

ensure compliance with the flight time disclosure requirements in the rule. Taking into consideration all the comments, including the fact that there are limited objections to ATA's request for an extension of time, the Department believes this timeline adequately balances the benefit of having accurate and complete flight delay data available to consumers with the capability of airlines to comply with the additional requirements being imposed upon them in a reasonable timeframe.

### Regulatory Analyses and Notices

#### A. Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

This final rule is not a significant regulatory action under Executive Order 12866 and the Department of Transportation's Regulatory Policies and Procedures. Accordingly, this final rule has not been reviewed by the Office of Management and Budget (OMB).

#### B. Regulatory Flexibility Act

Pursuant to section 605 of the Regulatory Flexibility Act (RFA), 5 U.S.C. 605(b), as amended by the Small Business Regulatory Enforcement and Fairness Act of 1996 (SBREFA), DOT certifies that this final rule does not have a significant impact on a substantial number of small entities. The final rule does not impose any duties or obligations on small entities.

#### C. Executive Order 13132 (Federalism)

This Final Rule does not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government, and therefore does not have federalism implications.

#### D. Executive Order 13084

This Final Rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13084 ("Consultation and Coordination with Indian Tribal Governments"). Because the rule does not significantly or uniquely affect the communities of the Indian tribal governments or impose substantial direct compliance costs on them, the funding and consultation requirements of Executive Order 13084 do not apply.

#### E. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*) requires that DOT consider the impact of paperwork and other information collection burdens imposed on the public and, under the provisions of PRA

section 3507(d), obtain approval from the Office of Management and Budget (OMB) for each collection of information it conducts, sponsors, or requires through regulations. DOT has determined that there are no new information collection requirements associated with this final rule. The final rule allows an additional 60 days to comply with a regulatory provision whose paperwork impact has already been analyzed by the Department.

#### F. Unfunded Mandates Reform Act

The Department has determined that the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply to this Final Rule.

Issued this March 30, 2010, in Washington, DC.

**Ray LaHood,**

*Secretary of Transportation.*

#### List of Subjects in 14 CFR Part 234

Air carriers, Consumer protection, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, the Department further amends 14 CFR part 234 as amended in the final rule published December 30, 2009 (74 FR 69002), effective April 29, 2010, as follows:

#### PART 234—AIRLINE SERVICE QUALITY PERFORMANCE REPORTS

■ 1. The authority citation for Part 234 continues to read as follows:

**Authority:** 49 U.S.C. 329 and chapters 401 and 417.

■ 2. In § 234.11, as amended in the final rule published December 30, 2009 (74 FR 69002), effective April 29, 2010, add paragraph (d) to read as follows:

#### § 234.11 Disclosure to consumers.

\* \* \* \* \*

(d) A reporting carrier must meet the requirements of paragraphs (b) and (c) of this section by June 29, 2010.

[FR Doc. 2010-7627 Filed 4-2-10; 8:45 am]

**BILLING CODE P**

### DEPARTMENT OF COMMERCE

#### Bureau of Industry and Security

#### 15 CFR Parts 740, 748, 750, and 762

[Docket No. 0907201151-0114-02]

RIN 0694-AE66

#### Issuance of Electronic Documents and Related Recordkeeping Requirements

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

**ACTION:** Final rule.

**SUMMARY:** This rule enables BIS to eliminate the paper versions of most export and reexport licenses, notices of denial of license applications, notices of return of a license application without action, notices of results of classification requests, License Exception AGR notification results, and encryption review request results. This rule also changes certain recordkeeping requirements associated with the elimination of paper documents. BIS is making these changes to reduce mailing costs and to free up staff time currently devoted to mailing these documents for use in other tasks.

**DATES:** This rule is effective May 5, 2010.

#### FOR FURTHER INFORMATION CONTACT:

Thomas Andrukonis, Office of Exporter Services, Bureau of Industry and Security, U.S. Department of Commerce at 202 482 6393 or e-mail [tandrukoi@bis.doc.gov](mailto:tandrukoi@bis.doc.gov)

#### SUPPLEMENTARY INFORMATION:

##### Background

The Bureau of Industry and Security administers an export licensing program pursuant to the Export Administration Regulations. As part of this program, BIS issues various documents in response to applications and notifications submitted to BIS by the public. Those documents include export licenses, reexport licenses, notices that an export or reexport license application has been denied, notices that an export or reexport license application is being returned to the applicant without action, responses to License Exception AGR notifications, notices of the results of classification requests, and notices of the results of encryption review requests. Collectively, these documents are referred to in this preamble as "license related documents."

Currently, BIS issues license related documents in two ways: Electronically in BIS's Simplified Network Application Processing Redesign system (SNAP-R) and on paper. Most license related documents are issued in both electronic and paper form. However, a few such documents are issued only on paper. On December 4, 2009, BIS issued a proposed rule that would allow it to eliminate the paper version of the license related documents that it currently issues both electronically in SNAP-R and on paper (74 FR 63685, December 4, 2009). The last day of the comment period for that proposed rule was February 2, 2010. BIS received no public comments on that proposed rule. Accordingly, this final rule adopts the

text of the proposed rule and makes one minor correction to pre-existing text.

The EAR require that export license applications, reexport license applications, License Exception AGR notifications, encryption review requests, and classification requests be submitted to BIS electronically using SNAP-R, except in individual instances where BIS authorizes a paper submission. The license related documents associated with a SNAP-R submission are issued on line in SNAP-R where the submitter may view, save, or print a copy. In addition, a paper version of each of those documents is mailed to the submitter. There are two situations in which BIS issues only a paper version of a license related document: When BIS authorized a paper submission, and when BIS must reissue the license related document because it reopened a matter previously considered to be completed. BIS does not intend to stop issuing paper license related documents in those two situations. BIS also does not intend to change its practices regarding issuance of Special Comprehensive Licenses or Special Iraq Reconstruction Licenses, both of which are paper-based processes. BIS intends to discontinue issuing paper documents in the situations where it currently issues both paper and electronic versions of license related documents. BIS is also making certain changes to the EAR recordkeeping requirements in connection with this change.

#### **Specific Changes Made by This Rule**

##### *Clarification That Electronic Notification in SNAP-R Is Considered To Be, for Purposes of the EAR, Written Notification of the Results of a License Exception AGR Request*

This rule revises § 740.18(c)(5) to state that BIS will issue confirmation in SNAP-R or via paper of the decision that no agency has objected to a party's proposed use of License Exception AGR. Previously, § 740.18(c)(5) merely stated that BIS will issue a written confirmation.

##### *Removal of Requirement To Maintain a Log of Electronic Submissions*

This rule removes the requirement previously found in § 748.7(c) of the EAR to maintain a log of electronic submissions. That requirement was established in connection with BIS's initial electronic application process, which was instituted in the 1980s. At that time, electronic submissions were facilitated by a number of private sector vendors and the logs may have been necessary for auditing purposes.

However, the information required to be kept in the log duplicates information that parties are required to include in their SNAP-R submissions or that is automatically recorded by SNAP-R, making the information in the log redundant of information available to BIS in SNAP-R. The rule this log maintenance requirement by removing paragraph (c) of § 748.7 and redesignating existing paragraph (d) as paragraph (c).

##### *Removal of Language Relating to "Computer Generated" Licenses, the Department of Commerce Seal and Attachments to Licenses*

This rule revises § 750.7(b) to state that BIS may issue export and reexport licenses either electronically or on paper and that each license will bear a license number. Previous language regarding "computer generated" licenses, the Department of Commerce seal and attachments to licenses have been removed as has an explicit requirement that exporters use the license number when communicating with BIS about the license. The final rule language allows BIS to exercise discretion in deciding whether to issue a license electronically in SNAP-R or on paper. However, BIS expects that it will issue nearly all licenses electronically. Unless some exceptional circumstances exist, only licenses for which the applicant was authorized to file the application on paper and licenses that BIS cannot issue electronically (currently, only reopened licenses) will be issued on paper. BIS is making this change to reduce the costs of generating and mailing paper copies of licenses and to be able to assign to other tasks the staff that otherwise would be needed to handle paper licenses. Because no EAR provision previously addressed issuance of the other license related documents with the specificity with which § 750.7(b) addresses licenses, only § 750.7(b) must be modified to implement this change.

##### *Removal of Requirement To Attach a Replacement License to the Original*

This rule revises § 750.7(h)(4) to remove a requirement that the license holder attach a replacement license issued by BIS to the original license that it replaces. That requirement dates to an era in which electronic licenses did not exist and is impractical with electronic licenses issued in SNAP-R. This rule retains the requirement that the license holder keep both the original license and the replacement license.

##### *Removal of Requirement To Retain Copies of Documents Submitted to BIS via the SNAP-R System*

This rule exempts parties who submit documents to BIS via BIS's SNAP-R system from requirements to retain copies of documents so submitted even though those documents are "export control documents" as defined in part 772 of the EAR. BIS believes the reliability of the SNAP-R system provides adequate assurance that the documents received by BIS were submitted and that all submitted documents are received by BIS. This change would not preclude parties from storing copies of these documents.

##### *Addition of Certain Documents To Recordkeeping Requirements in Part 762*

This rule adds the following documents to the list of documents required to be kept as set forth in § 762.2(a)(10) required to be kept: Notification from BIS that an application is being returned without action; notification from BIS that an application is being denied; notification from BIS of the results of a commodity classification or encryption review request conducted by BIS. BIS believes that requiring recipients of these documents to retain them is needed to confirm receipt and to verify that the recipient received notice of the terms of the document. This rule does not require parties to retain requests for additional information concerning active matters that they receive from BIS.

##### *Application of Original Document Retention Requirement to Documents Issued in SNAP-R*

Parties who receive documents issued by BIS in SNAP-R may store the documents in two ways, and either would meet the requirement of § 762.5 that original documents be retained. The two ways are: Storage of complete documents issued by BIS in SNAP-R electronically in a format readable by software possessed by the recipient party; or storage of a complete printed paper copy of the document. Either way would provide an accurate representation of the contents of the record and, therefore, either should be treated as the equivalent of an original document. This final rule also makes one minor correction to the proposed rule text of § 762.4.

Section 762.4 consists of one paragraph. When stating that either storage method described in this paragraph would be deemed to be an original, the proposed rule text used the

phrase “for purposes of this paragraph.” The final rule replaces the word “paragraph” in that phrase with the word “section” to be consistent with standard Code of Federal Regulations nomenclature practices.

**Reasons for the Changes**

BIS has been expending funds and staff time to mail to certain parties information that is entirely duplicative of information that BIS sends to those same parties electronically. The changes in this rule will help BIS to reduce its operating costs and free the staff time that otherwise would be devoted to mailing paper documents to be used for other purposes. BIS estimates that in recent years it has spent approximately \$25,000 annually in direct mailing costs (envelopes, supplies and postage) to send out paper copies of licenses, responses to classification requests, responses to encryption review requests, and License Exception AGR notifications. BIS also has been spending about 1.5 hours of staff time daily in connection with mailing these documents.

**Rulemaking Requirements**

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

2. Notwithstanding any other provision of law, no person is required to respond to, nor is 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 contains a collection previously approved by OMB under control number 0694–0096 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. BIS believes that the changes implemented by this rule will not materially affect this burden. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Jasmeet Seehra, Office of Management and Budget (OMB), by e-mail to [jseehra@omb.eop.gov](mailto:jseehra@omb.eop.gov), or by fax to (202) 395–7285; and to the Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce, Room 2705, 14th Street and Pennsylvania Ave., NW., Washington, DC 20230.

3. This rule does not contain policies with Federalism implications as that term is defined under E.O. 13132.

4. The Chief Counsel for Regulations of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration at the proposed rule stage that this rule would not have a significant economic impact on a substantial number of small entities. The rationale for that certification was set forth in the preamble to the proposed rule (74 FR 63686, December 4, 2009). BIS received no comments on the certification. As a result, a final regulatory impact analysis is not required and none has been prepared.

**List of Subjects**

15 CFR Parts 740, 748, and 750

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

15 CFR Part 762

Administrative practice and procedure, Business and industry, Confidential business information, Exports, Reporting and recordkeeping requirements.

■ Accordingly, the Export Administration Regulations (15 CFR parts 730–774) are amended as follows:

**PART 740—[AMENDED]**

■ 1. The authority citation for part 740 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. 7201 *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 13, 2009, 74 FR 41325 (August 14, 2009).

■ 2. Section 740.18 is amended by revising the sixth sentence of paragraph (c)(5) to read as follows:

**§ 740.18 Agricultural commodities (AGR).**

\* \* \* \* \*

(c) \* \* \*

(5) \* \* \* BIS will issue written confirmation electronically in SNAP–R or via paper. \* \* \*

\* \* \* \* \*

**PART 748—[AMENDED]**

■ 3. The authority citation for 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 13, 2009, 74 FR 41325 (August 14, 2009).

**§ 748.7 [Amended]**

■ 4. Section 748.7 is amended by removing paragraph (c) and redesignating paragraph (d) as paragraph (c).

**PART 750—[AMENDED]**

■ 5. The authority citation for part 750 continues to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; Sec. 1503, Pub. L. 108–11, 117 Stat. 559; 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 13, 2009, 74 FR 41325 (August 14, 2009).

**§ 750.7 [Amended]**

■ 6. Section 750.7 is amended by removing the final sentence from paragraph (a) and by revising paragraph (b) and paragraph (h)(4) to read as follows:

**§ 750.7 Issuance of licenses.**

\* \* \* \* \*

(b) *Issuance of a license.* BIS may issue a license electronically via its Simplified Network Application Processing (SNAP–R) system or via paper or both electronically and via paper. Each license has a license number that will be shown on the license.

\* \* \* \* \*

(h) \* \* \*

(4) *Replacement license.* If you have been issued a “replacement license” (for changes to your original license not covered in paragraph (c) of this section), you must retain both the original and the replacement license.

\* \* \* \* \*

**PART 762—[AMENDED]**

■ 7. The authority citation for part 762 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 13, 2009, 74 FR 41325 (August 14, 2009).

**§ 762.2 [Amended]**

■ 8. Section 762.2 is amended by:

- a. Revising paragraph (a)(1),
- b. Removing the comma and the word “and” from the end of paragraph (a)(9) and adding in their place, a semicolon,
- c. Redesignating paragraph (a)(10) as paragraph (a)(11), and
- d. Adding a new paragraph (a)(10) to read as follows:

**§ 762.2 Records to be retained.**

(a) \* \* \*

(1) Export control documents as defined in part 772 of the EAR, except

parties submitting documents electronically to BIS via the SNAP-R system are not required to retain copies of documents so submitted;

\* \* \* \* \*

(10) Notification from BIS of an application being returned without action; notification by BIS of an application being denied; notification by BIS of the results of a commodity classification or encryption review request conducted by BIS; and,

\* \* \* \* \*

■ 9. Section 762.4 is amended by adding a sentence at the end of the section to read as follows:

**§ 762.4 Original records required.**

\* \* \* With respect to documents that BIS issues to a party in SNAP-R, either an electronically stored copy in a format that makes the document readable with software possessed by that party or a paper print out of the complete document is deemed to be an original record for purposes of this section.

Dated: March 29, 2010.

**Kevin J. Wolf,**

*Assistant Secretary for Export Administration.*

[FR Doc. 2010-7639 Filed 4-2-10; 8:45 am]

**BILLING CODE 3510-33-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**15 CFR Part 922**

[Docket No. 090122043-0128-03]

**RIN 0648-AX37**

**Gray's Reef National Marine Sanctuary Regulations on the Use of Spearfishing Gear; Correction**

**AGENCY:** Office of National Marine Sanctuaries (ONMS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

**ACTION:** Correcting amendment.

**SUMMARY:** The National Oceanic and Atmospheric Administration (NOAA) published a document in the **Federal Register** on February 19, 2010 (75 FR 7361) on the use and possession of spearfishing gear in Gray's Reef National Marine Sanctuary. That document was inadvertently missing a word in § 922.92(a)(11)(iii). This document corrects the final regulations by revising that section.

**DATES:** *Effective Date:* April 5, 2010.

**FOR FURTHER INFORMATION CONTACT:** Resource Protection Coordinator Becky Shortland at (912) 598-2381.

**SUPPLEMENTARY INFORMATION:** NOAA issued final regulations, effective March 22, 2010, that included a description of new requirements on the use and possession of spearfishing gear in Gray's Reef National Marine Sanctuary (75 FR 7361). After the regulations were published NOAA became aware of a word that was inadvertently left out of the regulatory text. This notice corrects the grammatical error in Part 922.92(a)(11)(iii) by adding the word "it" to the paragraph. The intent of the regulation is not affected by this correction.

**Classification**

*A. Executive Order 12866: Regulatory Impact*

This final rule has been determined to be not significant within the meaning of Executive Order 12866.

*B. Administrative Procedure Act/Regulatory Flexibility Act*

The Acting Assistant Administrator finds good cause pursuant to 5 U.S.C. 553(b)(B) to waive the notice and comment requirements because it is unnecessary. This rule corrects a grammatical error in the regulations that does not have substantive impacts. The intent of the regulation is not affected by the error. NOAA has decided to make this document effective immediately because public comment and delayed effective date are not necessary due to the minimal nature of the correcting amendment. This rule corrects a grammatical error in the regulations that does not have substantive impacts. For the reasons above, the Acting Assistant Administrator finds good cause to waive the 30-day delay in effectiveness.

*C. Regulatory Flexibility Act*

Because notice and opportunity for comment are not required pursuant to 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are inapplicable. Therefore, a regulatory flexibility analysis is not required and has not been prepared.

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: March 31, 2010.

**Holly Bamford,**

*Deputy Acting Assistant Administrator for Ocean Services and Coastal Zone Management.*

■ Accordingly, for the reasons set forth above, 15 CFR part 922 is corrected by making the following correcting amendments:

**PART 922—NATIONAL MARINE SANCTUARY PROGRAM REGULATIONS**

■ 1. The authority citation for part 922 continues to read as follows:

*Authority:* 16 U.S.C. 1431 *et seq.*

■ 2. Amend § 922.92 by revising paragraph (a)(11)(iii) as follows:

**§ 922.92 Prohibited or otherwise regulated activities.**

(a) \* \* \*

(11) \* \* \*

(iii) Spearfishing gear provided that it is stowed on a vessel, not available for immediate use, and the vessel is passing through the Sanctuary without interruption; and

\* \* \* \* \*

[FR Doc. 2010-7665 Filed 4-2-10; 8:45 am]

**BILLING CODE 3510-NK-P**

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Parts 74 and 78**

[ET Docket No. 03-254; FCC 10-15]

**Coordination Between the Non-Geostationary and Geostationary Satellite Orbit**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document the Commission specifies rules and procedures to be used for frequency coordination between terrestrial Broadcast Auxiliary Service and Cable Television Relay Service (BAS/CARS) operations and geostationary satellite orbit (GSO) or non-geostationary satellite orbit (NGSO) fixed-satellite service (FSS) operations in the 6875-7075 MHz (7 GHz) and 12750-13250 MHz (13 GHz) bands. At this time the Commission did not adopt a "Growth Zone" proposal that would have supplemented our existing terrestrial coordination procedures between NGSO FSS space-to-Earth operations and existing fixed service (FS) operations in the 10.7-11.7 GHz (10 GHz) band, and will retain our existing coordination rules.

**DATES:** Effective May 5, 2010.

**FOR FURTHER INFORMATION CONTACT:** James Miller, (202) 418-7351, e-mail [James.Miller@fcc.gov](mailto:James.Miller@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order, ET Docket No. 03-254, FCC 10-15, adopted January 14, 2010, and