

# SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT SUBMISSIONS

## Maintenance of Records by Registrants OMB No. 1405-0111

### A. Justification

1. The Directorate of Defense Trade Controls (DDTC), Bureau of Political-Military Affairs, U.S. Department of State, in accordance with §§38-40 of the Arms Export Control Act (AECA) (22 U.S.C. 2778-2780) and the International Traffic in Arms Regulations (ITAR) (22 CFR Parts 120-130), has the principal missions of taking final action on license applications and agreement requests for defense trade exports and handling matters related to defense trade compliance, enforcement, and reporting. By statute, executive orders, regulation, and delegation of authority, DDTC is charged with controlling the export and temporary import of defense articles and defense services covered by the U.S. Munitions List.

Under the AECA, the President is charged with the review of munitions license and agreement applications to determine, *inter alia*:

- Whether the transactions further U.S. foreign policy objectives, national security interests, and world peace;
- Eligibility of parties (*e.g.*, applicants, consignees, end-users) to participate in U.S. defense trade;
- Appropriate end-use of commodities subject to U. S. Government approval of munitions exports and transfers;
- Whether law enforcement concerns have been adequately addressed; and
- Whether the appropriateness of offers or payment of political contributions, gifts, commissions, and fees, has been adequately addressed.

The statutory authority of the President to promulgate regulations with respect to exports of defense articles and defense services was delegated to the Secretary of State by Executive Order 11958, as amended. These regulations are primarily administered by the Deputy Assistant Secretary for Defense Trade and

Regional Security and the Directorate of Defense Trade Controls, Bureau of Political-Military Affairs.

To help meet this mandate, the Department of State has promulgated ITAR provisions (§§122.5 and 129.4 of the ITAR) to require that all persons subject to registration maintain records on defense trade-related transactions and make them available for U.S. Government review. Elimination of this provision would seriously undermine the U.S. Government's ability to enforce the AECA.

2. DDTC uses the information provided by registrants to meet the mandate described in item 1 above. As appropriate, such information may be shared with other U.S. Government entities. This information is currently used in the review and action on registration requests and in the review of munitions export and brokering license applications and to ensure compliance with defense trade laws and regulations.

3. The provision is a record keeping requirement. While the Department of State has reason to believe, on the basis of informal discussions with U.S. industry, that much of this information is maintained in electronic files, it does not intend at this time to mandate the methods industry uses to maintain its records of defense trade-related transactions, so long as records are maintained in a fashion accessible to the U.S. Government, which might include methods other than electronic. Thus, record keeping as required by the ITAR can be fulfilled with hard copy documentation.

4. The Department of State is unaware of any other U.S. Government requirements that would cause U.S. industry to duplicate this reporting requirement.

5. Export control law and regulations are designed to safeguard U.S. Government foreign policy and national security interests and to further world peace. The law and regulations are applicable equally to large and small businesses or entities. Only persons in the business of manufacturing or exporting defense articles, defense services and related technical data are required to register and are thus subject to this record keeping provision.

6. Absent this record keeping requirement, it would be extremely difficult for DDTC to meet its legally mandated responsibilities to ensure oversight of defense trade exports in furtherance of foreign policy objectives, national security interests, and world peace.

7. The ITAR requires maintenance of records for a minimum period of five years from the expiration of the license or written approval.

8. The Department has published a notice in the *Federal Register* (73 FR 31731) in accordance with 5 CFR 1320.8(d) soliciting public comments on this collection and notifying the public that this collection has been submitted to OMB for review and approval. No public comments were received.

9. Not applicable. No payment or gift has been or will be provided to any respondent.

10. Respondents are engaged in the business of exporting defense articles/services and use the ITAR regularly in the course of their work. Thus, respondents would be familiar with §126.10 of the ITAR, which describes protection of confidentiality given to respondents' information:

- Subchapter R of 22 CFR contains regulations on the availability to the public of information and records of the Department of State. The provisions of subchapter R apply to such disclosures by DDTC.
- Certain information of a proprietary nature required by the Department of State in connection with the licensing process may generally not be disclosed to the public unless certain determinations relating to the national interest are made in accordance with §38(e) of the AECA (22 U.S.C. 2778) and, by reference, certain procedures in the Export Administration Act.
- Information required under Part 130 of the ITAR (i.e., political contributions, gifts, commissions, and fees) is protected from general public disclosure.
- Information may be disclosed to foreign governments for law enforcement purposes or in the context of multilateral export regimes.

11. The regulatory requirement of records maintenance pertains to Form DS-2032, "Statement of Registration," which requests information of a sensitive nature or commonly considered private (i.e., social security number and date of birth). All persons in the business of manufacturing or exporting defense articles, defense services, and related technical data must register with the Department of State, and maintain records of such registration.

12. The Department of State has reason to believe that the information that is required for maintenance of records concerning defense trade is already available to U.S. industry in some form due to other needs and requirements (e.g., business transactional records, tax records, quality assurance and productivity, and legal issues posed by other Federal laws). It is estimated that the 4,900 respondents devote approximately 20 hours per annum to this recordkeeping requirement. Consequently, it can be reasonably assumed that the cost to industry in terms of money, time, and other resources is minimal. The estimated annual hour burden is 98,000 hours.

13. There are no anticipated additional costs to respondents.

14. DDTC performed approximately 680 audits on records maintained by registrants during FY 2007. Those audits account for approximately .8% of its budget of \$13 million. The estimated annualized cost to the Federal government was \$99,800 for reviewing these records.

15. Item 13(a) of OMB Form 83-I, "Number of Respondents," has been adjusted from 5,000 to 4,900. Item 13(b), "Total Annual Responses," has been adjusted to 4,900. Consequently, "Total Annual Hours Requested" (Item 13(c)) has been adjusted to 98,000. There are no changes to Item 14.

16. Not applicable. Publication of the relevant information is not anticipated.

17. The Department of State proposes that an expiration date for OMB approval of the information collection not be displayed, as this is a recordkeeping requirement and does not involve the use of a form.

18. Not applicable. The Department of State does not seek any exception to the statement, "Certification for Paperwork Reduction Act Submissions," of OMB 83-I.

## **B. Collections of Information Employing Statistical Methods**

Not applicable. This collection of information does not employ statistical methods.