Applying and Using Licenses *under the EAR*

Export Control Reform Weekly Teleconference Special Topic

June 19, 2013

1

Overview

- Provide introduction for what to expect under the EAR when applying and using licenses.

- Discuss similarities and differences between applying for a license under EAR compared to ITAR.

Target Audience

- Intended for persons:

  - familiar with licensing under the International Traffic in Arms Regulations (ITAR), *but are*

  - wondering what to expect when they need to apply for a license under the EAR?

3

Topics Covered

- *Similarities and differences* between <u>applying for a license under EAR and ITAR</u>?

- *Similarities and differences* between EAR application system (<u>SNAP-R) and</u> ITAR license application system (<u>DTrade</u>)

- Key points and helpful tips for <u>applying for EAR licenses and other types of applications</u>

- *Similarities and differences* in <u>using an EAR license</u> compared to an <u>ITAR license or other approval</u>

- <u>Other information</u> relevant for applying and using licenses <u>for "600 series"</u> items

- How to <u>get started in SNAP-R</u>?

- <u>FAQs</u> for applying and using EAR licenses

4

Applying for a License Under the EAR Compared to the ITAR? *(Similarities)*

- Certain transactions require submission of a license application where you request approval from Commerce or State for a specific transaction.

- Certain information must be provided in the application and the information must be true, accurate and complete (TAC).

- There is an established process, under the EAR and ITAR respectively, for:

  - what information must be submitted,
  - method used to submit information, *and*
  - process used by USG to review applications.

Applying for a License Under the EAR Compared to the ITAR? *(Differences)*

- Commerce licenses are only for items that are "subject to the EAR."

- In Initial Implementation of ECR April 16 final rule, under certain conditions State licenses may authorize EAR items, provided they are in or with defense articles. *Note: Discussed in more detail later in this presentation.*

- No purchase orders are required to apply for Commerce licenses.

- For Commerce licenses, you will need to follow the EAR license application provisions in:

  - Part 748 Applications (Classification, Advisory, and License) and Documentation, *and*
  - Part 750 (Application Processing, Issuance and/or Denial)

EAR Application System (SNAP-R) and ITAR License Application System (DTrade) *(Similarities)*

- Commerce and State both use online application systems that are used by the public for submitting license applications and other types of applications under the EAR and ITAR.

- There is a process that must be followed by the public for creating and managing accounts in these application systems to allow submission of applications under EAR (SNAP-R) and ITAR (DTrade).

EAR Application System (SNAP-R) and ITAR License Application System (DTrade) *(Differences)*

- Commerce uses an online application system called SNAP-R. With SNAP-R, no additional software is required.

- It is <u>FREE</u> to create a SNAP-R account.

- It is <u>FREE</u> to submit license applications to BIS in SNAP-R.

- Do <u>NOT</u> need to register with BIS simply because you are involved with items that are subject to the EAR.

- However, in order to file a license application, you will need to create a SNAP-R account.

Key Things to Understand When Applying for EAR Licenses and Other Types of Applications

SNAP-R	Helpful tip: You will need a SNAP-R account. Create an account as soon as possible, so you are prepared when you need to submit an application.
Facts in hand	Helpful tip: You do NOT need a purchase order in order to apply for an EAR license, but you do need to know the particulars of transaction (items, end users, end uses, etc.). When applying for a license, you should anticipate how much you will need over the period of the license, including requesting any additional buffer for additional quantity that may be needed. (1) If you need to explain anything on your application, block 24 or a separate attachment can be used. If you have a complex transaction, you can contact the Outreach and Educational Services Division (OESD) and they can put you in contact with the right licensing official to discuss the application prior to submitting it. (2) Anticipate questions USG may have and try to answer those questions in the application itself as needed. (3) License review policies in parts 742, 744 and 746 will give you a good idea of whether application will be approved. NO need to submit an advisory opinion in advance to determine likelihood an application will be approved, as EAR is transparent and efficient for license review policies.

Key Things to Understand When Applying for EAR Licenses and Other Types of Applications

Determine support documentation requirements	<u>Helpful tip</u>: Certain applications will need support documentation. (1) See part 748 of the EAR for support documentation requirements. (2) Certain support documents need to be submitted with the application, while others you simply indicate in SNAP-R that you have obtained and that you will keep on file.
Stay involved in the process	<u>Helpful tip</u>: Part 750 explains the license review process. However, before the application is submitted, you already play an important role by putting together an application that is true, accurate and complete *(including explaining any information that you need to on the application).* (1) You can check on the status in SNAP-R. (2) If you receive a follow-up question from BIS through SNAP-R, you should respond in a timely manner. *Note: Communication, questions and requests pertaining to your application will all be made via SNAP-R.*

Using an EAR License Compared to an ITAR License or Other Approval *(Similarities)*

- Under a Commerce and State license you need to stay within the authorized scope of the license or other approval.

- Commerce and State licenses typically contain conditions or provisos that further define the scope of authorized activity.

- If you do not stay within the authorized scope of the license or other approval, you will have violated the respective regulations.

Using an EAR License Compared to an ITAR License or Other Approval *(Differences)*

- Commerce licenses typically begin with a "D" number, although in certain cases other letters are also used.

- Commerce licenses tend to have more conditions than a typical State license.

- If you need to make a change to a Commerce license, you will review § 750.7(c) of the EAR.

- You do <u>NOT</u> need to return your license to BIS once it is no longer valid.

- If there is a violation of a Commerce license, you should review § 764.5 (Voluntary self-disclosure).

Distinction for Temporary Imports Under the EAR and ITAR

- Under ITAR, when a defense article is coming into the U.S. and will be sent back out, a temporary import license (or exemption) is required prior to the temporary import.

- Under the EAR, no license or license exception or NLR designation is needed until prior to the export back out of the U.S.

13

Grandfathering DDTC Approvals

	Contains only items transitioning to CCL	**Contains both transitioning and non-transitioning items**
DSP-5	May use for up to 2 years after effective date of transition unless license expires or returned. May amend after effective date on case-by-case basis.	Valid for all items until expiration. May amend after effective date on case-by-case basis.
DSP-61 DSP-73	Valid until expiration. May amend after effective date on case-by-case basis.	
TAA MLA WDA	May use for up to 2 years after effective date of transition unless agreement expires. May amend after effective date on case-by-case basis.	May use for up to 2 years after effective date of transition unless agreement expires. Agreement may be kept valid beyond the 2-year period by submitting amendment to authorize transitioning items under § 120.5(b).

See DDTC's transition plan for full details.

DDTC § 120.5(b) Approvals

- Items subject to the EAR authorized under § 120.5(b)
  - Must be included with items subject to the ITAR in the purchase documentation
  - Must be for use in or with the items subject to the ITAR that are proposed for export or reexport
  - Must be enumerated in the DDTC license application under the USML "(x)" paragraph
  - Must be classified (i.e., appropriate ECCN or EAR99 designation), and such classification must be provided to end user and consignees

15

BIS Export and Reexport Licenses

- Apply through SNAP-R
- Use the form BIS-748P; appendices for additional items or end users
- Guidance on applications and support documents in part 748 of the EAR
- Four-year validity period; extended validity periods may be requested
- Cite prior equivalent DDTC approvals

BIS Export and Reexport Licenses

- May export or reexport to *and* among end users listed on license

- No large agreements to draft or lengthy agreement guidelines to follow

- May pre-position applications or request classifications prior to effective date of applicable final rule

Getting Ready for Transition:
Create Your SNAP-R Account

- Creating a SNAP-R account is an important step that you should take as you prepare for the effective date of the Initial Implementation of Export Control Reform final rule.

- BIS encourages you to create a SNAP-R account as soon as possible and then start familiarizing yourself with the application system.

- Creating a SNAP-R account is automated. But if questions arise, such as when you are preparing your first application in SNAP-R, you may contact BIS for assistance.

- Our goal is to get as many companies as possible to create their SNAP-R accounts prior to the October 15, 2013 effective date of the Initial Implementation of Export Control Reform final rule.

How to get started in SNAP-R?

- SNAP-R Online Registration at
  https://snapr.bis.doc.gov/registration

- Respond to the confirmation email

- A Company Identification Number (CIN) will be assigned, and your account with administrator's privilege will be created

Bureau
U.S. De

Where Industry and Security Intersect

About BIS
News
Policies And Regulations
Licensing
Compliance And Enforcement
Seminars And Training
International Programs
Defense Industrial Base Programs

SNAP-R Company Registration

Company Information

Country: * [▼]

Company Name: * [   ]

Address Line 1: * [   ]
*PO Boxes are not allowed

Address Line 2: [   ]

City: * [   ]

State (U.S. only): * [▼]

Zip/Postal Code: * [   ]

Administrator Information

First Name: * [   ]

Last Name: * [   ]

Phone: * [   ]

Fax: [   ]

Email Address: * [   ]

Confirm Email Address: * [   ]

Certifications

1. COMPANY CERTIFICATION

The applicant company (herein "company") hereby requests authorization for the company to submit export license applications, reexport authorization requests, AGR license exception notifications, and classificati
Security (BIS) using BIS's Simplified Network Application Processing (SNAP-R) system. The company understands that an electronic submission has the same legal force and effect as a written submission. The compa
export licenses (as opposed to reexport authorizations, notifications or classification requests), the company must be in of the United States.
The company agrees that each submission made via SNAP-R shall constitute a certification that:

  a. To the best of its knowledge and belief, all information submitted to BIS, including the description of the items and their end-uses or end-users, and any documents in support of such submissions, are correct a
accurately disclose all material facts;
  b. Submissions will conform to the Export Administration Regulations (EAR) (15 CFR parts 730 through 774);

☐ I have read, understand, and agree to the terms and conditions of the company certification and I have authority to do so on behalf of the company.

☐ I have read, understand, and agree to the terms and conditions of the account administrator certification and I have authority to act as account admi**20**trator on bel

[Submit My Registration]

How to use SNAP-R?

- Access SNAP-R at
  https://snapr.bis.doc.gov
- Create and submit an application
  - Export License
  - Re-Export License
  - Agriculture License Exception Notice
  - Commodity Classification including Encryption Review
  - Encryption Registration
  - Special Comprehensive License (For approved companies only)
- Manage applications within company
- Receive/Respond requests from BIS licensing officers
- Receiving final validations

21

https://snapr.bis.doc.gov/snapr/

SNAP-R

Bureau of Industry and Security
U.S. Department of Commerce

ABOUT SNAP-R
BIS HOME
SNAP-R FAQ
NEWLY RELEASED!
STELA

WARNING WARNING WARNING WARNING WARNING WARNING WARNING WARNING
USE OF THIS SYSTEM IS RESTRICTED AND MONITORED !!!

You are accessing a U.S. Government information system, which includes: 1) this computer, 2) this computer network, 3) all computers connected to this network, and 4) all devices and storage media attached to this network or to a computer on this network. You understand and consent to the following: you may access this information system for authorized use only; you have no reasonable expectation of privacy regarding any communication of data transiting or stored on this information system; at any time and for any lawful Government purpose, the Government may monitor, intercept, and search and seize any communication or data transiting or stored on this information system; and any communications or data transiting or stored on this information system may be disclosed or used for any lawful Government purpose.

WARNING WARNING WARNING WARNING WARNING WARNING WARNING WARNING

Login to SNAP-R	
Login ID ?	george
Password ?	••••••••••
CIN (Applicant ID) ?	s888888

Login   Clear

Register online for a SNAP-R account

https://snapr.bis.doc.gov/snapr/exp/WiList

SNAP-R

Bureau of Industry and Security
U.S. Department of Commerce

SNAP-R HOME
CREATE WORK ITEM
LIST WORK ITEMS
SEARCH WORK ITEMS
SEARCH DOCUMENTS
VIEW MESSAGES
MANAGE USER PROFILE
HELP
SCL HELP
LOGOUT

STELA

SNAP-R SELF MANAGEMENT

Work Item List

You may sort the list by clicking on the column headers. ?

18 Work Item(s)   Displaying **1** through **10**

Reference Number	ACN	Case Number	Type	Creation Date ▼	SNAP-R Status
HRU3894			Commodity Classification Request	01/24/2012	DRAFT
SCL0001			Special Comprehensive License Application	12/31/2011	DRAFT
BBB4545			AGR License Exception Notice	12/31/2011	DRAFT
AEW8888			Encryption Registration	11/13/2011	CANCELED
AAA1111			Re-Export License Application	06/27/2010	DRAFT
AAA1000			Export License Application	06/27/2010	DRAFT
CCC8888			Commodity Classification Request	06/23/2009	DRAFT
ABC7890			Export License Application	06/25/2007	DRAFT
BDF1234			Export License Application	05/16/2007	DRAFT
DEF1234			Export License Application	05/09/2007	DRAFT

Prev **1** 2 Next

Search Again

https://snapr.bis.doc.gov/snapr/exp/NotificationList?messageListPageType=allList

SNAP-R

Bureau of Industry and Security
U.S. Department of Commerce

SNAP-R HOME
CREATE WORK ITEM
LIST WORK ITEMS
SEARCH WORK ITEMS
SEARCH DOCUMENTS
VIEW MESSAGES
   ALL MESSAGES
   BIS REQUESTS
   ACKNOWLEDGEMENTS
   VALIDATIONS
MANAGE USER PROFILE
HELP
SCL HELP
LOGOUT

STELA

SNAP-R SELF MANAGEMENT

All Messages

The **Remove** button removes the selected messages from the message board. Messages are still accessible within their associated Work Items. The **Mark As New** button will mark the message as new.

9 Messages   Displaying **1** through **9**

Subject	Date ▼	Status		
Encryption Registration AEW8888 Accepted with ERN R101640	11/13/2011	READ	☐ remove	☐ mark new
Request Received: I need you to confirm	07/31/2009	READ	☐ remove	☐ mark new
Request Received: add document	07/27/2007	READ	☐ remove	☐ mark new
Request Received: no document	07/27/2007	READ	☐ remove	☐ mark new
Request Received: test pending	07/27/2007	READ	☐ remove	☐ mark new
Request Closed: test v1.2	07/27/2007	READ	☐ remove	☐ mark new
Request Received: test v1.2	07/27/2007	READ	☐ remove	☐ mark new
Request Received: 2nd test request	06/08/2007	READ	☐ remove	☐ mark new
Request Received: test request 6/8/07	06/08/2007	READ	☐ remove	☐ mark new

[Remove]   [Mark As NEW]

FOIA | Disclaimer | Privacy Policy Statement | Information Quality

Department of Commerce | Contact Us

SNAP- R

Bureau of Industry and Security
U.S. Department of Commerce

SNAP-R Home
Create Work Item
List Work Items
Search Work Items
Search Documents
View Messages
Manage User Profile
Help
SCL Help
Logout

STELA

SNAP-R Self Management

AGR License Exception Notice
Work Item Reference Number TST0001   Status: PENDING

Request

Please be aware that you may **only reply to a request once**. Once you have clicked **Respond**, you can neither edit your response to this request, nor reply to this request again. You also cannot attach any additional documents.

Request Details ▨

Subject	I need you to confirm
Requested by	BIS
Date of Request	07/31/2009
Status	PLEASE RESPOND
Reference Number	TST0001
Request:	that you can do this
Response:	
Documents Allowed:	☑

Documents Attached

SNAP-R Self Management

- Access SNAP-R Self Management at
  https://snapr.bis.doc.gov/management

- Update company information

- Manage company users including

  - Add new users

  - Delete users

  - Delegate/revoke administrator privileges

  - Update user information

  - Reset user password

SNAP-R Self Management - SST, INC.

Home

List Users

Create a User

Update Company

View History

Log Out

Create a User

Use the form below to add a user to your SNAP-R account.

First Name: Tom

Last Name: Terrace

Phone: 202-482-3377

Fax:

Email Address: thomas.terrace@gmail.com

Repeat Email Address: thomas.terrace@gmail.com

☑ Add this user as an administrator

Create User

SNAP-R Self Management - SST, INC.

Home

Home

List Users

Create a User

Update Company

View History

Log Out

- **A confirmation email has been sent to the given address with a link to the account setup page. U setup page is completed, the user account will not be active.**

Welcome to the SNAP-R Self Management application.

Your Company Information:

SST, INC.
1900 K ST NW SUITE 500
LONDON CT, 012345

1 Active User
1 Pending User

SNAP-R Self Management user since 06/09/2011

SNAP-R Self Management - SST, INC.

Home

List Users
Create a User
Update Company
View History

Log Out

Company User List

Active Users

Name	Username	Email	Admin?
IPOCK, GEORGE	george	yangli1688@gmail.com	Yes

Pending Users

Name	Date Created	Email	Admin?	
Terrace, Tom	04/25/2012	thomas.terrace@gmail.com	Yes	Cancel

FAQs for Applying and Using EAR Licenses

- In the last part of today's presentation, I will go over Q&As (or FAQs) that BIS has prepared:

  - to assist your understanding of applying, <u>and</u>

  - using EAR licenses and other applications that are submitted to BIS.

- BIS will post these FAQs on the BIS website later this month to assist your understanding.

Contact Information

Outreach Assistance: Outreach and Educational Services Division
- Director: Rebecca Joyce, OESDseminar@bis.doc.gov, 202-482-4811
- Western Regional Office Director: Michael Hoffman, 949-660-0144

Regulatory Interpretation and Transition Guidance
- Regulatory Policy Division: rpd2@bis.doc.gov , 202-482-2440
- Office of the Assistant Secretary for Export Administration: steven.emme@bis.doc.gov

600 Series Licensing and Classification Requests: Munitions Control Division
- Director: Todd Willis, todd.willis@bis.doc.gov
- Deputy Director: Elena Love, elena.love@bis.doc.gov
- Deputy Director: Anthony Mitchell, anthony.mitchell@bis.doc.gov

Technical Product Questions on Aircraft and Gas Turbine Engines
- Office of National Security and Technology Transfer Controls: Gene Christiansen, gene.christiansen@bis.doc.gov
- Munitions Control Division: Jeff Leitz, jeffrey.leitz@bis.doc.gov

Web: *www.bis.doc.gov   www.export.gov/ecr*