

## Trade & Customs - USA

### Bureau of Industry and Security Revises SNAP-R Recordkeeping Requirements

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On December 4 2009 the Department of Commerce Bureau of Industry and Security proposed a rule to change certain recordkeeping requirements applicable to exporters and reduce paper documentation in the agency's licensing programme. The proposed rule is intended to reduce mailing costs and free up staff time, and will also affect exporter compliance practices if implemented.

The bureau administers an export licensing programme for commercial and dual-use items pursuant to the Export Administration Regulations. Under this programme the bureau receives export licence applications and other requests from the public and in response issues various licence-related documents. In 2006 the bureau implemented a revised version of its online application system, the simplified network application processing system (SNAP-R). Unless the bureau authorizes a paper submission, companies must use SNAP-R electronically to submit:

- export licence applications;
- classification requests;
- licence exception AGR notifications (for agricultural exports to Cuba); and
- encryption review requests.

Currently, a SNAP-R user must maintain a log of its SNAP-R submissions, and retain copies of documents that are submitted via SNAP-R, despite the fact that both the bureau and the SNAP-R user have access to this information in SNAP-R. Under the proposed rule SNAP-R users will no longer be required to maintain logs of their electronic submissions or retain copies of documents submitted via SNAP-R.

Likewise, the bureau currently responds to an electronic submission via SNAP-R both electronically and on paper. Under the proposed rule the bureau will no longer issue paper responses to electronically submitted applications. The proposal will also amend the document storage options available to the public. Parties that receive documents from the bureau electronically will be able to store those documents either electronically or on paper: either method of storage will meet the regulatory requirement that original documents be retained.

The proposed rule will also add new recordkeeping requirements. Specifically, Section 762.2(a)(10) of the regulations will be amended to require exporters to retain notification from the bureau:

- that an application is being returned without action;
- that an application is being denied; and
- of the results of a commodity classification or encryption review request. The proposal does not require companies to retain requests for additional information that they receive from the bureau.

The proposed rule will also clarify that electronic notification via the SNAP-R system is considered as written notification of the results of a licence exception for agricultural commodities request. Further, the proposed rule will remove the seal and attachment requirements for licences, as well as the requirement that a party attach a replacement licence to the original licence. These requirements hail from an era in which electronic licences did not exist.

Finally, although the proposed rule will eliminate paper documents in many instances, the bureau will continue to issue a paper licence where it has accepted a paper application and where it issues documents after reopening a matter. The proposed rule makes no changes to the bureau's practices on the issue of special comprehensive licences or special Iraq reconstruction licences.

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