

Subject

(g) Air Transport Association of America (ATA) Code 65, Tail rotor drive—tail rotor drive shaft.

Other Information

(h) The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, Safety Management Group, Rotorcraft Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Ed Cuevas, Aviation Safety Engineer, Fort Worth, Texas 76193-0111, telephone (817) 222-5355, fax (817) 222-5961.

(2) Airworthy Product: Use only FAA-approved corrective actions. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent) if the State of Design has an appropriate bilateral agreement with the United States. You are required to assure the product is airworthy before it is returned to service.

(3) Reporting Requirements: For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act, the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120-0056.

Related Information

(i) MCAI European Aviation Safety Agency (EASA) Airworthiness Directive No. F-2005-190, Revision A, dated November 23, 2005, and Eurocopter Alert Service Bulletin No. 65A002, dated November 16, 2005, contain related information.

Issued in Fort Worth, Texas, on October 11, 2007.

David A. Downey,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

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DEPARTMENT OF COMMERCE**Bureau of Industry and Security**

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

[Docket No. 0612242559-7061-01]

RIN 0694-AD94

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

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Proposed rule.

SUMMARY: This proposed rule would require that export and reexport license applications, classification requests,

encryption review requests, License Exception AGR notifications and related documents be submitted to the Bureau of Industry and Security (BIS) via its Simplified Network Application Process (SNAP-R) system. This requirement would not apply to applications for Special Comprehensive Licenses or in certain situations in which BIS would authorize paper submissions.

DATES: Comments must be received by December 18, 2007.

ADDRESSES: Comments on this proposed rule may be submitted via <http://www.regulations.gov>. Scroll down to the heading "Search Documents." At Step 1, select "Documents Accepting Comments" then, at Optional Step 2, select from the pull down menu "Bureau of Industry and Security" and click on the "Submit" button. On the resulting screen, select docket number BIS-2007-0002. Click on the yellow comment icon. You may either type your comments directly on the on-line comment form or "attach" a file containing your comments.

Regulations.gov accepts most popular document file formats. Comments may also be e-mailed to BIS at publiccomments@bis.doc.gov (please refer to regulatory identification number (RIN) 0694-AD94 in the subject line) or submitted on paper to Regulatory Policy Division, Office of Exporter Services, Bureau of Industry and Security, Room H2705, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230. Please refer to RIN 0694-AD94 in all paper comments.

FOR FURTHER INFORMATION CONTACT:

William Arvin e-mail warvin@bis.doc.gov or tel. 202 482 2440.

SUPPLEMENTARY INFORMATION:**Background**

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

many instances, BIS needs additional documents to act on the submission. For documents that relate to paper submissions, the documents can be mailed or delivered to BIS with the BIS 748-P form. For submissions made electronically via ELAIN, the documents must be sent to BIS separately and matched up with the application when they arrive.

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

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

Therefore, BIS proposes to require that all export and reexport license applications (other than Special Comprehensive License applications), classification requests, encryption review requests, License Exception AGR notifications, and "attached" related documents be submitted to BIS via its Simplified Network Application Process (SNAP-R) system unless BIS authorizes paper submissions. This proposed rule would also set the criteria by which BIS would authorize paper submissions and would terminate use of ELAIN. This proposed rule would make no changes to the procedures by which the public requests advisory opinions because such requests are not processed via either the paper form 748-P or either of BIS's existing electronic systems.

Changes Proposed To Be Made by This Rule

The changes that this proposed rule would make center on part 748 of the EAR, which sets forth the principal procedures governing the submission of the applications, review requests and notifications that would be affected by this proposed rule. The changes would appear in § 748.1—"General provisions," § 748.3—"Classification requests, advisory opinions, and

encryption review requests,” and in § 748.6—“General instructions for license applications.” The rule would also make conforming changes to a number of EAR provisions that currently employ language related to the paper forms.

Substantive Changes

Section 748.1 would be revised to emphasize electronic filing over paper and to set forth the basic requirement that license applications (other than Special Comprehensive License applications), encryption review requests, License Exception AGR notifications, and classification requests and any accompanying documents must be submitted via SNAP-R unless BIS authorizes submission via paper. Revised section 748.1 would continue to specify that for paper submissions, only original BIS paper forms may be used and that reproductions or facsimiles are not acceptable.

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

Parties who wished to submit on paper would submit the BIS Form 748-P. In addition to the information relevant to the substance of the submission itself, the submitter would be required to include, either on the form or as an attachment, a statement explaining which of the five foregoing criteria justify a paper submission and supporting information. If BIS agreed that at least one of the criteria were met, it would process the submission in accordance with its regular procedures. If BIS found that none of the criteria provided by the submitter was met, it would return the form without action and inform the submitter of the reason for rejecting the request to file on paper. A decision by BIS to reject the request to file on paper is subject to appeal

under part 756 of the EAR. This proposed rule also would move the address for paper submissions from § 748.2 to § 748.1.

Section 748.3 would be revised to replace instructions about where and how to submit classification requests, with a reference to the procedures in § 748.1. Section 748.3 would continue to state requirements about the kinds of information that must be included in classification requests.

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

Conforming Changes

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

- § 740.8(b)(2), relating to classification requests pursuant to License Exception “Key Management Infrastructure (KMI)”;
- § 740.9(a)(4)(i) and (iii), relating to authorizations to sell or dispose of or to retain abroad more than one year items exported under License Exception “Temporary imports, exports and reexports (TMP)”;
- § 740.12(a)(2)(iii)(C), relating to applications to exceed the frequency limits for individual gift parcels under license exception “Gift parcels and humanitarian donations (GFT)”;
- § 740.17(d)(1), relating to the submission of encryption review requests under License Exception

“Encryption commodities and software” (ENC);

- § 742.15(b)(2)(i), relating to submission of review requests for certain encryption items; Supplement No. 6 to part 742, relating to submission of review requests for certain “mass market” encryption commodities and software;
- § 754.2(g)(1), relating applications for export of certain California crude oil;
- § 754.4(d)(1), relating to applications to export unprocessed Western Red Cedar; and
- § 764.7(b)(2)(i), relating to applications to take certain actions with respect to certain items in Libya.

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

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

- § 744.21(d), relating to applications to export or reexport certain items to known military end-uses in the People’s Republic of China;
- § 748.4(b)(2)(ii), relating to written authority of certain agents to submit on a principal’s behalf;
- § 754.4(d)(2) and (d)(3), relating to applications for export of unprocessed western red cedar;
- § 754.5(b)(2), relating to applications to export horses by sea; and
- § 772.1, definition of “Other party authorized to receive license.”

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

This proposed rule would also change the reference currently found in § 748.3 to the section containing the address for submitting advisory opinion requests from 748.2 to 748.1.

Public Comments

BIS will consider all comments received on or before December 18, 2007. BIS will consider comments received after that date if possible but cannot assure such consideration. All public comments on this proposed rule must be in writing (writing includes electronic submission of comments via www.regulations.gov or e-mail directly to BIS) and will be a matter of public record, available for public inspection and copying on the www.regulations.gov Web site under docket number BIS-2007-0002.

Rulemaking Requirements

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

2. Notwithstanding any other provision of law, no person is required to respond to nor be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This regulation involves collections previously approved by the OMB under control number 0694-0088, "Multi-Purpose Application," which carries a burden hour estimate of 58 minutes to prepare and submit form BIS-748. Miscellaneous and recordkeeping activities account for 12 minutes per submission. This proposed rule would require persons seeking authorization to submit paper filings to state, either in the additional information block on the paper form or an attachment, which of the criteria for paper submissions they meet and the reasons therefore. BIS believes that requests seeking authorization to submit paper filings would impose a minimal burden on applicants as the information requirements are small and the number of requests is expected to be low. Applicants making a request would identify one or more of the 5 criteria under which BIS would authorize a paper submission, and provide the factual basis for the authorization to submit on paper. BIS estimates that only a small number of submissions will seek authorization to file on paper. Based on current information on submissions, more than 85% of all submissions affected by this rule are currently transmitted to BIS via SNAP-R. Therefore, BIS estimates that this requirement will make no material change of the estimated time of 58 minutes needed to prepare and submit

a BIS-748. Send comments regarding these burden estimates or any other aspect of these collections of information, including suggestions for reducing the burden, to David Rostker, OMB Desk Officer, by e-mail at david_rostker@omb.eop.gov or by fax to (202) 395-7285; and to the Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce, P.O. Box 273, Washington, DC 20044.

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

4. The Chief Counsel for Regulation 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.

Number of Small Entities Affected

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 1340 small entities are likely to be affected by this rule. BIS arrived at this conclusion by identifying all of the entities that filed two or more submissions during the period from January 1, 2006 through December 31, 2006. A total of 1592 such entities were identified. BIS determined that 252 of these are not small entities because they could be identified through open public sources as having more than \$100 million in annual sales or more than 5,000 employees or because they are United States Government agencies.

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" (the Standards Table) published by the Small Business Administration (SBA). However, BIS notes that the Standards Table designates business as small based on either sales or number of employees, depending on the industry. The maximum annual sales and maximum number of employees listed in that document are \$31 million and 1,500, respectively. Both numbers are far below the threshold selected by BIS in arriving at the number of 1340 as the maximum number of small entities likely to be affected by this rule. Quite likely many of the 1340 remaining entities would be larger than the largest business listed in the Standards Table.

In addition, most of the categories in the Standards Table for which the sales limit is more than \$6.5 million are unlikely to be impacted by this rule

because they are unlikely to engage in export or reexport transactions that require specific authorization from BIS. Examples of small entities at the higher end of the range of the Standards Table include, Forest Fire Suppression—\$16.5 million, New Single-Family Housing Construction Contractors—\$31.0 million and Gasoline Stations with Convenience Stores—\$25.0 million.

Burden Incurred

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 PDF and those who are already creating the documents using software that is capable of producing the same documents in PDF. BIS does not have data on the number of entities that would incur no burden, but based on a sample of submissions of the type to which this proposed rule would apply for the period October 15, 2006 through March 9, 2007, BIS estimates that about 48 percent of the submissions would 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 December 27, 2006, plus any taxes or shipping charges.

Some entities might need to scan paper documents and convert them to PDF files. Such entities would have three alternatives: Pay someone else to scan and convert the documents; acquire a scanner with built-in PDF capability; or acquire hardware and software to scan in and convert the documents.

An entity with a small number of documents to scan probably would find it most economical to pay someone else to scan the paper documents and convert them to PDF files. After reviewing some prices charged in the Washington area, BIS estimates that the costs would range from about \$19 to about \$31 to convert eight pages of paper documents to PDF format.

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 \$500 (to purchase the scanner) to comply with this rule.

In some cases, particularly if the entity has to scan numerous complex paper documents, the costs could be higher. BIS estimates that the initial costs for an entity facing such a situation would be approximately \$900. This estimate is based on a price of \$300 for Adobe Acrobat® Standard Edition software, \$500 for a scanner, and \$100 for taxes and shipping charges.

Entities that have to scan paper documents may incur labor costs to scan and convert the documents to PDF. BIS estimates that scanning and converting a document page would take from 2 minutes to 10 minutes per page depending on the scanner and computer performance. BIS recently sampled the submissions that had accompanying documents for the months of February and March 2006. A total of 703 submissions had accompanying documents. Some submissions had only one accompanying page. The average number of accompanying pages for these 703 submissions was 8.5 and the largest number of accompanying pages for any one submission was 284. However, BIS has no way of determining which attachments could be generated electronically and which would require scanning. Assuming an average of 8.5 pages per document and labor costs for documents at \$15 per hour, this cost could range from about \$0.50 for one accompanying page that took two minutes to scan to \$720 for a 284-page document that took 10 minutes per page to scan. Assuming an average scanning time of 5 minutes per page and an 8.5 as the average number of pages scanned, the average estimated labor cost for scanning would be \$10.63.

Cost Reductions To Offset the Burdens

A party not using the electronic "attachment" feature of SNAP-R would have to submit any required documents by paper. In many instances, such a party would incur labor costs to copy the documents that are comparable to those incurred when scanning a document to produce a PDF file. For such parties, any increased scanning costs incurred by using SNAP-R would be offset by decreased copying costs.

Electronic filing can reduce costs in other ways as well. Currently, in many instances, attachments are submitted to BIS by overnight courier. Electronic filing would eliminate these courier costs. Collectively, the 1592 entities that made two or more submissions in 2006

provided 22,223 submissions. The largest number from any one submitter was 911, the smallest number from any one submitter was 2, and the average number per submitter was 14. Assuming an average cost of \$20.00 to submit documents by courier, and further assuming that about 52 percent of the submissions required accompanying documents, the aggregate savings provided by electronic submission of accompanying documents would be \$231,119 for the largest submitter, \$146 for a submitter of the average number of submissions and \$20 for a submitter of 2 submissions. In addition SNAP-R will provide the submitter with automatic confirmation of receipt of the documents by BIS. In many instances, couriers charge extra for delivery confirmation.

Further savings would be achieved if a particular set of documents applied to more than one submission. A party using SNAP-R would need to submit the documents only once and could reference them in subsequent submissions to which they apply whereas a party submitting via paper would have to submit new paper copies each time. Applicants for successive export licenses to ship the same items repeatedly could experience substantial savings from this feature of SNAP-R.

The SNAP-R system groups all communications between exporter and BIS for each electronic application, including supporting documents so that they can be viewed from within the SNAP-R application by all authorized personnel of the submitter. This feature allows for easier reassignment of work when necessary due, for example, to employee absences, resignations, or retirements, than a system in which users have to manage their own documentation and transcribe their communications with the licensing officers and correlate those communications with paper submissions of supporting documents.

Electronic filing can reduce costs to the submitters and to the government by reducing paper handling and delays incurred when moving paper through the system. Currently, BIS 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, if the attachments are on paper, delays ensue as paper documents are moved to the technical personnel in BIS and in other government agencies whereas electronic attachments can be transmitted to the appropriate personnel almost instantly. Electronic attachments are likely to reduce the total time from submission to final decision by several

days. Although the benefit of faster processing times is difficult to quantify, the information that BIS possesses indicates that, in the aggregate, the potential benefit is quite large. In calendar year 2006, BIS processed 18,941 license applications with an aggregate value of \$36 billion. Assuming a six percent annual rate of return for alternative investments, the opportunity cost of holding \$36 billion worth of merchandise in inventory while waiting for a government decision on whether the transaction may proceed would be \$2.16 billion annually or \$5.9 million per day. Dividing \$5.9 million by the number of applications, 18,941, provides an inferred average opportunity cost of \$311 for each day that processing of an application is delayed.

Conclusion

BIS is unable to determine whether or not the number of small entities likely to be affected by this rule is substantial. However, for any small entities 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. Thus the economic impact of this rule on such entities is not significant.

List of Subjects

15 CFR Parts 740 and 748

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

15 CFR Part 742

Exports, Terrorism.

15 CFR Part 744

Exports, Reporting and recordkeeping requirements, Terrorism

15 CFR Part 754

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

15 CFR Part 764

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

15 CFR Part 772

Exports.

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

PART 740—[AMENDED]

1. The authority citation for 15 CFR part 740 continues to 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 3, 2006, 71 FR 44551 (August 7, 2006); Notice of August 15, 2007, 72 FR 46137 (August 16, 2007).

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

§ 740.8 Key management infrastructure (KMI).

* * * * *

(b) *Eligible commodities and software.*

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

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

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

* * * * *

(a) * * *
(4) * * *

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

* * * * *

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

* * * * *

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

§ 740.12 Gift parcels and humanitarian donations (GFT).

(a) * * *
(2) * * *

(iii) * * *

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

* * * * *

5. In § 740.17 revise the paragraph (d)(1) to read as follows:

§ 740.17 Encryption commodities and software (ENC).

* * * * *

(d) * * *

(1) *Instructions for requesting review.* Review requests submitted to BIS must be submitted as described in §§ 748.1 and 748.3 of the EAR. See paragraph (e)(5)(ii) of this section for the mailing address for the ENC Encryption Request Coordinator. To ensure that your review request is properly routed, insert the phrase “License Exception ENC” in Block 9 (Special Purpose) of the application. Also, place an “X” in the box marked “Classification Request” in Block 5 (Type of Application) of Form BIS–748P or select “Commodity Classification” if filing electronically. Neither the electronic nor paper forms provide a separate block to check for the submission of encryption review requests. Failure to properly complete these items may delay consideration of your review request.

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

§ 740.18 Agricultural commodities (AGR).

* * * * *

(c) *Prior notification.* * * *

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

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PART 742—[AMENDED]

7. The authority citation for 15 CFR part 742 continues to read as follows:

Authority: 50 U.S.C. App. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; Sec. 901–911, Pub. L. 106–387; Sec. 221, Pub. L. 107–56; Sec. 1503, Pub. L. 108–11, 117 Stat. 559; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Presidential Determination 2003–23 of May 7, 2003, 68 FR 26459, May 16, 2003; Notice of August 3, 2006, 71 FR 44551 (August 7, 2006); Notice of October 27, 2006, 71 FR 64109 (October 31, 2006); Notice of August 15, 2007, 72 FR 46137 (August 16, 2007).

8. In § 742.5, revise paragraph (b)(2)(i) to read as follows:

§ 742.15 Encryption items.

* * * * *

(b) *Notification and review requirements for encryption items controlled under ECCN 5A992, 5D992 or 5E992.* * * *

(2) *Review requirement for mass market encryption commodities and software exceeding 64 bits:* * * *

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

* * * * *

9. In Supplement No. 6 to Part 742 revise the first sentence to read as follows:

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

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

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PART 744—[AMENDED]

10. The authority citation for part 744 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; 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. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of August 3, 2006, 71 FR 44551 (August 7, 2006); Notice of October 27, 2006, 71 FR 64109 (October 31, 2006); Notice of August 15, 2007, 72 FR 46137 (August 16, 2007).

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

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

* * * * *

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

* * * * *

PART 748—[AMENDED]

12. The authority citation for 15 CFR part 748 continues 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 3, 2006, 71 FR 44551 (August 7, 2006); Notice of August 15, 2007, 72 FR 46137 (August 16, 2007).

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

§ 748.1 General provisions.

(a) *Scope.* In this part, references to the Export Administration Regulations or EAR are references to 15 CFR chapter VII, subchapter C. The provisions of this part involve requests for classifications and advisory opinions, export license applications, encryption review requests, reexport license applications, and certain license exception notices subject to the EAR. All terms, conditions, provisions, and instructions, including the applicant and consignee certifications, contained in 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 and reexport license applications (other than Special Comprehensive License Applications), encryption review requests, license exception AGR notifications, and classification requests and their accompanying documents must be filed via BIS’s Simplified Network Application Processing system (SNAP–R), unless BIS authorizes submitting such applications via the paper forms BIS 748–P (Multipurpose Application Form), BIS–748P–A (Item Appendix) and BIS–748P–B, (End-User Appendix). Only original paper forms may be used. Facsimiles or reproductions are not acceptable.

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

- (i) BIS has received no more than one submission (*i.e.* the total number of export license applications, reexport license applications, encryption review requests, license exception AGR notifications, and classification requests) from that party in the twelve months immediately preceding its receipt of the current submission;
- (ii) The party does not have access to the Internet;
- (iii) BIS has rejected the party’s electronic filing registration or revoked its eligibility to file electronically;
- (iv) BIS has requested that the party submit a paper copy for a particular transaction; or
- (v) BIS has determined that urgency, a need to implement U.S. government policy or a circumstance outside the

submitting party’s control justify allowing paper submissions in a particular instance.

(2) *Procedure for requesting authorization to file paper applications, notifications, or requests.* The applicant must state in Block 24 or as an attachment to the paper application (Form BIS 748–P) which of the criteria in paragraph (d)(1) of this section it meets and the facts that support such statement. Submit the completed application, notification or request to Bureau of Industry and Security, U.S. Department of Commerce, P.O. Box 273, Washington, DC 20044 (U.S. Mail deliveries only) or to Bureau of Industry and Security, U.S. Department of Commerce, 14th Street and Pennsylvania, NW., Room H2705, Washington, DC 20230.

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

§ 748.2 [Amended]

- 14. In § 748.2, remove paragraph (c).
- 15. In § 748.3, revise paragraph (b) introductory text, paragraph (b)(2), and the first sentence of paragraph (c) to read as follows:

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

* * * * *

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

* * * * *

(2) When submitting a classification request, you must complete Blocks 1 through 5, 14, 22(a), (b), (c), (d), and (i), 24, and 25 on the application. You must provide a recommended classification in Block 22(a) and explain the basis for your recommendation based on the technical parameters specified in the appropriate ECCN in Block 24. If you are unable to determine a recommended classification for your item, include an explanation in Block 24, identifying the ambiguities or deficiencies that precluded you from making a recommended classification. See Supplement No. 1 to this part for information to be included in blocks other than Block 24.

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

16. In § 748.4(b)(2)(ii) revise the first sentence to read as follows:

§ 748.4 Basic guidance related to applying for a license.

* * * * *

- (b) * * *
(2) * * *

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

* * * * *

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

§ 748.6 General instructions for license applications.

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

(b) Application Control Number. Each application has an application control number.

* * * * *

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

* * * * *

PART 754—[AMENDED]

18. The authority citation for 15 CFR part 754 continues to read as follows:

Authority: 50 U.S.C. app. 2401 et seq.; 50 U.S.C. 1701 et seq.; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 30 U.S.C. 185(s), 185(u); 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; E.O. 11912, 41 FR 15825, 3 CFR, 1976 Comp., p. 114; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 3, 2006, 71 FR 44551 (August 7, 2006); Notice of August 15, 2007, 72 FR 46137 (August 16, 2007).

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

§ 754.2 Crude oil.

* * * * *

(g) Exports of certain California crude oil. * * *

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

* * * * *

- (5) * * *

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

* * * * *

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

§ 754.4 Unprocessed Western Red Cedar.

* * * * *

- (d) * * *

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

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

Signature

Date

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

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

* * * * *

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

§ 754.5 Horses for export by sea.

* * * * *

- (b) * * *

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

* * * * *

22. In Supplement No. 2 to Part 754, revise the text to footnote number 2 in the table to read as follows:

Supplement No. 2 to Part 754—Western Red Cedar

* * * * *

2 Report commodities on license applications in the units of quantity indicated.

PART 764—[AMENDED]

23. The authority citation for 15 CFR part 764 continues to read as follows:

Authority: 50 U.S.C. app. 2401 et seq.; 50 U.S.C. 1701 et seq.; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 3, 2006, 71 FR 44551 (August 7, 2006); Notice of August 15, 2007, 72 FR 46137 (August 16, 2007).

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

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

* * * * *

- (b) * * *

- (2) * * *

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

* * * * *

PART 772—[AMENDED]

25. The authority citation for 15 CFR part 772 continues to read as follows:

Authority: 50 U.S.C. app. 2401 et seq.; 50 U.S.C. 1701 et seq.; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 3, 2006, 71 FR 44551 (August 7, 2006); Notice of August 15, 2007, 72 FR 46137 (August 16, 2007).

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

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

* * * * *

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

* * * * *

Dated: October 15, 2007.

Matthew S. Borman,

*Deputy Assistant Secretary for Export
Administration.*

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