

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.

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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]

BILLING CODE 4910–13–M

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: *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*, 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 BX-748P with a requirement to use SNAP+ unless BIS approves the use of the paper form and to replace other references to the BX-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.¹ 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

¹ 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(ia) 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 United 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" if 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 feed scribner) of unprocessed western red cedar timber that (Exporter) proposes to export was not harvested from State or Federal lands under contracts entered into after October 1, 1979.

(Signature)

(Date)

(2) “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:

² 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.

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