

SUPPORTING STATEMENT
U.S. Department of Commerce
Bureau of Industry and Security
Import, End-User, Delivery Verification Certificates
and Firearms Entry Clearance Requirements
OMB CONTROL NO. 0694-0093

A revision to this IC is requested to incorporate the collection of information, and increased burden hours, due to the publication of a final rule for articles which the President has determined no longer warrant control under United States Munitions List (USML) Category I – Firearms, Close Assault Weapons and Combat Shotguns; Category II – Guns and Armament; and Category III – Ammunition/Ordnance, that will be controlled on the Commerce Control List (CCL) of the Export Administration Regulations (EAR). As BIS oversees the CCL, burden hours are expected to increase due to the additional license applications and other activities related to regulating these items under the EAR. BIS feels that this collection of information fits within the scope of this IC.

A. JUSTIFICATION

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

This collection is necessary under §§ 748.9, 748.10, 748.12, 748.14, Part 748 Supplement No. 5, 758.10, 762.5(d), 762.6, 764.2(g)(2), and of the Export Administration Regulations (EAR).

The Export Control Reform Act of 2018 (ECRA) (Title XVII, Subtitle B of Pub. L. 115-232), authorizes the President and the Secretary of Commerce to issue regulations to implement ECRA, including its provisions authorizing control of the export, reexport, or in-country transfer of items subject to U.S. jurisdiction, and of activities of U.S. persons related to certain nuclear, missile, chemical, biological, or foreign military intelligence activity, as well as its provision prohibiting U.S. persons from participating in certain foreign boycotts. Export control authority, including the authority to require and obtain information necessary to carry out ECRA, has been assigned directly to the Secretary of Commerce by the ECRA. This authority is administered by the Bureau of Industry and Security (BIS) through the EAR. ECRA provides the legal basis for BIS's principal authorities and serves as the authority under which BIS issues the final rule referenced above and collects this information. As set forth in § 1768 of ECRA, all delegations, rules, regulations, orders, determinations, licenses, or other forms of administrative action that had been made, issued, conducted, or allowed to become effective under the Export Administration Act of 1979 (50 U.S.C. 4601 et seq.) (as in effect prior to August 13, 2018 and as had been continued in effect pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), or the Export Administration Regulations, and that were in effect as of August 13, 2018, continue in effect according to their terms until modified, superseded, set aside, or revoked under the authority of ECRA.

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.

Sections 748.9; 748.10; 748.12; 758.10, Supplement No. 5, 762.5(d); 762.6; 764.2(g)(2) of the EAR codifies the how, who, frequency and purpose of this collection. These sections of the EAR have been uploaded into ROCIS.

This collection of information addresses three activities: (1) Import Certificates/End Use Certificates, (2) Delivery Verification, and (3) Firearms Entry Clearance Requirements. An explanation of each follows:

Import Certificates or End-User Certificates - There are a variety of Import Certificates or End-User Certificates (IC/EUC) currently in use by various foreign governments. The IC/EUC is obtained by the foreign importer and transmitted to the U.S. exporter (applicant). They are issued by the government of the country of ultimate destination to exercise legal control over the disposition of the items covered by the IC/EUC. The control exercised by the government issuing the IC/EUC is in addition to the conditions and restrictions placed on the transaction by BIS. Section 748.10 describes exceptions and relationships applicable to People's Republic of China (PRC) End-User Statement, and is required for license applications including any of the commodities identified in § 748.10(a)(1), (a)(2), or (a)(3) destined for the PRC.

Under § 748.12, unless an exception in § 748.9(c) applies, a Firearms Convention (FC) Import Certificate is required for license applications for firearms and related commodities, regardless of value, that are destined for member countries of the Organization of American States (OAS). The firearms and related commodities subject to this requirement in § 748.12 are those commodities controlled for "FC Column 1" reasons under ECCNs 0A501 (except 0A501.y), 0A502, 0A504 (except 0A504.f) or 0A505 (except 0A505.d). Section 748.12(e) imposes a requirement to obtain an import certificate or permit for other than OAS member states, when the country to which firearms, parts, components, accessories, and attachments controlled under ECCN 0A501, or ammunition controlled under ECCN 0A505, are being exported or reexported requires that a government-issued certificate or permit be obtained prior to importing the commodity. Under § 748.12(e), the exporter or reexporter must obtain and retain on file the original or a copy of that certificate or permit before applying for an export or reexport license unless one of the exclusions under paragraph (e)(1), (e)(2), or (e)(3) applies.

Delivery Verification - The Delivery Verification Certificate (DV) is required by BIS as part of its export control program. It is requested on a selective basis, using Form BIS-647P, Delivery Verification Certificate. The requirement for a DV is stated in the conditions of an approved export license. The license holder is responsible for having the ultimate consignee complete the BIS-647P, Delivery Verification Certificate Form when the goods are delivered.

BIS uses the DV procedure on an "as needed" basis. The DV is usually required when there is suspicion of violation of the EAR. Therefore, if the exporter cannot supply the DV, BIS must be

notified to determine if an exception is legitimate. Otherwise, the exporter would be in violation of the EAR.

Firearms Entry Clearance Requirements - This entry clearance requirement is necessary due to the changes by the President in determining that certain items no longer warrant control under United States Munitions List (USML) Category I – Firearms, Close Assault Weapons and Combat Shotguns; Category II – Guns and Armament; and Category III – Ammunition/Ordnance would be controlled under the Commerce Control List (CCL). As the State Department previously collected this same type of information, the Department of Commerce controls the CCL and must now take over this collection of information. Section 758.10, “*Entry clearance requirements for temporary imports,*” (referred to in this supporting statement as “Firearms Entry Clearance Requirements” for ease of reference) will specify the EAR procedures for temporary imports and subsequent exports. Paragraph (b)(1) will require at the time of entry into the U.S. the temporary importer must:

(i) Provide one of the following three statements to the satisfaction of U.S. Customs and Border Protection:

“This shipment is being temporarily imported in accordance with the EAR. This shipment will be exported in accordance with and under the authority of License Exception TMP (15 CFR 740.9(b)(5));”

“This shipment is being temporarily imported in accordance with the EAR. This shipment will be exported in accordance with and under the authority of License Exception RPL (15 CFR 740.10(b));” or

“This shipment is being temporarily imported in accordance with the EAR. This shipment will be exported in accordance with and under the authority of BIS license number (provide the license number) (15 CFR 750.7(a) and 758.4);”

(ii) Provide to U.S. Customs and Border Protection an invoice or other appropriate import-related documentation (or electronic equivalents) that includes a complete list and description of the firearms being temporarily imported, including their model, make, caliber, serial numbers, quantity, and U.S. dollar value;

(iii) Provide (if temporarily imported for a trade show, exhibition, demonstration, or testing) to U.S. Customs and Border Protection the relevant invitation or registration documentation for the event and an accompanying letter that details the arrangements to maintain effective control of the firearms while they are in the United States; and

(iv) Provide (if temporarily imported for servicing or replacement) to U.S. Customs and Border Protection the name, address and contact information (telephone number and/or email) of the organization or individual in the U.S. that will be receiving the item for servicing or replacement).

Paragraph (b)(2) of § 758.10 will require at the time of export, in accordance with the U.S. Customs and Border Protection procedures, the eligible exporter, or an agent acting on the filer's behalf, must as required under § 758.1(b)(10) of the EAR file the export information with CBP by filing EEI in AES, noting the applicable EAR authorization as the authority for the export, and provide upon request by CBP, the entry document number or a copy of the CBP document under which the "item" subject to the EAR" on the USMIL was temporarily imported. See also the additional requirements in § 758.1(g)(4).

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.

The International Import Certificate (BIS-645P) and Delivery Verification Certificate (BIS-647P) are available and can be submitted via the Internet on the BIS web site: www.bis.doc.gov. The documentation required pursuant to the Firearms Entry Clearance Requirements in § 758.10 will be submitted to U.S. Customs and Border Protection at the time of temporary import and subsequent export.

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 when applying for an export or reexport license must be submitted by exporters or their designated agents, regardless of size. This procedure, as part of the EAR, is governed by national security, foreign policy and proliferation of weapons of mass destruction requirements. The information required for the entry clearance requirements for temporary imports of certain firearms is necessary to preserve the treatment of temporary import transactions for items that will transfer from the USML in the ITAR to become subject to the EAR. To allow such items to temporarily enter the U.S., this final rule imposes a process to collect identifying information for the sole purpose of tracking items being temporarily imported for subsequent export. BIS does not impose a license requirement for such imports, but this information is necessary to facilitate the export after a temporary import. 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.

Conducting this collection less frequently would be a violation of the EAR. It would also jeopardize the policy objectives of the United States, as enumerated in ECRA.

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, August 27, 2020 (85 FR 52949). No public 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 and other similar information submitted to or obtained by the Department is protected from release to the public under Section 1761(h) of the ECRA.

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 hours for this collection will increase to 1,631 due to a program change described in paragraph 15. This estimate is based on a search of the BIS Export

Control Automated Support System (ECASS) database, and the estimated burden hours from the Firearms Entry Clearance Requirements that took into account past activity under the USML for temporary imports for items moved to the CCL.

BIS receives an estimated 5,444 Import and 208 End-User Certificates annually. Based on an average time of 15 minutes for preparing each IC/EUC response, the annual burden for this portion of the collection is 1,413 hours (5,652 x 15 minutes = **1,413 hours**).

The annual recordkeeping requirement for IC/EUCs is based on an average time of one minute for filing each response. The recordkeeping burden for this portion of the collection is 94 hours (5,652 x 1 minute = **94 hours**).

When a U.S. exporter must notify BIS of changes in representations, statements and certifications, the notification procedure requires approximately 30 minutes. Since BIS receives about 200 such requests a year, it is estimated that this procedure amounts to 100 hours (200 x 30 minutes = **100 hours**).

There are approximately 20 requests for exception to the IC procedure annually. Each request takes about 30 minutes to prepare for a total of **10 hours**.

BIS estimates 1 DV which requires about 15 minutes to complete for a total estimated burden of **0.25 hour**.

There is an average of only one request for exception to the DV procedure per year. This request also takes about **30 minute** to prepare.

Based on estimates from previous years' collections from the State Department, an estimated burden of 3 minutes per an estimated 250 Firearms Entry Clearance Requirements, is expected to increase this information collection by **12.5 hours**.

This information is summarized in the table below:

Activity	Burden	Number	Total Hours
IC/EUC	15 min.	5,652	1,413
IC/EUC Recordkeeping	1 min.	5,652	94
IC/EUC Changes	30 min.	200	100
IC/EUC Exception Requests	30 min.	20	10
DVC's	15 min.	1	0.25
DV Exception Requests	30 min.	1	0.5
Firearms Entry Clearance Requirements	3 min.	250	12.5
Total			1630.25

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 cost to respondents.

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

The estimated annual cost of the Import Certificate and Delivery Verification procedures, and reviewing the Firearms Entry Clearance Requirements is based on an average time of 5 minutes to record each of the 5,874 import and delivery verification items and review 250 firearms entry clearance requirements at an average salary of \$37 per hour equaling \$18,882 annually.

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

A final rule will be published describing how articles the President has determined no longer warrant control under United States Munitions List (USML) Category I – Firearms, Close Assault Weapons and Combat Shotguns; Category II – Guns and Armament; and Category III – Ammunition/Ordnance. This rule states that these items will be controlled under the Commerce Control List (CCL) as of the effective date of the final rule. As BIS oversees the CCL, burden hours are expected to increase by 12.5 hours due to the addition of the Firearms Entry Clearance Requirements for temporary import and subsequent export under License Exception TMP, RPL or BIS licenses.

Temporary imports are transactions that include both the temporary entry of an item into the U.S. from a foreign country and the subsequent export of that item from the U.S. To preserve temporary imports for items in this rule that transfer from the USML in the ITAR to the EAR, and to maintain some consistency with State Department temporary imports administration under the ITAR, BIS in the final rule needed to create a process under the EAR to impose entry clearance requirements for temporary imports of such items based on BIS’s authorities over U.S. exports. This new requirement will be limited to items that are both “subject to the EAR” and on the USMIL in 27 CFR § 447.21. To allow such items to temporarily enter the U.S., this final rule creates a process to collect identifying information for the sole purpose of tracking items being temporarily imported for subsequent export. BIS will not impose a license requirement for such imports, but this information will be necessary to facilitate the subsequent export under License Exceptions TMP, RPL and BIS licenses. .

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.