PUBLIC SUBMISSION

Docket: BIS-2011-0027
Bureau of Industry and Security: Retrospective Regulatory Review Under E.O. 13563

Comment On: BIS-2011-0027-0001
Retrospective Regulatory Review Under E.O. 13563

Document: BIS-2011-0027-0005
007 Comment by Borderview LLC

Submitter Information

Name: Joel D VanderHoek
Organization: Borderview LLC

General Comment

In relation to Supporting Documentation required to be attached to Export License Applications, and other documents required to be submitted to BIS, where a signature is required: please clarify in the Regulation that BIS accepts electronic / digital signatures as acceptable on these documents, per the Federal E-SIGN law, and the White House's Government Paperwork Elimination Act (GPEA). Specifically, the GPEA provides that Electronic Signatures are "not to be denied legal effect, validity or enforceability" as provided on the White House's website (http://www.whitehouse.gov/omb/fedreg_gpea2/). Though the Regulation does not currently expressly prohibit such Electronic Signatures, nor does any written policy of BIS disallow such electronic signatures, specific clarification in the Regulation to this end would clarify BIS' acceptance of applicable Federal laws, and would provide for a safe and legally binding method for exporters and importers to electronically exchange such documents for review and signature, rather than a time-consuming and expensive process of mailing paperwork around the globe for pen-and-ink signature. This suggestion is very much in line with the intent of this NOI, as well as the overall intent of the President's ECR initiative.

Note that the U.S. Department of State, Directorate of Defense Trade Controls (DDTC) has already issued prompt Advisory Opinion of their acceptance of such Electronic Signatures on documents under their jurisdiction (see attached Advisory Opinion).

Attachments

Advisory_Opinion_Electronic_Signatures_10192011

United States Department of State

Bureau of Political-Military Affairs
Directorate of Defense Trade Controls

Washington, D.C. 20520-0112

In Reply Refer to
DTC Case **GC 2665-11**

OCT 06 2011

Mr. Joel D. Vanderhoek
Borderview LLC.
7407 Montana Place
Lynden, WA 98264

YOUR LETTER DATED: September 8, 2011
SUBJECT: Advisory Opinion under the Provisions of 22 CFR 126.9

Dear Mr. Vanderhoek:

The Department of State has reviewed your request concerning whether electronic signatures are authorized when uploading documents for further review and approval of export applications.

The Department of State determined that submission of documents with electronic signatures are accepted, Therefore, you are authorizes to upload documents with electronic signatures in place of handwritten signatures.

This determination does not imply that the transaction will be approved at the time of application. Your request will be considered in light of U.S. foreign policy and national security concerns when your request is submitted

If you have any questions, please contact Mr. Julio A. Santiago, (202)663-2810, santiagoja@state.gov.

Sincerely,

Kevin Maloney
Director
Office of Defense Trade Controls Licensing