

**SUPPORTING STATEMENT
U.S. Department of Commerce
Bureau of Industry and Security
License Exceptions and Exclusions
OMB CONTROL NO. 0694-0137**

A. JUSTIFICATION

This is a revision to add a new license exception (STA - Strategic Trade Authorization) to this existing collection in order to support publication of the final rule RIN 0694-AF03, "Export Control Reform Initiative: Strategic Trade Authorization License Exception." OMB completed its review of the proposed rule on December 7, 2010, providing the following comment in the Notice of Action: "Terms of the previous clearance remain in effect. The collection should be re-submitted to OMB when the final rule is re-set to us."

1. Explain the circumstances that make the collection of information necessary.

Section 15(b) of the **Export Administration Act (EAA)** of 1979, as amended, authorizes the President and the Secretary of Commerce to issue regulations to implement the EAA including those provisions authorizing the control of exports of U.S. goods and technology to all foreign destinations, as necessary for the purpose of national security, foreign policy and short supply, and the provision prohibiting U.S. persons from participating in certain foreign boycotts. Export control authority has been assigned directly to the Secretary of Commerce by the EAA and delegated by the President to the Secretary of Commerce. This authority is administered by the Bureau of Industry and Security through the **Export Administration Regulations (EAR)**. The EAA is not permanent legislation, and when it has lapsed due to the failure to enact a timely extension, **executive orders** under the **International Emergency Economic Powers Act (IEEPA)** have directed and authorized the continuation in force of the EAR.

Under current regulations, an individual validated export license is required for U.S. companies to export certain commodities, technical data or software to specific destinations. Exporters, reexporters and, in some instances in-country transferors are required to submit these license applications to the Department of Commerce under existing collection authority OMB Control No. 0694-0088, "Simplified Network Application Process and Multipurpose Application Form."

Over the years, BIS has worked with other Government agencies and the affected public to identify areas where export licensing requirements may be relaxed without jeopardizing U.S. national security or foreign policy interests. Many of these relaxations have taken the form of licensing exceptions and exclusions. Some of these license exceptions and exclusions have a reporting or recordkeeping requirement to enable the Government to continue to monitor exports of these items. Others require the parties in a transaction to furnish information to each other and to keep records of the information exchanged. The eligible parties may choose to utilize the license exception and accept the reporting,

information furnishing and recordkeeping burden in lieu of submitting a license application. These exceptions and exclusions have resulted in a large reduction of licensing burden in OMB Control No. 0694-0088 and allow eligible parties to ship items quickly, without having to wait for license approval. These license exceptions and exclusions are implemented as 17 information collections (IC's) under OMB Control No. 0694-0137.

These collections are designed to reduce export licensing burden while maintaining an appropriate level of safeguards against diverting exported items to unauthorized destinations, uses or users. It is up to the individual company to decide whether it is more advantageous to continue to submit license applications or to comply with the reporting, information furnishing and recordkeeping requirements and take advantage of the licensing exception or exclusion.

This consolidated collection authority allows future exceptions or exclusions to be more easily implemented as amendments to this collection, rather than as new information collection authorities. This consolidation also reduces the personnel costs and *Federal Register* notice publication costs compared to the costs of renewing many collections every three years.

2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.

Eligible parties may take advantage of license exceptions and exclusions to avoid the time and expense of submitting an individual validated export license application and having to wait for an answer from the government before proceeding with the transaction. If they elect to do so, the license requirement is replaced by a reporting, information furnishing and/or recordkeeping requirement. In most cases, the reporting is only periodic and the commodity, software, or technology may be exported without the delays normally associated with obtaining an individual validated export license.

Information reported to the government pursuant this collection is used by BIS and other Governmental agencies to monitor patterns in the export of sensitive goods, software, and technology to insure that each license exception and exclusion is being used appropriately and that the potential for diversion of these sensitive goods, software, and technologies to inappropriate end users and uses is minimized.

The following is taken from the draft final rule and describes the information that must be furnished between private parties in order to utilize license exception STA:

(1) Exporters would be required to furnish the consignee with the Export Control Classification Number (ECCN) that applies to each item transferred under License Exception STA.

(2) Reexporters and transferors would be required to provide subsequent consignees with the ECCN provided by the exporter or prior reexporters or transferors.

(3) Exporters, reexporters and transferors would be required to obtain from their consignees, prior to the shipment, a written statement identifying the items to be shipped and restating the ECCN(s) provided to the consignees by the exporters, reexporters or transferors. The statement must also acknowledge that the consignee:

- Is aware that items will be shipped pursuant to License Exception STA;
- Has been informed of the description of the items and their ECCNs by the exporter, reexporter or transferor;
- Understands that shipment pursuant to License Exception STA precludes subsequent use of paragraph (a) of License Exception APR for the items;
- Agrees not to export, reexport or transfer these items to any destination, end use or end user prohibited by the Export Administration Regulations;
- Agrees that, for items subject to a civil end use restriction, the only end use of the items will be civil; and
- Agrees to provide copies of this document or any other export, reexport or transfer record (i.e., the documents described in part 762 of the EAR) relevant to the items referenced in this statement to the U.S. Government as set forth in §762.7 of the EAR.

(4) With each shipment under License Exception STA, the exporter (or reexporter or transferor as applicable), must notify the consignee in writing that the shipment is made pursuant to license exception STA. The notice must either specify which items are subject to License Exception STA or state that the entire shipment is made pursuant to License Exception STA. The notice must clearly identify the shipment to which it applies. The written notice may be conveyed by paper documents or by electronic methods such as facsimile or email.

There are no plans to disseminate this information to the public.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.

In most cases, the reporting information may be submitted in electronic formats to the Bureau of Industry and Security. The Bureau allows parties in the export transaction to retain records in an electronic format. Private parties who are required to furnish each other information pursuant to license exception STA may do so electronically or on paper as they prefer for all information except the destination control statement, which must appear on a document that accompanies the shipment.

4. Describe efforts to identify duplication.

The information required by this collection is unique to each company and each export transaction. The information is not duplicated anywhere else in Government nor is it available from any other source.

5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.

The information required to exempt a company from export licensing requirements must be submitted by exporters regardless of size. This reporting and recordkeeping is necessary to monitor patterns in the export of sensitive goods and technology to insure that each license exception and exclusion is being used appropriately and that the potential for diversion of these sensitive goods and technologies to inappropriate end users and uses is minimized.

BIS maintains an active seminar and counseling program to help all businesses understand and comply with BIS requirements.

6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.

Submission of this information is voluntary and necessary for the parties in the export transaction to obtain the benefits of these license exceptions and exclusions. If this information is not submitted, BIS would be unable to comply with the authorizing regulations.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

There are no special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

8. Provide information for the PRA Federal Register notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

The notice requesting public comment was published with the proposed rule (75 FR 76653) on December 9, 2010. No comments relating to the public burden were received. The final rule scheduled to be approved concurrently with this revision approval.

9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.

Not applicable.

10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.

Export licensing information submitted to the Department is protected from release to the public under article 12(c) of the EAA. BIS does not plan to provide any assurance of confidentiality with respect to the information that private parties are required to provide each other pursuant to license exception STA.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

Not applicable.

12. Provide an estimate in hours of the burden of the collection of information.

It is estimated this rule will require 2,903 instances of furnishing the information described under Question 2 above. The estimated burden to create and furnish the required

information is 1 hour and 10 minutes per respondent. This results in a total estimated increase in burden of **3,387 hours** annually. The labor cost is estimated to be 3,400 x \$40 = \$ 139,320 a year.

It is expected that the increase in burden in OMB Control No. 0694-0137 will be offset by a corresponding reduction in OMB Control No. 0694-0088 “Simple Network Application Process and Multipurpose Application Form.”

13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in Question 12 above).

No special equipment or software is required for these collections so there is no capitol cost to the respondents.

14. Provide estimates of annualized cost to the Federal government.

There is no cost to the Federal Government for private parties to furnish each other information pursuant to license exception STA.

15. Explain the reasons for any program changes or adjustments.

The addition of this license exception is a program change increase (2,903 respondents/responses; and 3,387 burden hours). This change is also a step in the Administration’s Export Control Reform Initiative. With the safeguards provided by this information collection, that exception helps focus export controls on the most critical national security priorities.

16. For collections whose results will be published, outline the plans for tabulation and publication.

There are no plans to publish information obtained under this collection.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

Not applicable.

18. Explain each exception to the certification statement.

Not applicable.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not utilize statistical methods.