

**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 request to consolidate ten BIS collections involving a licensing exception or exclusion under a new single information collection authority.

**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 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. 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. Exporters may choose to utilize the license exception and accept the reporting or 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 exporters to ship items quickly, without having to wait for license approval. This has also created ten small collections involving these license exceptions and exclusions.

These collections are designed to reduce export licensing burden. It is up to the individual company to decide whether it is most advantageous to continue to submit license applications or to comply with the reporting or recordkeeping requirements and take advantage of the licensing exception or exclusion.

The following table identifies all 10 existing BIS information collections that involve license exceptions or exclusions.

<b>Control No. 0694</b>	<b>Collection Title</b>	<b>Responses</b>	<b>Hours</b>	<b>Exception/ Exclusion</b>
<b>-0023</b>	Written Assurances for Exports of Technical Data Under License Exception TSR	500	258	TSR
<b>-0025</b>	Short Supply – Unprocessed Western Red Cedar	35	35	WRC
<b>-0029</b>	License Exception TMP: Special Requirements	3	1	TMP
<b>-0033</b>	Humanitarian Donations	2	10	GFT
<b>-0086</b>	Report of Sample Shipments of Chemical Weapons Precursors	28	16	NLR
<b>-0101</b>	One-time Report For Foreign Software or Technology Eligible For De Minimis Exclusion	237	5,925	De Minimis
<b>-0104</b>	Commercial Encryption Items Under the Jurisdiction of the Department of Commerce	940	8,090	ENC, KMI, TSU
<b>-0106</b>	Recordkeeping Requirements Under the Wassenaar Arrangement	210	20	LVS, GBS, CIV, CTP, TSR, GOV
<b>-0123</b>	Prior Notification of Exports Under License Exception AGR	167	161	AGR
<b>-0133</b>	Thermal Imaging Camera Reporting	60	60	NLR
	<b>TOTALS</b>	<b>2,182</b>	<b>14,576</b>	

The purpose of this collection is to consolidate all BIS license exceptions and exclusions into a single collection authority. All future exceptions or exclusions may be more easily implemented as amendments to this collection, rather than as new information collection authorities. This consolidation will also reduce the personnel costs and Federal Register notice publication costs associated with renewing 10 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.**

Exporters may take advantage of licensing exceptions and exclusions to avoid the time and expense of submitting an individual validated export license. If they elect to do this, the licensing requirement is replaced by a reporting and/or recordkeeping requirement. In most cases, the reporting is only periodic and the commodity or technology may be exported without the delays normally associated with obtaining an individual validated export license.

This information is used by BIS and other Governmental agencies 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.

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

A summary of each of the 10 collections is provided in the following table.

<b>Control No. 0694</b>	<b>Collection Title</b>	<b>Description Of Export License Exception of Exclusion</b>
<b>-0023</b>	Written Assurances for Exports of Technical Data Under License Exception TSR (Technical Data Restricted)	Software and technical data may be exported to certain countries without an individual validated export license under license exception TSR, if the exporter first obtains written assurance from the importer that they will not reexport that technology or software to certain destinations without prior approval.
<b>-0025</b>	Short Supply - Unprocessed Western Red Cedar (WRC)	Unprocessed Western Red Cedar not harvested from State or Federal lands may be exported under license exception WRC, if the exporter obtains and retains documentation that the timber was not harvested from State or Federal lands.
<b>-0029</b>	License Exception TMP: Special Requirements (Temporary Exports)	Sophisticated news-gathering equipment and software may be exported to any destination without an individual validated export license under license exemption TMP if the exporter first sends a packing list of the exported commodities to BIS, along with destinations and estimated dates. The 12-month time limit for TMP may be extended by submitting a license application.

<b>Control No. 0694</b>	<b>Collection Title</b>	<b>Description Of Export License Exception of Exclusion</b>
<b>-0033</b>	Humanitarian Donations	Donations to meet basic human needs may be exported to any destination under license exception GFT (gift) if the exporter retains records of the donor program, the recipients, the distribution program, and funding sources.
<b>-0086</b>	Report of Sample Shipments of Chemical Weapons Precursors	Chemical samples may be exported to certain destinations in small quantities without a license (NLR, no license required), if the exporter submits quarterly reports on the chemicals exported, quantity, names and addresses of recipients and the dates shipped.
<b>-0101</b>	One-time Report for Foreign Software or Technology Eligible for De Minimis Exclusion	Reexports of foreign technology commingled with controlled U.S. origin technology valued at 10% or less of the total value of the foreign technology may be exported under license exceptions De Minimus, if the foreign reexporter first submits a one-time report to BIS.
<b>-0104</b>	Commercial Encryption Items Under the Jurisdiction of the Department of Commerce	Commercial encryption items under Commerce jurisdiction may be exported under license exceptions ENC (encryption), KMI (key management infrastructure), and TSU (technology and software unrestricted), if the exporter submits semi-annual reports and/or submits documentation/notifications to BIS.
<b>-0106</b>	Recordkeeping Requirements Under the Wassenaar Arrangement	Items controlled for national security purposes under the Wassenaar Arrangement may be exported under license exceptions LVS (limited value shipments), GBS (Country Group B shipments), CIV (civil end user), CTP (computers), TSR (technology and software under restriction), and GOV (government end user), if the exporter complies with certain recordkeeping and reporting requirements.
<b>-0123</b>	Prior Notification of Exports Under License Exception AGR	Exports and reexports of agricultural (AGR) items to Cuba may be made under license exception AGR, if the exporter first submits prior notification of the export to BIS and no objection is raised by a Government agency.
<b>-0133</b>	Thermal Imaging Camera Reporting	Exports of certain thermal imaging cameras may be made under NLR, if the exporter provides BIS with semi-annual reports on these exports.

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.**

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.

**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, a company may not utilize the license exception or exclusion and must continue to submit individual validated export licenses to the Department.

**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 in the Federal Register on December 14, 2009, p. 66086. 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.**

The total estimated annual burden for this collection is **14,576 hours**. The estimated annual cost is **\$510,160** (14,576 x \$35 hour).

The table in Question 1 summarizes the estimated number of responses and burden hours associated with each licensing exception or exclusion. Each of these existing collections will be represented by one or more IC's under the new consolidated ICR.

**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.**

BIS estimates the cost to the Federal Government as follows, using a flat loaded personnel rate of \$40 per hour:

<b>Control No.</b>	<b>Collection Title</b>	<b>Cost</b>
<b>0694</b>		
<b>-0023</b>	Written Assurances for Exports of Technical Data Under License Exception TSR	0
<b>-0025</b>	Short Supply – Unprocessed Western Red Cedar	0
<b>-0029</b>	License Exception TMP: Special Requirements	0
<b>-0033</b>	Humanitarian Donations	0
<b>-0086</b>	Report of Sample Shipments of Chemical Weapons Precursors	175
<b>-0101</b>	One-time Report For Foreign Software or Technology Eligible For De Minimis Exclusion	2,963
<b>-0104</b>	Commercial Encryption Items Under the Jurisdiction of the Department of Commerce	59,200
<b>-0106</b>	Recordkeeping Requirements Under the Wassenaar Arrangement	292
<b>-0123</b>	Prior Notification of Exports Under License Exception AGR	10,020
<b>-0133</b>	Thermal Imaging Camera Reporting	2,400
	<b>Estimated Total Annual Cost to Federal Govt.</b>	<b>\$75,050</b>

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

There are no program changes or adjustments.

**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.