designated block by the applicant or its duly authorized agent. The name and title of the person signing must be entered in the designated blocks. Rubber-stamped or electronic signatures are not acceptable. If the person signing is acting on behalf of an agent who is required under § 748.4(b)(2) of the EAR to have written authorization from the applicant, enter the agent's name in the "additional information" block.

21. In supplement No. 2 to part 748:

- a. Revise the introductory text;
- b. Revise paragraphs (a) introductory text and (b);
- c. Revise the second sentence of paragraph (c);
- d. Add paragraph (c)(3);
- e. Revise paragraphs (c)(1) and (2) introductory text and (2)(i);
- f. Revise paragraphs (d)(1) through (6);
- g. Revise paragraphs (e)(1) and (2);
- h. Revise paragraph (f);
- i. Revise paragraph (g)(2);
- j. Revise paragraphs (i)(1) and (2);
- k. Revise paragraphs (j)(1)(i) and (ii), (2)(i) and (ii), and (3)(i) and (ii);
- l. Revise the second sentence of paragraph (l);
- m. Revise paragraphs (m) introductory text, (o)(1), and (p); and
- n. Revise the first sentence of paragraph (r).

The additions and revisions read as follows:

#### Supplement No. 2 to Part 748—Unique License Application Requirements

In addition to the instructions contained in Supplement No. 1 to part 748, you must also ensure that the additional requirements for certain items or types of transactions described in this supplement are addressed in your license application. All other fields or blocks not specifically identified in this supplement must be completed in accordance with the instructions contained in Supplement No. 1 to part 748. The term field relates to a data entry field on the SNAP+ entry screens, unless otherwise

noted. The term "block" used in this supplement relates to Forms BIS-748P, BIS-748-A, and BIS-748-B.

(a) *Chemicals, medicinals, and pharmaceuticals.* If you are submitting a license application for the export or reexport of chemicals, medicinals, and/or pharmaceuticals, the following information must be provided in the Technical Description field or block.

\* \* \* \* \*

(b) *Communications intercepting devices.* If you are required to submit a license application under § 742.13 of this part, you must enter the words "Communications Intercepting Device(s)" in the "Special Purpose" field or block. The item you are requesting to export or reexport must be specified by name in the "Technical Description" field or block.

(c) *Digital computers, telecommunications, and related equipment.* \* \* \* License applications involving computers controlled by Category 4 must identify a Composite Theoretical Performance (CTP) in the "CTP" field or block. \* \* \*

(1) Requirements for license applications involving "digital computers." If you are submitting a license application to export or reexport "digital computers" or equipment containing "digital computers" to destinations in Country Group D:1 (See Supplement No. 1 to part 740 of the EAR), or to upgrade existing "digital computer" installations in those countries, you must include in addition to the CTP in the "CTP" field or block the following information:

- (i) \* \* \*
- (ii) \* \* \*

(2) Additional requirements. License applications to export or reexport computers or related equipment must include:

(i) A signed statement or, when filing via SNAP+, a facsimile thereof by a responsible representative of the end-user or the importing agency describing the end-use and certifying that the "digital computers" or related equipment:

- (A) \* \* \*
- (B) \* \* \*
- (ii) \* \* \*
- (iii) \* \* \*

(3) Recordkeeping. Applicants who submit facsimile statements to meet the requirements of paragraph (c)(2)(i) of this Supplement 2, must maintain the signed original for the period specified in § 762.6 of the EAR.

(d) *Gift parcels; consolidated in a single shipment.* \* \* \*

(1) In the "Purchaser" field or block, enter the word "None";

(2) In the "Ultimate Consignee" field or block, enter the word "Various" instead of the name and address of a single ultimate consignee;

(3) In "Specific End-Use" field or block, enter the phrase "For personal use by recipients";

(4) In the "Quantity" field or block, indicate a reasonable estimate of the number of parcels to be shipped during the validity of the license;

(5) In "Technical Description" field or block, enter the phrase "Gift Parcels"; and

(6) In "Total Application Value" field or block, indicate a reasonable value

approximation proportionate to the quantity of gift parcels identified in the "Quantity" field or block.

(e) *Intransit through the United States.*

\* \* \*

(1) In the "Special Purpose" field or block, enter the phrase "Intransit Shipment";

(2) In the "Additional Information" field or block, enter the name and address of the foreign consignor who shipped the items to the United States and state the origin of the shipment;

\* \* \* \* \*

(f) *Intransit outside of the United States.* If you are submitting a license application based on General Prohibition No. 8 stated in § 736.2(b)(8) of the EAR and identification of the intermediate consignee in the country of unloading or transit is unknown at the time the license application is submitted, the country of unloading or transit must be shown in the "Intermediate Consignee" field or block.

(g) *Nuclear Nonproliferation items and end-uses.*

\* \* \* \* \*

(2) *License application requirements.*

Along with the required certification, you must include the following information in your license application:

(i) In the "Documents on File with Applicant" field or block, place an "X" in the box titled "Nuclear Certification";

(ii) In the "Special Purpose" field or block, enter the phrase "NUCLEAR CONTROLS";

(iii) In "Specific End-Use" field or block, provide, if known, the specific geographic locations of any installations, establishments, or sites at which the items will be used;

(iv) In the "Technical Description" field or block, if applicable, include a description of any specific features of design or specific modifications that make the item capable of nuclear explosive activities, or of safeguarded or unsafeguarded nuclear activities as described in § 744.2(a)(3) of the EAR; and

(v) In the "Additional Information" field or block, if your license application is being submitted because you know that your transaction involves a nuclear end-use described in § 744.2 of the EAR, you must fully explain the basis for your knowledge that the items are intended for the purpose(s) described in § 744.2 of the EAR. Indicate the specific end-use(s) the items will have in designing, developing, fabricating, or testing nuclear weapons or nuclear explosive devices or in designing, constructing, fabricating, or operating the facilities described in § 744.2(a)(3) of the EAR.

\* \* \* \* \*

(i) *Parts, components, and materials incorporated abroad into foreign-made products.* \* \* \*

(1) *License applications for the export of parts and components.* If you are submitting a license application for the export of parts, components, or materials to be incorporated abroad into products that will then be sent to designated third countries, you must enter in the "Specific End-Use" field or block, a description of end-use including a general description of the commodities to be manufactured, their typical end-use, and the countries where those commodities will be

marketed. The countries may be listed specifically or may be identified by Country Groups, geographic areas, etc.

(2) License applications for the reexport of incorporated parts and components. If you are submitting a license application for the reexport of parts, components, or materials incorporated abroad into products that will be sent to designated third countries you must include the following information in your license application:

(i) In the "Special Purpose" field or block, enter the phrase "Parts and Components";

(ii) In the "Ultimate Consignee" field or block, enter the name, street address, city and country of the foreign party who will be receiving the foreign-made product. If you are requesting approval for multiple countries or consignees enter "Various" in the "Ultimate Consignee" field or block and list the specific countries, Country Groups, or geographic areas in the "Additional Information" field or block;

(iii) In the "Original Ultimate Consignee" field or block, enter the name, street address, city, and country of the foreign party who will be exporting the foreign-made product incorporating U.S. origin parts, components or materials;

(iv) In the "Specific End-Use" field or block, describe the activity of the end-user identified in the "End-User" field or block or, if the ultimate consignee is also the end user, of the ultimate consignee identified in the "Ultimate Consignee" field or block, and the end-use of the foreign-made product. Indicate the final configuration if the product is intended to be incorporated in a larger system. If the end-use is unknown, state "unknown" and describe the general activities of the end-user;

(v) In the "Quantity" field or block, specify the quantity for each foreign-made product. If this information is unknown, enter "Unknown" in the Quantity field or block;

(vi) In the "Total Price" field or block, enter the digit "0" for each foreign-made product;

(vii) In the "Technical Description" field or block, describe the foreign-made product that will be exported, specifying type and model or part number. Attach brochures or specifications, if available. Show as part of the description the unit value, in U.S. dollars, of the foreign-made product (if more than one foreign-made product is listed on the license application, specify the unit value for each type/model/part number). Also include a description of the U.S. content (including the applicable Export Control Classification Number(s)) and its value in U.S. dollars. If more than one foreign-made product is identified on the license application, describe the U.S. content and specify the U.S. content value for each foreign-made product. Also, provide sufficient support information to explain the basis for the stated values. To the extent possible, explain how much of the value of the foreign-made product represents foreign origin parts, components, or materials, as opposed to labor, overhead, etc. When the U.S. content varies and cannot be specified in advance, provide a range of percentage and value that would indicate the minimum and maximum U.S. content;

(viii) Include separately in the "Technical Description" field or block a description of any U.S. origin spare parts to be reexported with the foreign-made product, if they exceed the amount allowed by § 740.10 of the EAR. Enter the quantity, if appropriate, in the "Quantity" field or block. Enter the ECCN for the spare parts in the "ECCN" field or block and enter the value of the spare parts in the "Total Price" field or block;

(ix) In the "Total Application Dollar Value" field or block, enter the digit "0";

(x) If the foreign-made product is the direct product of U.S. origin technology that was exported or reexported subject to written assurance, a request for waiver of that assurance, if necessary, may be made in the "Additional Information" field or block. If U.S. origin technology will accompany a shipment to a country listed in Country Group D:1 or E:2 (see Supplement No. 1 to part 740 of the EAR) describe in Additional Information field or block the type of technology and how it will be used.

(j) Ship stores, plane stores, supplies, and equipment.

(1) \* \* \*

(i) In the "Ultimate Consignee" field or block, enter the name, street address, city, and country of the shipyard where the vessel is being constructed;

(ii) In "Technical Description" field or block, state the length of the vessel for a vessel under 12 m (40 ft) in length. For a vessel 12 m (40 ft) in length or over, provide the following information (if this information is unknown, enter "unknown" in this field or block): \* \* \*

(2) \* \* \*

(i) In the "Ultimate Consignee" field or block, enter the name and address of the plant where the aircraft is being constructed;

(ii) In the "Technical Description" field or block, enter the following information (if this information is unknown, enter "unknown" in this field or block): \* \* \*

(3) \* \* \*

(i) In the "Ultimate Consignee" field or block, enter the name of the owner, the name of the vessel, if applicable, and port or point where the items will be taken aboard;

(ii) In the "Ultimate Consignee" field or block enter the following statement if, at the time of filing the license application, it is uncertain where the vessel or aircraft will take on the items, but it is known that the items will not be shipped to a country listed in Country Group D:1 or E:2 (see Supplement No. 1 to part 740 of the EAR):

\* \* \* \* \*

(l) Reexports. \* \* \* The license application must specify the country to which the reexport will be made in the "Additional Information" field or block. \* \* \*

(m) Robots. If you are submitting a license application for the export or reexport of items controlled by ECCNs 2B007 or 2D001 (including robots, robot controllers, end-effectors, or related software) the following information must be provided in the "Additional Information" field or block:

\* \* \* \* \*

(o) Technology—(1) License application instruction. If you are submitting a license application for the export or reexport of

technology you must check the box labeled "Letter of Explanation" in the "Documents Submitted with the Application" block on the BIS-748P or select "Letter of Explanation" from the pull down menu in the "Document Type" field when attaching an electronic copy of a document to the SNAP+ form, enter the word "Technology" in the "Special Purpose" field or block, leave the "Quantity" and "Manufacturer" fields or blocks blank, and include a general statement that specifies the technology (e.g., blueprints, manuals, etc.) in the "Technical Description" field or block.

\* \* \* \* \*

(p) Temporary exports or reexports. If you are submitting a license application for the temporary export or reexport of an item (not eligible for the temporary exports and reexports provisions of License Exception TMP (see § 740.9(a) of the EAR) you must include the following certification in the Additional Information field or block:

The items described on this license application are to be temporarily exported (or reexported) for (state the purpose, e.g., demonstration, testing, exhibition, etc.), used solely for the purpose authorized, and returned to the United States (or originating country) as soon as the temporary purpose has ended, but in no case later than one year of the date of export (or reexport), unless other disposition has been authorized in writing by the Bureau of Industry and Security.

\* \* \* \* \*

(r) Encryption review requests. Enter in the Special Purpose field or block, "License Exception ENC" if you are submitting an encryption review request for license exception ENC (§ 740.17 of the EAR) or "mass market encryption" of you are submitting an encryption review request under the mass market encryption provisions (§ 742.15(b)(2) of the EAR). \* \* \*

**PART 754—[AMENDED]**

22. 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 7, 2003, 68 FR 47833, August 11, 2003.

23. In § 754.2, revise paragraph (g)(1) to read as follows:

**§ 754.2 Crude Oil.**

\* \* \* \* \*

(g) Exports of certain California crude oil.

\* \* \* \* \*

(1) Applicants must submit their applications electronically via BIS's Simplified Network Application Process (SNAP+) system unless BIS has authorized the applicant to use the paper Form BIS-748P (See § 748.1(e) of the EAR). Paper applications must be

sent to: Office of Exporter Services,  
ATTN: Short Supply Program—  
Petroleum, Bureau of Industry and  
Security, U.S. Department of Commerce,  
P.O. Box 273, Washington, DC 20044.

\* \* \* \* \*

24. In § 754.4, revise paragraphs  
(d)(1), (d)(2), and (d)(3) to read as  
follows:

**§ 754.4 Unprocessed Western Red Cedar.**

\* \* \* \* \*

(d) *License Applications.* (1)  
Applicants requesting to export  
unprocessed western red cedar must  
submit a properly completed  
application electronically via SNAP+  
unless BIS has authorized the applicant  
to use the paper form BIS-748P,  
Multipurpose Application Form (see  
§ 748.1(e) of the EAR). An application to  
export unprocessed western red cedar  
must include such other documents as  
may be required by BIS, and the  
following statement, either in the  
“Additional Information” field or block  
of the application or as a separate signed  
statement from an authorized  
representative of the exporter (if  
submitted in the “Additional  
Information” field of the application, a  
separate signature is not required):

I, (Name) (Title) of (Exporter) HEREBY  
CERTIFY that to the best of my knowledge  
and belief the (Quantity) (cubic meters or  
board feet 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) “Various” may be entered in the  
“Purchaser” and “Ultimate Consignee”  
fields or blocks on the applications  
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:

- (i) \* \* \*  
(ii) \* \* \*

\* \* \* \* \*

25. In § 754.5, revise paragraph (b)(2)  
to read as follows:

**§ 754.5 Horses for Export by Sea**

\* \* \* \* \*

b *License policy.* (1) \* \* \*

(2) Other license applications will be  
approved if BIS, in consultation with  
the Department of Agriculture,  
determines that the horses are not  
intended for slaughter. You must

provide a statement in the “Additional  
Information” field or block of the  
license application, certifying that no  
horse under consignment is being  
exported for the purpose of slaughter.

26. In supplement No. 2 to part 754,  
revise footnote number 2 to read as  
follows:

<sup>2</sup> For export licensing purposes, report  
commodities on export license applications  
in units of quantity indicated.

**PART 772—[AMENDED]**

27. 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  
7, 2003, 68 FR 47833, August 11, 2003.

28. Revise § 772.1 by adding a  
sentence at the end of the definition of  
“applicant” as follows:

**§ 772.1 Definitions.**

\* \* \* \* \*

*Applicant* \* \* \*

This definition does not apply to the  
term “SNAP+ applicant” used in § 748.7  
of the EAR.

\* \* \* \* \*

Dated: November 3, 2003.

**Peter Lichtenbaum,**  
*Assistant Secretary for Export  
Administration.*

[FR Doc. 03-28133 Filed 11-10-03; 8:45 am]

**BILLING CODE 3510-33-P**

**DEPARTMENT OF THE INTERIOR**

**Bureau of Indian Affairs**

**25 CFR Part 161**

**RIN 1076-AE46**

**Navajo Partitioned Lands Grazing  
Permits**

**AGENCY:** Bureau of Indian Affairs,  
Interior.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This rulemaking adds a new  
part to the regulations of the Bureau of  
Indian Affairs to govern the grazing of  
livestock on the Navajo Partitioned  
Land (NPL) of the Navajo-Hopi Former  
Joint Use Area (FJUA) of the 1882  
Executive Order reservation. The  
purpose of these regulations is to  
conserve the rangelands of the NPL in  
order to maximize future use of the land  
for grazing and other purposes.

**DATES:** Written comments must be  
submitted no later than February 10,  
2004.

**ADDRESSES:** All comments on the  
proposed rule must be in writing and  
addressed to: Bill Downes, Acting  
Director, Office of Trust  
Responsibilities, Attn.: Agriculture and  
Range, MS-3061-MIB, Code 210, 1849  
C Street, NW., Washington, DC 20240,  
Telephone (202) 208-6464.

You may submit written comments on  
the proposed information collection to  
the Desk Officer for the Department of  
the Interior, Office of Management and  
Budget, either by telefaxing to (202)  
395-6566, or by e-mail to  
[OIRA\\_DOCKET@omb.eop.gov](mailto:OIRA_DOCKET@omb.eop.gov).

**FOR FURTHER INFORMATION CONTACT:**

Harold Russell, (505) 863-8256, at the  
Navajo Regional Office in Gallup, New  
Mexico.

**SUPPLEMENTARY INFORMATION:** As a result  
of the long-standing dispute between  
the Hopi Tribe and the Navajo Nation  
over beneficial ownership of the  
reservation created by the Executive  
Order of December 16, 1882, Congress  
passed the Act of July 22, 1958, 72 Stat.  
403, which permitted the Navajo Nation  
and the Hopi Tribe to sue each other in  
federal court to resolve the issue. The  
Hopi Tribe initiated such a suit on  
August 1, 1958, in United States District  
Court for the District of Arizona in  
*Healing v. Jones*, 174 F. Supp. 211 (D.  
Ariz. 1959), (*Healing I*). The merits of  
the case were heard by a three judge  
panel of the United States District Court  
for the District of Arizona in *Healing v.  
Jones*, 210 F. Supp. 125 (D. Ariz. 1962)  
aff'd 373 U.S. 758 (1963), (*Healing II*)  
after the initial procedural challenges to  
the suit were dismissed in *Healing I*.  
The district court determined that while  
the Hopi Tribe had a right to the  
exclusive use and occupancy of a  
portion of the 1882 reservation know as  
District 6, it shared the remaining lands  
of the 1882 reservation in common with  
the Navajo Nation. Disputes between the  
two tribes continued over the right to  
use and occupy the 1882 reservation in  
spite of the district court's decision in  
*Healing II*. In an attempt to resolve these  
ongoing problems, Congress enacted the  
Navajo-Hopi Settlement Act, 25 U.S.C.  
640d-640d-31, which provided for the  
partition of the Joint Use Area of the  
1882 reservation, excluding District 6,  
between the two tribes. The Act was  
amended by the Navajo-Hopi Indian  
Relocation Amendments Acts of 1980,  
94 Stat. 929, due to the dissatisfaction  
expressed by both tribes with the  
relocation process.

The Relocation Act Amendments  
added subsection (c) to 25 U.S.C. 640d-  
18. It required the Secretary of the  
Interior to complete the livestock  
reduction program contained in 25

# Proposed Rules

Federal Register

Vol. 69, No. 7

Monday, January 12, 2004

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

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## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

#### 15 CFR Parts 740, 742, 748, 754, and 772

[Docket No. 030425102-4004-02]

RIN 0694-AC20

#### Mandatory Use of Simplified Network Application Processing System

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

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** This notice extends until February 12, 2004, the deadline for public comments on the proposed rule that would amend the Export Administration Regulations (EAR) to implement a revised version of the Bureau of Industry and Security's (BIS) Simplified Network Application Processing system. This extension of time would allow the public additional time to comment on the rule.

**DATES:** Comments must be received by February 12, 2004.

**ADDRESSES:** Written comments should be e-mailed to: [rpd@bis.doc.gov](mailto:rpd@bis.doc.gov), faxed to 202-482-3355, or mailed or delivered to Regulatory Policy Division, Office of Exporter Services, Bureau of Industry and Security, Department of Commerce, 14th and Pennsylvania Avenue, NW., Room 2705, Washington, DC 20230. Reference Regulatory Identification Number 0694-AC20 in all comments.

**FOR FURTHER INFORMATION CONTACT:** For information concerning SNAP+, contact George Ipock, Office of Administration: e-mail [gipock@bis.doc.gov](mailto:gipock@bis.doc.gov), telephone: (202) 482-5469. For information concerning other matters raised by the proposed rule, contact William Arvin, Office of Exporter Services: e-mail [warvin@bis.doc.gov](mailto:warvin@bis.doc.gov), telephone (202) 482-2440.

**SUPPLEMENTARY INFORMATION:**

## Background

On November 12, 2003, the Bureau of Industry and Security published a proposed rule that would implement a new, internet based, system for submitting export license applications, classification requests, encryption review requests and License Exception AGR notices. See 68 FR 64009. The proposed rule would make use of this new system mandatory with a limited number of exceptions. The deadline for public comment on the proposed rule was January 12, 2004. The Bureau is now extending that deadline to February 12, 2004, to allow the public additional time to comment on the rule.

**Eileen Albanese,**

*Director, Office of Exporter Services.*

[FR Doc. 04-565 Filed 1-9-04; 8:45 am]

**BILLING CODE 3510-33-P**

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[CA 289-0418b; FRL-7601-1]

#### Revisions to the California State Implementation Plan, Monterey Bay Unified Air Pollution Control District

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve revisions to the Monterey Bay Unified Air Pollution Control District (MBUAPCD) portion of the California State Implementation Plan (SIP). The revisions concern the emission of particulate matter (PM-10) from open outdoor burning. We are proposing to approve local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** Any comments on this proposal must arrive by February 11, 2004.

**ADDRESSES:** Send comments to Andy Steckel, Rulemaking Office Chief (AIR-4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, or e-mail to [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov), or submit comments at <http://www.regulations.gov>.

You can inspect a copy of the submitted SIP revisions and EPA's technical support document (TSD) at our Region IX office during normal business hours. You may also see a copy of the submitted SIP revisions and TSD at the following locations: Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, (Mail Code 6102T), Room B-102, 1301 Constitution Avenue, NW, Washington, DC 20460, California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95814, Monterey Bay Unified Air Pollution Control District, 24580 Silver Cloud Court, Monterey, CA 93940.

A copy of the rule may also be available via the Internet at <http://www.arb.ca.gov/drdb/drdbltxt.htm>. Please be advised that this is not an EPA Web site and may not contain the same version of the rule that was submitted to EPA.

**FOR FURTHER INFORMATION CONTACT:** Al Petersen, Rulemaking Office (AIR-4), U.S. Environmental Protection Agency, Region IX, (415) 947-4118, [petersen.alfred@epa.gov](mailto:petersen.alfred@epa.gov).

**SUPPLEMENTARY INFORMATION:** This proposal addresses the approval of local MBUAPCD Rule 438 and rescission of MBUAPCD Rules 407, 409, 410, 411, and 422 as SIP revisions. In the Rules section of this **Federal Register**, we are approving this SIP revision in a direct final action without prior proposal because we believe this SIP revision is not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: December 2, 2003.

**Wayne Nastri,**

*Regional Administrator, Region IX.*

[FR Doc. 04-555 Filed 1-9-04; 8:45 am]

**BILLING CODE 6560-50-P**

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**From:** "Ventura, Phil" <pventura@crosshuller.com>  
**To:** "'rpd@bis.doc.gov'" <rpd@bis.doc.gov>  
**Date:** 11/13/2003 9:43 AM  
**Subject:** Mandatory use of Simplified Network Application Processing System(SNAP+)

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In reference to the proposed rule as outlined in the Federal register of 12 November 2003, Docket No. 030425102-3102-01, RIN 0694-AC20:

Please be advised that Cross Huller North America wishes to claim exemption from this requirement in the event that it becomes an actual amendment to the EAR.

We make this request on the grounds that we are a low-volume exporter of materials that require export license.

We have applied for and been granted only one individual validated export license from BIS within the past twelve months.  
Even that exceeds our annual average.

Please inform us of the details of any required formal application procedure that will allow us exemption from the SNAP requirement when submitting an application for export licenses.

Our company's EIN = 00-535-7264

We will appreciate your confirmation of receipt of this e-mail message by return.

Phil Ventura  
Sales Administration  
Cross Hüller North America  
13900 Lakeside Circle  
Sterling Heights, MI 48313-1318 USA  
Phone: (586) 532-3124  
Fax: (586) 532-3111  
pventura@crosshuller.com

13 Nov 2003

**RPD RPD - Comments to Mandatory use of SNAP, proposed rule**

**From:** <Dan@thinksrs.com>  
**To:** <rpd@bis.doc.gov>  
**Date:** 11/13/2003 5:29 PM  
**Subject:** Comments to Mandatory use of SNAP, proposed rule

To whom it may concern,

I am the International marketing manager for Stanford Research Systems. We are a small business (less than 100 people) and have been submitting a few export license applications a year. We have not used SNAP before.

Following a phone call to our local DOC office, we were encouraged to review on the your web site the subject proposed rule for mandatory use of SNAP+ for future submission of Export License applications. Within the proposed rule text, potential users were encouraged to provide comments, so we are doing that.

While this proposed rule generally seems ok, the requirement that any support document be text searchable is not ok. While we will of course do whatever is necessary, requiring any support document to be text searchable will be very difficult and time consuming to do. Submitting product data sheets which are text searchable in pdf form is not a big problem, but submitting customer supplied support documents like End User statements and others in text searchable pdf form will be very difficult to do. We are familiar with OCR software, but often with customer supplied documents the English is very poor, spelling is not good, some text may be hand written, fax copy is not good, etc., making it a major effort to try to convert each document so it is text searchable.

We realize this proposed change is designed to make your life easier, but we would think you would want to make it as easy as possible for the applicant to submit an application, not as difficult as possible. This rule makes it far more difficult than in the past to prepare and submit an application. In our opinion, this requirement will certainly be a deterrent for many organizations to submit export license applications, and is more of an incentive for someone to try to bend the rules than follow them.

We strongly urge you to reconsider the requirement for text searchable pdf support documents, with the possible exception of datasheets for the product for which the license is requested. Support documents can be easily scanned and converted to pdf format, but not be text searchable. This will make it far easier for organizations to prepare export license applications using SNAP+, and will minimize noncompliance.

Thank you very much for providing this public forum, and we hope you seriously consider the above comments.

Best regards,  
Daniel R. Melick  
Manager, International Sales and Marketing  
Stanford Research Systems, Inc.

Stanford Research Systems, 1290-D Reamwood Ave., Sunnyvale, CA 94089  
Phone: 408-744-9040 FAX: 4087449049

**RPD RPD - RIN 0694-AC20**

**From:** "Flury, Steve" <SFlury@pcc-structurals.com>  
**To:** <rpd@bis.doc.gov>  
**Date:** 12/3/2003 5:54 PM  
**Subject:** RIN 0694-AC20

I would prefer to not limit the electronic submission of "attached" images or text to PDF format. Although the Adobe reader is free, the product to produce documents in that form is not and in my experience, it is not a common office addition like Word or Excel. I realize you may have to limit the types of formats something is submitted in as nobody can possibly have all the same tools to read or create a file, but I think you should at least open it up to some of the more common ones. The overall objective is to get the best and most accurate info possible to enable you to do your job, and in turn respond to the filer. By expanding the file formats you accept, I think this would help both parties.

Steve Flury

**RPD RPD - 0694-AC20**

**From:** <candice.graf@cerac.com>  
**To:** <rpd@bis.doc.gov>  
**Date:** 1/9/2004 10:39 AM  
**Subject:** 0694-AC20

First of all I like the idea of getting away from faxing and mailing in all the attachments that we send in. However, often times these documents are printed out by our foreign customers and then faxed into us so that we can immediately start the license application process. These documents are borderline legible as it is and fuzzy already. I have a hard time believing they would be legible to a scanner. Can you set something up that documents could be word attachments and sent via e-mail?

Candice Graf  
Logistics Specialist

**REGULATIONS AND PROCEDURES TECHNICAL ADVISORY COMMITTEE**  
**Practices and Procedures Working Group**

January 9, 2004

Regulatory Policy Division  
Bureau of Industry and Security  
US Department of Commerce  
Room 2705  
14<sup>th</sup> Street and Constitution Avenue NW  
Washington, DC 20230

e-mail: [rpd@bis.doc.gov](mailto:rpd@bis.doc.gov)

RE: Proposals for mandatory SNAP+ - Regulatory Identification Number 0694-AC20

Dear Assistant Secretary Lichtenbaum:

The RPTAC Practices and Procedures Working Group welcomes the opportunity to review the draft regulation and provide the following comments on the proposed rule on mandatory SNAP+ from the November 12 Federal Register.

Our specific comments are:

1. There is no credible justification for making SNAP+ mandatory:
  - Mandatory SNAP+ would be inconsistent with the Right to Export section of the EAA, because, while substantive controls can be justified as a qualification to this right, denial of exports for failure to comply with procedural requirements unrelated to what exporters wish to export cannot be justified.
  - Exporters would not benefit, because those who perceive benefits from electronic submissions would use that means without being required to do so.
  - SNAP+ procedures could be required when exporters opt to submit electronically and use of SNAP+ could be encouraged for those not meeting any of the five criteria for paper filing without making use of SNAP+ mandatory
  - The Government would not benefit thereby, because it would still have to be prepared to receive paper submissions, which would have to be permitted pursuant to criteria such as the five in the proposed rule.
2. In any event, SNAP+ should not be made mandatory prior to all the bugs being removed so as to make sure it works.
3. Whether or not SNAP+ were to be made mandatory, as proposed, i.e., except for special comprehensive licenses or unless one of the five criteria for paper filing were met, terminology that BIS must “grant approval” for paper filing is misleading. As stated in

proposed 748.1(e)(3), if BIS concurs with paper filing, it would simply proceed to process the substantive application or request. Accordingly, there would be no approval document for paper filing.

4. The 748.1(e)(1)(i) limit of three applications, requests or notices in the preceding 12 months for paper filing is too low.
5. There should be a dollar figure for the value of exports beneath which paper filing was permitted. The \$1,100 estimated initial cost for electronic filing given on page 64013 middle column of the November 12 FR indicates that it would be uneconomic for exporters of low value items to incur the initial cost for only four exports (fewer if some of the limit of three were used for encryption review requests, AGR notifications, or classification requests).
6. Electronic filing using software other than PDF should be permitted. It would be more economic for DOC to install the capability to convert to PDF than to require numerous exporters now using other software to do so.
7. SNAP+ should not be made mandatory until it provides a printable version of the license application (with all data displayed appropriately). It's not possible to print the application with the current version.
8. Mandatory SNAP+ should not apply to re-exports from other countries, encryption review requests, license exception AGR notifications, or classification requests:
  - U.S. re-export license requirements are broadly ignored, largely because other countries do not recognize U.S. jurisdiction and partly because of enforcement difficulties. Those who comply with such requirements should not be put at a further competitive disadvantage by subjecting them to an unnecessary procedural burden. There are precedents for treating re-exports differently from exports. Existing procedures for applying for re-export licenses differ from those for applying for export licenses.
  - Encryption review requests and AGR notifications would not be necessary at all if the Government were to rely on exporter self-classification, as is done for all other items unless the exporter is in doubt as to the proper classification.
  - Exporters should not be penalized for having to submit classification requests, which are necessary only in instances where the regulations are unclear.
  - Exporters will use SNAP+ for these purposes without being required to do so if they perceive a net benefit.
9. If SNAP+ were to be made mandatory for exports from the United States, paper filing (or electronic submission in other than PDF) of technical supporting documents should be permitted without having to apply for an exception from the mandatory rule:
  - Many such documents could not easily be prepared for PDF electronic submission.

- Permitting submission of electronic documents as attachments in a searchable PDF file would be acceptable, however the regulation should not make the searchable PDF file mandatory. Some documents (especially older specifications and documents) may not be in such format and it would require companies to recreate (re-type) the entire document. Sometimes these documents can be quite large and the cost, equipment and time to re-create the document would be an added burden. It should be acceptable to DOC to encourage submission of documents while permitting paper submission if electronic submission was impractical.
10. If SNAP+ were to be made mandatory for encryption review requests, AGR notifications, or classification requests, submissions for these purposes should not be included in the limit of three (or higher per point 4 above) in the preceding 12 months to qualify for paper filing:
- Submissions for these purposes do not measure inter-actions between exporters and the Government necessarily related to required export licenses.
11. Section 748.3(c)(2)(iii) It should not be a requirement that the requestor supply an ECCN or EAR99 when requesting advisory opinions:
- The stated objective that advisory opinions not include classification requests does not require that the advisory opinion include ECCNs or EAR99 for every item in the contemplated transaction.
  - There is no need even in the subsequent license application and shipping documentation to differentiate between EAR99 and ECCNs xx99x if the proposed transaction does not involve North Korea or those Chinese entities listed in 744 Supplement 4 for which licenses are required for all items subject to the EAR other than EAR99.
  - Advisory opinions are generally needed only for complex transactions for which numerous ECCNs (or EAR99) are applicable. If the Government's opinion is that required licenses would probably not be approved, the exporter would have needlessly undergone the burden of classifying every item.
12. It is unclear that the creation of eight different roles to the SNAP+ system is required:
- The roles and responsibilities of the designated official and organization official could reasonably be combined in one person with a title of designated official.
  - There is no substantive difference between user (authorized to submit) and certifier (can submit). The statement that the certifier acts on behalf of the user does not clarify the matter, because when the certifier acts as the user there is no other user.
  - The decision as to whether a stager or viewer, as distinct from a user, is needed could reasonably be left to the discretion of the designated official, without describing such persons in the regulations as SNAP+ parties.
13. The third sentence of 748.4(b)(1) would require that, if there is doubt about which persons are parties, the names and functions of all such persons must be disclosed. The

applicant should not be required to designate persons as parties in doubtful cases. It is not clear that this sentence need be retained. If it is, "such persons" might be replaced by something along the following lines "persons who might be construed to be parties together with the reason(s) for doubt on this score."

We appreciate having the opportunity to review this proposed rule and provide comments. The RPTAC's Practices and Procedural Working Group would be happy to meet with BIS to discuss these recommendations and other possible revisions at your convenience. If you think this would be worthwhile, please let us know whom to contact to arrange such a meeting or conference call. If you require additional information, please let us know.

Sincerely,

**Vickey Roberts**

Vickey Roberts  
Chairperson, Practices and Procedures Working Group

CC: Marc Binder; Ben Flowe; Susan Kargel; Marie McDonough; Keith Melchers; Janet Reuter; Bill Root; Sandee Vincent; Jim Wyatt; Julie Zack; Eileen Albanese; Hillary Hess; Lee Ann Carpenter; RPTAC Members

**RPD RPD - Reference Regulatory Identification Number 0694-AC20**

**From:** "Paul Davies" <PDavies@eCustoms.com>  
**To:** <rpd@bis.doc.gov>  
**Date:** 1/12/2004 8:41 AM  
**Subject:** Reference Regulatory Identification Number 0694-AC20

The proposed rule for mandatory use of SNAP itself is highly commendable, both for expedience and conservation of resources.

As AES was in its earlier stages, however, "electronic submission" may be given to mean completing on-line forms at a Website.

Please take note that as U.S. companies increasingly automate their export processes, this is not typically what industry wants "electronic submission" to mean.

As AES has more recently implemented, effective electronic submission means programmically directed computer-to-computer communications, such as through a secure Web Service, or even a remote form action, where the data items named in the current online webforms have been converted to parallel enumerated data elements. A standard XML format for serialized data packet submission, while not a new technology, would be also a progressive step; as would an XML format for support documents (i.e. Adobe SVG), which would eliminate the need for separately transmitted PDF attachments.

Moreover, while convenient for getting the information directly to the Department, online webforms alone are redundant to electronic-format drafts prepared at the applying company, time-consuming to complete, and not convenient to pass around for checking and final approvals before the submit button is pressed, therefore prone to error.

sincerely,  
Paul Davies  
Manager, Online Compliance Systems Development  
MSR International

## RPD RPD - SNAP Comments

**From:** "Joe Muha" <jmuha@crucibleresearch.com>  
**To:** <rpd@bis.doc.gov>  
**Date:** 1/12/2004 1:32 PM  
**Subject:** SNAP Comments

I have no problem with the use of SNAP becoming mandatory. In fact, it is a good way to submit items and obtain a ruling with a record of that ruling. However, the process needs to be streamlined to receive a ruling as soon as possible. We are in a competitive situation where time is often a critical factor. There should also be a place to add additional information and/or comments to the original inquiry. We had a case where a second inquiry was entered for the same product from a customer in another country.

Sincerely,  
Joseph F. Muha  
Crucible Research

# Bayer Corporate and Business Services



Regulatory Policy Division  
Office of Exporter Services  
Bureau of Industry and Security  
Department of Commerce  
14<sup>th</sup> and Pennsylvania Avenue, NW, Room 2705  
Washington, D.C. 20230

Per FAX: 202-482-3355

Subject: Regulatory Identification Number 0694: Federal Register Notice Vol. 68 No. 218, 64009  
Mandatory Use of Simplified Network Application Processing System

Dear Sir/Madam,

January 23, 2004

Bayer Corporate and Business Services<sup>1</sup> is writing to express its support of mandatory use of the Simplified Network Application Processing System.

Bayer Corporate  
and Business Services LLC  
100 Bayer Road  
Pittsburgh, PA 15205  
412-777-5616  
412-777-2946  
Steve.Johnsen.B@Bayer.com  
www.bayer.com

Bayer's operating company Bayer Diagnostics LLC has made use of SNAP for many years for export licenses and export classifications and has found the system to be convenient and easy to utilize. Regarding the improvements proposed by the Bureau of Industry and Security (BIS), namely submission of License Application Documentation in the form of PDF files, Bayer finds that the technology for producing PDF files with searchable text is readily available and convenient. In addition, appointment of specific roles within the Bayer companies for use of SNAP+ are reasonable and recordkeeping requirements are not overly burdensome. Bayer looks forward to future opportunities to utilize SNAP+ throughout its operating companies.

Bayer thanks the Bureau of Industry and Security for this opportunity to comment. We hope that our comments are helpful and invite you to contact the undersigned at 412-777-2058 to discuss this and other related matters.

Sincerely,

Karen L. Niedermeyer  
Manager, International Trade And Foreign Policy Analysis

<sup>1</sup> Bayer Corporate and Business Services is a service company subsidiary of Bayer Corp., a member of the global Bayer Group, a \$32 billion international health care and chemicals group. Bayer has four U.S. operating companies –CropScience, Chemicals, HealthCare and Polymers – with nearly 22,000 employees nation-wide.

## RPD RPD - New SNAP System

**From:** "Tom Lynch" <tlynch@videoscopeintl.com>  
**To:** <rpd@bis.doc.gov>  
**Date:** 1/23/2004 4:23 PM  
**Subject:** New SNAP System

We are pleased that Commerce is implementing this new system and anxious to start using the system.

Best Regards,  
Thomas F. Lynch  
VP-Product Manager  
Video Scope International, Ltd.  
105 Executive Drive, Suite 110  
Dulles, VA 20164-1727  
tlynch@videoscopeintl.com

## RPD RPD - Proposed Rule for SNAP

**From:** <crystal45@aol.com>  
**To:** <rpd@bis.doc.gov>  
**Date:** 2/3/2004 11:14 AM  
**Subject:** Proposed Rule for SNAP

It seems to us that implementation of a new, internet-based system for export license applications would facilitate the flow of information as well as eliminate paperwork and delays in approval. We are entirely in favor of this change.

Robert Uhrin  
Ceramare Corp.

## RPD RPD - Mandatory Use of Simplified Network Application Processing System

**From:** "Bob Piazza" <pres@pricepump.com>  
**To:** <rpd@bis.doc.gov>  
**Date:** 2/5/2004 1:22 AM  
**Subject:** Mandatory Use of Simplified Network Application Processing System

I am not in favor of making use of SNAP mandatory for export applications for the following reasons:  
1. Not all businesses are online and fluent with the internet/email.  
2. Email is subject to electronic "interference" and can be lost/delayed.

SNAP should be the primary method and users should get preferential treatment to encourage it's use.

Bob Piazza

 <b>Bob Piazza</b> <i>President</i>	THINK QUALITY • THINK DELIVERY • THINK PRICE • 22 YEARS OF EXCELLENCE!  <b>Price Pump Company</b> P.O. Box 6 11000 Park Street East Brooklyn, PA 15435 Tel: 717-338-3441 Fax: 717-338-3764 Web: 717-338-3799
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Powered by *Flaco* [Make a signature like this](#)



February 10, 2004

Regulatory Policy Division  
Office of Export Services  
Bureau of Industry and Security  
Department of Commerce  
14<sup>th</sup> and Pennsylvania Avenue N.W.  
Room 2705  
Washington, DC 20230

RE: MANDATORY USE OF SIMPLIFIED NETWORK  
APPLICATION PROCESSING SYSTEM

Dear Sir or Madam:

E. I. du Pont de Nemours and Company (DuPont) appreciates the opportunity to comment on the Proposed Rule that would:

- 1) Amend the Export Administration Regulations (EAR) to implement a revised version of Bureau of Industry and Security's (BIS) Simplified Network Application Processing System with the new version being called SNAP+.
- 2) Mandate use of SNAP+ for all filings of Export License applications, requests, or notifications (with a few exceptions).
- 3) Mandate use of SNAP+ for all supporting documentation for license applications, requests or notifications.
- 4) Require that requests for advisory opinions include the Export Control Classification Number (ECCN) of the items at issue, to require item Classification Requests to include a recommended ECCN.

DuPont wants to address each of these proposed changes as follows:

- 1) Amend the EAR to implement a revised version of BIS's SNAP system to SNAP+

DuPont currently uses SNAP for all applications and would certainly want to convert to SNAP+ when it is available—whether or not it is mandated. However, there are improvements that we are hopeful will be a part of the SNAP+ system because our move to SNAP from the outside vendor's system virtually sent our export processing system backward rather than forward. Following are the reasons:

- (a) Web Based System

The major issue that DuPont encounters with using SNAP is that this is an Internet driven function. The speed of the internet (through any company's system) slows down considerably during peak working hours. This is something we did not face when entering applications through an outside vendor. SNAP+ will not resolve this problem.

- (b) Printing

DuPont prints hard copies of all applications submitted to BIS. The current SNAP system is very cumbersome and very time consuming. Each page of the application must be printed separately. If there is more than one line item on the application, each line item must be printed separately. Also, the printed copy does not always contain all of the information (this happens in the end use and additional information blocks of the license application). If we have end users (and for many of our applications, there are twenty end users) we have to print the list separately and still do not get the end users' addresses unless each end user is printed separately. The best case scenario for SNAP+ would be the ability to print the entire application, including supplements, with one keystroke (which is what we had with the vendor's system). Under the current SNAP system, putting an application into the system and printing it out can take as much as 3-4 hours.

- (c) Faster Turnaround Time for Case Numbers

Currently, it takes up to three (3) days to receive an acknowledgement and a case number from the SNAP system. Under the vendor's system it took a few hours (maximum 24 hours) to receive this information.

(d) Log

The current SNAP system maintains a simple log of applications submitted. SNAP+ should have the ability to expand the log and include all the information that exporters are required to keep that is mandated by the regulations. This would be a very positive part of the SNAP system since it would provide the information in an electronic format and DuPont and other exporters could do away with the manual log which we are currently forced to keep to meet our regulatory responsibilities.

(e) Navigation – SNAP website

DuPont is hopeful that the SNAP+ system shows improved mobility within the system. The current system is very cumbersome.

(f) Training

DuPont recommends that a training course be offered on the use of SNAP+. When we started to use SNAP, there was no training available and it took a long time to figure the system out on our own.

2) Mandate use of SNAP+ for all filings of Export License applications, requests, or notifications.

DuPont supports the use of electronic filings; however, mandating the use of a system that is not at least equivalent to what is available on the market would not be a benefit.

3) Mandate use of SNAP+ for all supporting documentation for license applications, requests, or notifications.

DuPont supports the need for an electronic connection between supporting documentation and application, request or notification. However, there is a cost connected to this activity that needs to be considered before mandating this requirement for all exporters. There is also the issue of equipment compatibility and the fact that not all documents can be converted for electronic sending. It is important that this option become a benefit and not a derailer.

- 4) Require that requests for advisory opinions include the ECCN and CCR's include a recommended ECCN.

DuPont would like to point out that not all requests for an advisory opinion are connected to a ECCN. Many requests are for an interpretation of the regulations themselves, regardless of the ECCN. Therefore, we believe that compliance with such a requirement would be difficult if not impossible. Further, this should not be a "required" field to complete a request.

The requirement for recommended ECCN on a Commerce Classification Request is already listed in Supplement No. 1 to Part 748, Block 22 (a). However, this should not be a "required" field to complete a request, since part of the reason for coming to BIS for a classification might be uncertainty as to exactly which ECCN best defines the item. If one is forced to put something in this field, the likely choice will be EAR99.

Thank you for the opportunity to submit comments with regard to this proposed rule.

Very truly yours,

Marcella D. Stewart  
Export Regulatory Manager

Mail:  
E. I. Du Pont de Nemours and Company  
Legal Department – D-7054  
1007 Market Street  
Wilmington, DE 19898

EMail: [Marcella.D.Stewart@usa.dupont.com](mailto:Marcella.D.Stewart@usa.dupont.com)

Phone: 302-774-4356  
FAX: 302-774-1398

**RPD RPD - Mandatory Use of Simplified Network Application Processing System --  
ID No. 0694-AC20 -- Comments of ICOTT**

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**From:** "Gerwin, Edward" <EGerwin@winston.com>  
**To:** <rpd@bis.doc.gov>  
**Date:** 2/12/2004 3:29 PM  
**Subject:** Mandatory Use of Simplified Network Application Processing System -- ID No. 0694-AC20 --  
Comments of ICOTT  
**CC:** "Hirschhorn, Eric" <EHirschhorn@winston.com>

---

Dear Sir or Madam:

Attached hereto are comments of the Industry Coalition on Technology Transfer on the November 12, 2003 proposed rule to require mandatory electronic filing via the SNAP+ system. We are also sending a hard copy of these comments via U.S. mail. If possible, please send an e-mail acknowledging your receipt of this submission. Please let us know if you have any questions regarding this submission. Sincerely,

Edward F. Gerwin, Jr.  
Deputy Executive Director  
Industry Coalition on Technology Transfer  
c/o Winston & Strawn LLP  
1400 L Street, N.W.  
Washington, D.C. 20005  
Telephone: 202.371.5740  
Fax: 202.371.5950  
e-mail: egerwin@winston.com

# **ICOTT INDUSTRY COALITION ON TECHNOLOGY TRANSFER**

1400 L Street, N.W., Washington, D.C. 20005 Suite 800 (202) 371-5994

February 12, 2004

Regulatory Policy Division  
Office of Exporter Services  
Bureau of Industry and Security  
United States Department of Commerce  
14th Street and Constitution Avenue, NW  
Washington, DC 20230

**Re: Export Administration Regulations: Mandatory Use of Simplified Network Application Processing System—Proposed Rule (68 Fed. Reg. 64009 (Nov. 12, 2003), Regulatory Identification Number 0694-AC20)**

Dear Sir/Madam:

The Industry Coalition on Technology Transfer (“ICOTT”) hereby responds to the request of the Bureau of Industry and Security (“BIS”) for comment on the above-referenced proposed rule (the “Proposed Rule”).<sup>1</sup> The Proposed Rule would amend the Export Administration Regulations (“EAR”) to implement a revised version of the current Simplified Network Application Processing System. (The current system is referred to herein as “SNAP” and the proposed revised version as “SNAP+.”) With certain limited exceptions for paper filings, the Proposed Rule would mandate the use of SNAP+ for all filings of Export License applications (except Special Comprehensive Licenses), Reexport Authorization requests, Classification Requests, Encryption Review requests and License Exception AGR notifications (hereinafter the “Covered Filings”). The Proposed Regulations would also continue or establish other requirements relating to SNAP and SNAP+ and would require that Export Control Classification Numbers (“ECCNs”) be included with requests for Advisory Opinions and Classification Requests.

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<sup>1</sup> BIS has extended the deadline for public comment on the Proposed Rule until February 12, 2004. 69 Fed. Reg. 1685 (Jan. 12, 2004).

# **INDUSTRY COALITION ON TECHNOLOGY TRANSFER**

Regulatory Policy Division

February 12, 2004

Page 2

## **1. Automation of the Licensing Process Provides Important Benefits**

ICOTT strongly supports efforts to enhance the efficiency, timeliness and responsiveness of the BIS licensing process through the appropriate and effective use of electronic application and processing systems. Well-designed automated systems could greatly aid BIS in its important role of enforcing dual use exports controls, while also helping to facilitate the export commerce upon which the Nation's prosperity vitally depends. In the experience of many of ICOTT's association members and their member companies, the current SNAP system and other automation efforts in the licensing process have generally resulted in noticeable improvements in the efficiency of the licensing process. There is, however, significant room for further improvement in the automation of BIS licensing. While the current SNAP system benefits many users, the design and functionality of that system and the accompanying BIS rules and procedures could be improved significantly. (For example, the current SNAP system does not permit the user to print out a hard copy of the license application with all data appropriately displayed.) In improving current electronic filing systems and procedures, it is also important that BIS facilitate access to the automated process for the significant number of applications that are not currently filed electronically. ICOTT is committed to working with BIS to assure that efforts to enhance electronic filing systems provide the widest possible benefit and the fewest potential barriers to the exporting public.

## **2. BIS Should Not Mandate Electronic Filing**

ICOTT does not believe that the important goals of enhancing and expanding the use of electronic filing systems can best be achieved — particularly under current circumstances — through a BIS mandate that filings be made electronically. As BIS is aware, a substantial portion of current license applications are already made electronically. Exporters who currently file electronically do so not because of any BIS requirement, but because they perceive important economic and other benefits in using the automated licensing process. Instead of mandating the use of electronic filing, BIS should undertake additional efforts to further encourage electronic filings by the significant number of applicants who still make paper filings. Such efforts could include additional outreach activities to small volume exporters and, particularly, to those higher volume exporters who, for whatever reason, are continuing to make paper applications. Most importantly, BIS should seek to attract additional electronic filers by improving the functionality of its electronic filing systems and simplifying and rationalizing related regulations and procedures. Such efforts could significantly enhance and expand the use of automated filing without the necessity of resorting to the heavy hand of a Government mandate.

Renewed and continued efforts to encourage voluntary electronic filing would also ultimately assure a better automated system as well as rules and procedures that pose the fewest barriers to potential users. The effort to encourage increased voluntary use of electronic filing will require BIS to work closely with the private sector to fully analyze those problems and barriers that are currently discouraging more applicants from filing electronic applications. On the other hand, mandating electronic filing has the potential, despite the best of intentions, to

## **INDUSTRY COALITION ON TECHNOLOGY TRANSFER**

Regulatory Policy Division

February 12, 2004

Page 3

short circuit such analysis and to lock in possibly flawed systems and procedures. This is a particular concern with a rush to mandate a system like SNAP+, which has yet to be tested on any significant basis.

The benefits to the Government of mandating electronic filing — as opposed to making increased efforts to encourage voluntary electronic applications — are also unclear. Under either scenario, BIS would still be required to retain procedures for accepting and processing paper filings. The mandatory approach embodied in the Proposed Rule would increase the number of electronic filings by requiring such filings from exporters above the three submissions per year threshold. Enhanced efforts to encourage greater voluntary use of the electronic application system, however, also have the potential to significantly increase the percentage of electronic filings. As noted, these enhanced efforts to promote voluntary filings are also likely to lead ultimately to a better system and to processes that are more “user friendly.” This would, in turn, provide additional important benefits to the Government that would not be achieved through a BIS mandate of a lesser system.

### **3. Mandating the Use of SNAP+ is Premature**

Even if BIS ultimately decides to mandate electronic filings, it is clear that mandating the use of SNAP+ for Covered Filings in the near term would be premature. Before initiating a process to mandate use of the SNAP+ system, BIS must assure that the system works and that all “bugs” have been eliminated from the system.

As BIS is aware, the SNAP+ system has been subjected to only very limited testing. This system requires significant additional testing, by a fully representative cross section of the export community, before it can be rolled out on a widespread basis. This is particularly true if BIS ultimately determines to mandate the use of SNAP+ for all but a limited number of Covered Filings.

For the reasons noted previously, the best means of assuring that SNAP+ is a well functioning system is for BIS to engage in a full analysis, in concert with the private sector, of the problems and barriers that currently discourage many exporters from using electronic filing systems and SNAP in particular. The lessons of such an analysis should then be applied to SNAP+ and its related procedures, and the new system and procedures should be tested extensively to assure that they function properly and efficiently. Allowing exporters to utilize a revised SNAP+ system and related procedures for some period on a voluntary basis might also lead to further improvements and may, for the reasons noted above, preclude the need to make the new system mandatory. Alternatively, if BIS determines to mandate the use of SNAP+, it might, as a transitional measure, mandate that all parties who voluntarily file electronically do so via SNAP+, with a subsequent mandate for all license applicants to employ SNAP+.

## **INDUSTRY COALITION ON TECHNOLOGY TRANSFER**

Regulatory Policy Division

February 12, 2004

Page 4

### **4. The Proposed Rule Requires Significant Revisions**

Regardless of whether BIS institutes SNAP+ on a mandatory basis or in some other manner, the Proposed Rule and related procedures could be improved in a number of respects. We address some of the most significant issues with the Proposed Rule below.

#### **a. Registration for SNAP+ Could be Further Simplified**

In the experience of a number of ICOTT's members, the registration process for SNAP is a significant reason why some exporters do not currently file license applications electronically. This is particularly the case for exporters who file license applications on a limited and infrequent basis. Many of these exporters would likely benefit from the electronic filing process, but inertia and the time constraints of the exporting process often lead them to continue to make paper filings, while vowing to register electronically "the next time." In particular, the delays inherent in the paper registration process for the current SNAP system can be a significant deterrent to registration, particularly when a low volume exporter is facing deadline to export.

Section 748.7 of the Proposed Rule would help to address this constraint by allowing the registration process for SNAP+ to begin online. However, despite this increased automation, a registrant would still have to receive a paper "electronic submission certification" from BIS, execute and return that certificate and await authorization from BIS before being able to use SNAP+. The new process will thus continue to pose delays and/or barriers to registration, particularly for infrequent exporters and exporters facing time constraints.

ICOTT strongly recommends that BIS consider revising the SNAP+ registration process to further eliminate such delays and barriers and to assure that applicants who transition to the electronic process are not disadvantaged by doing so. For example, BIS should explore the possibility of allowing applicants to submit SNAP+ registrations and license applications (or other Covered Filings) on a concurrent basis. (Many courts and administrative agencies follow analogous procedures under which an initial filing by counsel is also deemed to be the counsel's entry of appearance in the proceeding.) Under such a process, processing of registration and license applications might begin immediately, with the understanding that action on the license application beyond a given point would require SNAP+ approval and the submission of any required paper certifications by the applicant.

Incorporation of a concurrent registration process in the Proposed Rule could eliminate a significant barrier to participation in the electronic application process, particularly by infrequent exporters. Such procedures could promote participation in the electronic process if BIS employs SNAP+ on a voluntary basis. Similarly, these improved registration procedures could also encourage electronic filing by applicants who might be otherwise exempt from mandatory electronic filing under the Proposed Rule as currently written.

## INDUSTRY COALITION ON TECHNOLOGY TRANSFER

Regulatory Policy Division

February 12, 2004

Page 5

### **b. BIS Should Revise the Exceptions to Mandatory Use of SNAP+**

Section 748.1(e) of the Proposed Rule would establish a series of exceptions to the mandatory electronic filing requirement under SNAP+. The first of these exceptions would permit the use of paper filings by a party who has made no more than three filings in the immediately preceding 12 months. (For purposes of this exemption, these filings would broadly include license and reexport license applications, encryption review requests, license exception AGR notifications and Classification Requests.) ICOTT believes that this threshold is too low, that it should be revised to include a higher number-of-filings threshold and that applicants must also meet a second value-based threshold before being required to file electronically.

The Proposed Rule should be revised to permit paper filings from parties that have made no more than ten filings in the previous twelve months. The proposed threshold of three filings in the Proposed Rule is far too strict, particularly in view of the many different types of licenses, requests and notifications that are included in determining this threshold. It is conceivable, for example, that a party could meet the three-filing threshold on the basis of a series of filings all related to a single export — e.g., a Classification Request relating to the goods and subsequent license and reexport license applications for the same goods. The overly strict nature of this threshold is particularly evident when it is recognized that the Proposed Rule would mandate the use of the SNAP+ system — a system that is not even in current use and that has been subject to only very limited testing. All of these factors should require a that a party submit a greater number of submissions before being required to make electronic filing under SNAP+.

The Proposed Rule should include a second threshold based on the total monetary value of the party's licenses, requests and notifications over the past year. Parties would be required to meet both this threshold and the number-of-filings threshold before being required to file electronically. ICOTT recommends that this second threshold be set at \$20,000. Under this arrangement, a party could continue to make paper applications if the total value of its annual filings does not exceed this value threshold, even if the number of filings exceeds ten. (Likewise, paper filings would be permitted if the value exceeds the monetary threshold but the number of annual filings is ten or less.)

The inclusion of a monetary threshold in the Proposed Rule would help to assure that any requirement for the mandatory use of SNAP+ not place undue costs on the private sector. As noted in the explanation of the Proposed Rule, the Proposed Rule would require some parties to incur hardware and software costs in excess of \$1000 and would require additional labor costs for proofreading and the correction of scanning errors. *See* Proposed Rule at 64113. These costs are significant when measured against the very low threshold in the Proposed Rule and could be particularly significant for small businesses. A sufficiently high monetary threshold would help to assure that any mandatory process — especially one that would require some parties to make new hardware and software purchases — would also provide benefits that clearly exceed the required costs.

## INDUSTRY COALITION ON TECHNOLOGY TRANSFER

Regulatory Policy Division

February 12, 2004

Page 6

### **c. The Proposed Rule Should Recognize that Not all Documents Can be Converted to PDF Format**

The Proposed Rule would require that any attachments included with mandatory electronic filings must be in the PDF format and must be text searchable. *See* §§ 740.17, 740.18, 748.3, 748.6 and supplement No. 6 to Part 742. These are circumstances, however, in which documents to be attached to a filing either cannot be converted to PDF format or can only be converted by incurring substantial additional costs. Some ICOTT member companies report, for example, that certain types of large scale plans and schematic drawings cannot readily be converted to PDF. In revising the Proposed Rule, BIS should expressly provide for alternative procedures to permit the submission of documents that are not readily capable of being converted to PDF format. These alternative arrangements should also apply to documents that cannot be converted to PDF at a reasonable cost, such as documents in older formats that would have to be recreated or retyped to be converted to PDF.

### **d. The Proposed Rule Should Allow the Submission of Attached Documents in Alternative Electronic Formats**

As noted, the Proposed Rule would require the submission of attachments in the PDF format. ICOTT believes that the Proposed Rule's insistence on a particular software application for license attachments is unnecessary and could present barriers to the use of the SNAP+ system by the private sector. As BIS has recognized, the Proposed Rule as currently written would require some parties to spend in excess of \$1000 to procure PDF-related hardware and software. The use of a particular application for attachments may also pose a barrier to use of the electronic system by parties, particularly low volume exporters, that can afford this cost but do not wish to implement a PDF application. To address these costs and barriers, the Proposed Rule should also permit parties to submit attachment in other text-searchable electronic formats, including Word and Word Perfect. Many organizations and governmental bodies that accept electronic document submissions permit the use a variety of software applications. Often, such organizations or agencies will themselves convert such electronic submissions into their preferred electronic format. BIS should adopt such a flexible approach to electronic submissions under SNAP+, especially if it mandates use of that system. Such an flexible approach also has the potential to decrease barriers to voluntary use of the SNAP+ system — particularly for parties that have attachments in other text-searchable electronic formats — and to reduce costs, particularly for small businesses and infrequent importers.

### **e. BIS Should Reconsider the Need for Eight Different Roles in the SNAP+ System**

Section 748.2(c) of the Proposed Rule would create eight different roles for parties involved in the submission of electronic filings under SNAP+. ICOTT questions the necessity of specifying each of these different roles in the Proposed Rule and is concerned that this level of detail may unduly complicate the SNAP+ process, particularly for infrequent users and small businesses. BIS should consider whether these roles might be combined or whether it

## INDUSTRY COALITION ON TECHNOLOGY TRANSFER

Regulatory Policy Division

February 12, 2004

Page 7

might be more appropriate for the Proposed Rule to set forth certain performance requirements and rules that each party's organization administrator would implement pursuant to the party's own electronic access requirements and nomenclature. Under such an approach, for example, it may not be necessary to specify parties such as "stagers" and "viewers" in the Proposed Rule.

### **f. BIS Should Seek to Simplify Other SNAP and SNAP+ Requirements**

BIS should review the detailed requirements for SNAP and SNAP+ in Part 748 and elsewhere in the Proposed Rule to determine if other detailed requirements could be replaced with general performance requirements that address the Government's concerns while also leaving necessary discretion to the party using the system and its professional staff. For example, proposed Section 748.7(e)(ii)(B) would prohibit the written or electronic recording of personal identification numbers (PINs). This is an unrealistic requirement, particularly in view of the many different PINs that modern computer users are required to maintain and the variety of such PINs (*e.g.*, PINs having differences in numbers of characters, requirements for numerals and/or letters, case sensitivity). A general requirement to protect the confidentiality of PINs could fully address BIS' access and confidentiality concerns, while affording users necessary flexibility. Under such a general requirement, for example, a user who needs to record his or her PIN might determine to protect that information by keeping it in a secure location. In establishing other procedures for the use of SNAP and SNAP+, BIS should attempt to strike a similar balance between its requirements and the reasonable needs and requirements of system users.

### **f. ECCNs or EAR99 Should Not Be Required for Advisory Opinions or Classification Requests**

Section 748.3(c) of the Proposed Rule would require that an application for an Advisory Opinion list the Export Control Classification Number ("ECCN") or EAR99 for each item included in the application. Currently, the regulation mandates the inclusion of ECCNs or EAR99, but only "if known" by the applicant. *See* EAR § 748.3(c)(2)(iii). Thus, the effect of the Proposed Rule would require exporters to determine the ECCNs or EAR99 status for items for which they do not know classifications. The Proposed Rule should not mandate the submission of such information in applications for Advisory Opinions. There are a variety of circumstances in which such a mandate would place unnecessary and burdensome requirements on the exporter. For example, under the Proposed Rule, applications for an Advisory Opinions for a complex transaction would require an exporter to classify many individual items. This level of detail may not be required in many instances, however, particularly in circumstances in which the decision to approve a license depends on broader BIS rules and policies with respect to the end-use, end-user or destination. Accordingly, the Proposed Rule should not include additional mandates for inclusion of ECCNs or EAR99 in applications for Advisory Opinions. Instead, the Proposed Rule should advise applicants that inclusion of such additional information in applications may help speed review of the application by BIS.

## **INDUSTRY COALITION ON TECHNOLOGY TRANSFER**

Regulatory Policy Division

February 12, 2004

Page 8

Section 784.3(b) of the Proposed Rule would similarly require that submitters of Classification Requests "must" include a "recommended classification" in the request. The Proposed Rule should not include this requirement but should, instead, advise applicants that the inclusion of a recommended classification in applications may help speed a response from BIS. Mandating the inclusion of such information may place unnecessary burdens on some exporters, particularly on exporters who have limited experience with the export control process. The Proposed Rule should recognize that many exporters submit Classification Requests because they simply do not know the proper classification. Mandating the inclusion of ECCNs or EAR99 designations in such circumstances would, in such cases, be of very limited utility.

\* \* \* \* \*

ICOTT appreciates the opportunity to comment on the Proposed Rule. ICOTT looks forward to continuing to work with BIS to develop rules and procedures to employ appropriate automation to enhance the efficiency, timeliness and responsiveness of the licensing process for BIS and for all members of the exporting public.

ICOTT is a nonprofit group of major trade associations (names listed below) whose thousands of individual member firms export controlled goods and technology from the United States. ICOTT's principal purposes are to advise U.S. Government officials of industry concerns about export controls, and to inform ICOTT's member trade associations (and in turn their member firms) about the U.S. Government's export control and embargo activities.

Sincerely yours,



Eric L. Hirschhorn  
Executive Secretary

### **ICOTT Member Trade Associations**

American Association of Exporters and Importers  
Electronic Industries Alliance  
Semiconductor Equipment and Materials International  
Semiconductor Industry Association



*Sent via email: rpd@bis.doc.gov*

February 12, 2004

Regulatory Policy Division  
Office of Exporter Services  
Bureau of Industry and Security  
Department of Commerce  
14<sup>th</sup> and Pennsylvania Avenue, NW Room 2705  
Washington, DC 20230

Reference Regulatory Identification Number 0694-AC20

Dear Sir/Madam:

The AeA Export Controls Committee has had the opportunity to review the Bureau of Industry & Security's (BIS) proposed rule regarding the Simplified Network Application Process (SNAP+) that was published in the Federal Register on November 12, 2003. In light of this review, the committee would like to offer the comments contained below.

AeA is the nation's largest high-tech trade association, representing more than 3,000 U.S.-based technology companies. Membership spans the industry product and service spectrum, from semiconductors and software to computers, Internet, and telecommunications systems and services. With 18 regional U.S. offices and offices in Brussels and Beijing, AeA brings a broad industry and grassroots perspective to the public policy arena.

First and foremost, the Committee believes that SNAP+ should not be made mandatory until it is capable of processing electronic requests without failure and until it provides a printable version of the license application with all the data displayed appropriately. We have verbally been assured this is the case, but would like to have formal notice that this is BIS' intention.

The threshold for continuing to use paper applications (no more than three submissions per year) is too low. The regulations should allow for a higher number of applications and/or a separate annual value threshold before parties are required to file electronically. One way that BIS could handle this is to

require a company to meet specific criteria before it would be allowed to use manual applications.

The following are results that BIS may not have thought about and questions that remain unanswered after reviewing the proposed rule:

*Unintended results:*

- For ENC applications physical copies will still be required to be sent to the ENC Encryption Request Coordinator by courier for ENC and NLR Mass Market requests. A company working mostly with encryption will be required to prepare application packages both electronically and manually increasing administration time and cost.
- The average license submission time will significantly increase due to the need to scan, watermark, proofread and complete illegible documents. This is true for deemed export licenses because of poor VISA documents and the fact that PDF attachments do not allow for Web links to company profiles and product brochures.

*Unanswered questions:*

- We request verification on whether or not the Application Control Number (ACN) must be included on all pages of submission attachments.
- Please define the requirement for sending requested additional information to BIS after they have already received an application through SNAP+ (i.e., electronically, by facsimile, courier, mail, etc.)
- What is BIS' back-up plan for server if their main server goes down?
- What is BIS' back-up plan if SNAP+ is unable to accept a complex or unique license application?
- Will SNAP+ allow applicant to designate ENC for retail or non-retail status when necessary?
- Will de minimis requests be required to be submitted through SNAP+?
- If a U.S. company acts as an agent and is a registered applicant are there two separate registration processes?
- Are foreign entities able to register and submit SNAP+ reexport applications? How does the registration process differ for a foreign company who does not have an Employer Identification Number (EIN)?
- Will the future deemed export licensing process, similar to an SCL, be supported by SNAP+?

- Do companies need to keep a separate log (748.7 (c)) tracking SNAP+ submission information when BIS already collects all this information (i.e. name of person submitting application, ECCN, time and date) at the time the SNAP+ application is electronically sent to BIS?
- Foreign distributors are frustrated with current BIS and the SNAP application process as BIS is not email friendly at this time. According to the distributors, they must rely on international phone calls at times when some parts of the world (i.e. Asia) are not in the office. Will mandatory SNAP force BIS to use email for communication? How can BIS better support foreign-based exporters who want to submit applications via SNAP?

Many thanks in advance for your review and consideration of our comments. If you have further questions, please contact me at 202-682-4433.

Sincerely,  
AnnMarie Treglia  
Director, International Trade Regulation

**RPD RPD - RIN 0694-AC20 -- Comment on Proposed Rule**

**From:** Holmes, Diane (Diane.Holmes) <Diane.Holmes@cnevrontexaco.com>  
**To:** <rpdc@bis.doc.gov>  
**Date:** 2/12/2004 9:08 PM  
**Subject:** RIN 0694-AC20 -- Comment on Proposed Rule

Below are comments on the proposed rule for the mandatory use of the Simplified Network Application Processing System ("SNAP+):

- o The current SNAP system cannot handle the large volume of end-users that are necessary for some export applications. Due to the nature of the exports, it is not feasible to submit multiple applications to reduce the number of end-users per application.

Therefore, we suggest either:

- o Designing SNAP+ to have the ability to process 3 or 4 times the number of end-users that currently can be processed by SNAP; or
- o Allowing the issuance of a blanket approval to an applicant for using paper applications for particular exports until the applications for such exports can be processed by SNAP+.

Regards,

**Diane L. Holmes**, Export Compliance Officer

**ChevronTexaco Global Downstream**



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Washington, DC 20230

Dear Ms. Hess:

Subject: NCITD Comments on Mandatory SNAP; Regulatory  
Identification Number 0694-AC20

The National Council on International Trade Development (NCITD)<sup>1</sup> is pleased to respond to the request published in the *Federal Register* on November 12, 2003 for comments on the proposed rule requiring mandatory use of the Simplified Network Application Processing System (SNAP).<sup>2</sup>

NCITD supports the efforts of Bureau of Industry and Security (BIS) to provide greater automation of export licensing processing. Many of our members currently submit their license applications electronically and are pleased with most of the additional features that will be provided in SNAP+.

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<sup>1</sup> NCITD is a non-profit membership organization, supported by a diverse membership of large, mid-size and small firms. Membership includes exporters and importers, freight forwarders and brokers, ocean and air carriers, banks, attorneys, trade groups, and consulting firms.

<sup>2</sup> The deadline for public comment on the proposed rule was extended to February 12, 2004 to allow the public additional time to comment on the rule. See 68 Fed. Reg. 64009 (Jan. 12, 2004).

As discussed below, there are several issues that we would like to bring to your attention and we hope that BIS will modify the final regulation to address these concerns.

#### Conversion of Existing SNAP Users to SNAP+

The Background section of the proposed rule states that BIS will send a letter to each existing SNAP user informing it of the date on which it will be converted to the new SNAP+ system. We suggest that existing SNAP users be granted 90 days from receipt of the letter to convert to the new SNAP+ system.

#### Submission of Supporting Documents

NCITD strongly urges BIS to modify the requirement in proposed § 748.6(e) that "any documents related to an application filed in SNAP+ must be 'attached' to the application as a 'PDF' file." Many supporting documents that are submitted by in connection with license applications or classification requests include large tabulated drawings, schematics and large process specification documents that are currently not in PDF format. It may be difficult, or in some cases impossible, to transfer certain "large format documents" to a PDF file. Therefore, we suggest that other electronic "file types", such as such as files in JPEG, GIF and other image formats, also be considered for acceptance as part of the SNAP+ electronic license application process.

In addition, in submitting classification requests it is often necessary to submit documents containing a large number of pages, such as user or owner's manuals and product brochures. Converting documents consisting of a large number of pages to PDF format is problematic since such documents result in very large PDF files. As the BIS staff is aware, submitting files that are more than 3-5 megabytes in size via the internet is problematic, even from a high-speed internet connection. Therefore, we suggest that users submitting a large volume of documents be given the option to submit the attachments to BIS in hard copy format or on CD-ROM, rather than as an attachment to a SNAP+ submission, without having to submit a request for an exception as required by proposed § 748.12(d).

The language of proposed § 748.12(d) should also be expanded to include exceptions for all types of SNAP+ submissions, including Classification Requests, rather than simply "license applications."

Finally, we recommend that the requirement set forth in proposed § 748.6(e) that PDF files containing "text" must be "text searchable" should be optional, rather than mandatory. Many documents containing text, such as brochures and other

documents, that are submitted along with a license application or classification request has to be scanned into a PDF file. Scanned images converted to PDF format using Adobe Acrobat and other similar programs do not always result in text that is searchable. As a result, we suggest that BIS modify the final rule to provide that SNAP+ users are requested to submit attachments in a text searchable format only when such an option is available.

#### Exemptions from Mandatory Electronic Filing

We would find it helpful if BIS would specify how long it will take to process a request for authorization to file paper applications, notifications, or requests under proposed § 748.1(e). In some cases, for example, the low volume filers may be companies who do not typically export or infrequently export only NLR items. They may have a situation that involves the one-time shipment of a licensable commodity produced by a third party. This provision appears to penalize those companies that fully intend to comply with licensing requirements but first must request permission to submit via paper.

We believe that the proposed mandatory SNAP+ threshold of three filings in the previous 12 months set forth in § 748.1(e)(1)(i) is too low and should be expanded to permit up to five filings in the previous 12 months.

#### Third-party (Agent) filing

The proposed regulation does not specify the responsibilities and liabilities of third-party filers or agents. A third party filer, for example, cannot be liable for failure by the licensee to comply with post-shipment license conditions.

The proposed rule should clearly state that third-party filers are only responsible for certifying the accuracy of the information contained in the submission to the best of their knowledge.

The proposed rule is also unclear as to whether a third-party filer has to apply to file on behalf of each different client/applicant or can apply to file for any client/applicant providing a power of attorney or other authorization to file on his or her behalf. We would not support any additional restrictions on third-party filers.

BIS should also ensure that the SNAP+ system permit be configured to permit Classification Request that are submitted by third-party filers to allow the classification to be issued in the name of the third-party filer's client, rather than in the name of the third-party filer. The current SNAP system only allows a third-party filer to submit the name and address of the applicant in box 14 of a commodity classification request. The name and address contained in box 14 in SNAP must be the same as the applicant. As a result, the classifications are issued in the name of the third-party filer, rather than the company or

manufacturer that will actually be using the classification. Third-party filers and their clients prefer that the hard copy of the classification be issued in the name of the client, rather than in the name of the third-party applicant. We therefore request that the SNAP+ system allow classifications to be issued in the name of the client, for submissions made by third-party filers.

PDF Version of License or Classification Request

In addition to sending hard copies of licenses, classifications and other documents issued by BIS by mail, we recommend that BIS send a copy of such documents to applicants in PDF format via e-mail. NCITD members often experience lengthy delays in obtaining documents sent by BIS via mail. It can often take 5-7 days to receive a license or classification request in the mail following a notification by STELA that the license has been approved and mailed. It would be of great service to applicants and licensees if they were to receive a PDF version of the document from BIS by e-mail after the license or classification was completed. The Office of Foreign Assets Control (OFAC) has successfully implemented a similar system in connection with the issuance of licenses under the Trade Sanctions Reform Act and such a system could be easily implemented by BIS.

\* \* \*

The members of NCITD appreciate the opportunity to submit these comments on the proposed mandatory use of SNAP and believe that the additions and changes discussed above will significantly improve the final regulation that is issued by BIS.

Respectfully submitted,



Mary O. Fromyer  
Executive Director