

SUPPORTING STATEMENT
U.S. Department of Commerce
Bureau of Industry and Security
Prior Notification of Exports Under License Exception AGR
OMB CONTROL NO. 0694-0123

A. JUSTIFICATION

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

This collection of information is necessary under Part 749.18 of the **Export Administration Regulations** (EAR) and section 906 of the **Trade Sanctions Reform and Export Enhancement Act** of 2000 (TSRA)

The Bureau of Industry and Security (BIS) needs the information in this collection to fulfill requirements of the TSRA. Section 906 of the TSRA requires that:

1) exports of agricultural commodities, medicine or medical devices to Cuba or to the government of a country that has been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism, or to any other entity in such a country, be made pursuant to one-year licenses issued by the U.S. Government, while further providing that the requirements of one-year licenses shall be no more restrictive than license exceptions administered by the Department of Commerce, except that procedures shall be in place to deny licenses for exports to any entity within such country promoting international terrorism; and

2) quarterly reports on activities undertaken during the preceding calendar quarter and biennial reports on numbers and types of licenses applied for, numbers and types of licenses approved, the average amount of time elapsed from the date of filing of a license application until the date of its approval, the extent to which the licensing procedures were effectively implemented, and other information. These requirements were imposed by the Congress with the passage of the TSRA. Implementing notification procedures under **License Exception Agricultural Commodities (AGR)** ensures that BIS meets the requirements of Section 906 as it provides procedures to deny licenses, while not having procedures that are more restrictive than a license exception.

To meet the requirements of TSRA, BIS has imposed a prior notification procedure under License Exception AGR. Exports and certain reexports of agricultural commodities will be authorized under License Exception AGR to Cuba. To ensure that exports to Cuba under License Exception AGR are not made to entities promoting international terrorism, exporters may not ship under License Exception AGR until they have submitted prior notification to BIS and have received verification that no objection has been raised to the transaction. This will allow BIS and other agencies to review the transaction for entities of concern. BIS has two (2) business days in which to review notifications for sufficiency and then refer them to other agencies. If any agency objects within nine business (9) days of receipt of BIS's TSRA notification, an export license is required. BIS will inform the applicant on the twelfth (12) business day whether

he/she may ship under License Exception AGR or whether he/she will need a license before shipment.

To enable BIS to notify the exporter of the decision promptly, BIS decided to collect the necessary information on BIS=s Multipurpose Application Form (BIS-748P) or BIS=s automated SNAP-R system (OMB Control No. 0694-0088). This also enables BIS to convert the TSRA notification into a license application in the event an agency objects to the notification, rather than requiring the exporter to resubmit the same information. This procedure ensures that BIS can deny licenses for exports to entities promoting international terrorism, while ensuring that transactions that do not raise concerns may be shipped under a license exception, as required by TSRA.

In addition, the TSRA notification procedure ensures that BIS has the necessary data to comply with quarterly reports on activities undertaken during the preceding calendar quarter and biennial reports on numbers and types of licenses applied for, numbers and types of licenses approved, the average amount of time elapsed from the date of filing of a license application until the date of its approval, the extent to which the licensing procedures were effectively implemented, and other information.

Exporters may file a single AGR Notification that will cover multiple future export shipments made within one year of the signing of the contract. If necessary, exporters may complete as many supplemental sheets (BIS-748A and BIS-748B) as they need to describe multiple items and/or multiple end-users.

Exporters may decide to exercise their approval to ship all items at one time, or any number of items at various dates within on year of the signing of the contract. Exporters are not required to inform BIS if they decide not to ship any products approved under an AGR Notification.

The frequency of filing of AGR Notifications will be dependent upon the number of potential transactions filed by U.S. companies for export of agricultural commodities to Cuba.

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, Presidential executive orders under the **International Emergency Economic Powers Act (IEEPA)** have directed and authorized the continuation in force of the EAR.

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.

A thorough description of the process for submission of AGR notifications has been provided in the answer to Question 1. Part 740.18 of the EAR codifies the how, who, frequency and purpose of this collection. This section of the EAR has been uploaded into ROCIS.

The Section 515 Information Quality Guidelines apply to this information collection and comply with all applicable information quality guidelines, i.e., OMB, Department of Commerce, and specific operating unit guidelines.

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.

BIS has redesigned the legacy SNAP system to enhance security, support electronic submission of supporting documents and provide increased functionality. BIS currently receives approximately 85% of all submissions electronically through the new SNAP-R system. SNAP-R is located at: <https://snapr.bis.doc.gov/>

4. Describe efforts to identify duplication.

The information required by this collection is unique to each application. 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.

BIS is sensitive to the needs of small businesses; however this collection must be conducted by all affected entities to ensure full compliance with the EAR. The information required must be submitted by exporters or their designated agents, regardless of size. 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.

If TSRA collections were less frequent or were not conducted, BIS would not be able to meet its statutory responsibilities under the TSRA.

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 a copy of 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 in the Federal Register on May 7, 2008, (Vol. 73, p. 25647). No comments were received.

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

There are no plans to provide payments or gifts to respondents.

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.

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.

There are no questions of a sensitive nature.

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

According to a data base search of the BIS ECASS system, BIS received 167 AGR notifications in calendar year 2007, requiring 58 minutes per notification to complete.

167 responses X 58 minutes = 161 hours

The cost to the public to complete the collection is estimated to be \$4,830 based on 161 hours at a personnel cost of \$30 per hour.

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 #12 above).

Not applicable.

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

The estimated annual cost to the Federal Government is \$10,020 per year. This is based on a licensing officer requiring 1 hour and 30 minutes to review 167 notifications (approximately 251 hours) at \$40 an hour.

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB 83-I.

This is an adjustment decrease based on calendar year 2007 data obtained from the ECASS.

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 identified in Item 19 of the OMB 83-I.

Not applicable.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not utilize statistical methods.