

**SUPPORTING STATEMENT**  
**U.S. Department of Commerce**  
**Bureau of Industry and**  
**Security**  
**Miscellaneous Licensing Responsibilities**  
**and Enforcement**  
**OMB Control No. 0694-0122**

A change to this IC is requested to incorporate the collection of information, and increased burden hours, due to the publication of the final rule, *Temporary General License: Extension of Validity, Clarifications to Authorized Transactions, and Changes to Certification Statement Requirements*. This final rule will impose requirements on exporters, reexporters, and transfers to obtain a certification statement from listed entities prior to receiving items under a temporary general license under the Export Administration Regulations (EAR).

As BIS oversees the EAR, burden hours are expected to increase due to the large number of certification statements 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.**

The Export Control Reform Act of 2018 (ECRA) (50 U.S.C. 4801-4852), as amended, 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.

This collection of information involves nine miscellaneous activities (now ten with the additional miscellaneous activity being added to this collection described below) described in section Sections 744.15(b), Part 744 Supplement No. 7, paragraph (d), § 748.4 and Part 758 of the EAR that are associated with the export of items controlled by the Department of Commerce. Most of these activities do not involve submission of documents to the BIS but instead involve exchange of documents among parties in the export transaction to insure that each party understands its obligations under U.S. law. Others involve writing certain export control statements on shipping documents or reporting unforeseen changes in shipping and disposition of exported commodities. The specific responsibilities are described more fully in the answer to Question 2. These activities are needed by the Office of Export Enforcement and the U.S. Customs Service (Customs) to document export transactions, enforce the EAR and protect the National Security of the United States.

This collection is being expanded to add a tenth miscellaneous activity *under* the EAR that is associated with the export, reexport, and transfer (in-country) of items controlled by the Department of Commerce where information will be collected under this collection. Similar to several of the other activities under this existing collection, the new activity will not involve submission of documents to BIS but instead involve the exchange of a document (a certification statement) among parties in certain export, reexport, or in-country transfer transactions to insure that each party understands its obligations under U.S. law, in this instance as it relates to complying with the terms of a temporary general license under the EAR.

#### Background on the addition of Huawei and the temporary general license

On May 16, 2019, Huawei Technologies Co., Ltd. (Huawei) and sixty-eight of its non-U.S. affiliates were added to the Entity List in Supplement No. 4 to part 744 of the EAR. Their addition to the Entity List imposed a licensing requirement under the EAR regarding the export, reexport, or transfer (in-country) of any item subject to the EAR to any of these 69 listed Huawei entities. The Entity List-based licensing requirement applied in addition to any other license requirement, if any, applicable under the EAR to the transaction in question. On May 22, 2019, the Bureau of Industry and Security (BIS) published a temporary general license, effective May 20, 2019, that modified the effect of the listing in order to temporarily authorize engagement in certain transactions, involving the export, reexport, or transfer (in-country) of items subject to the EAR to the 69 listed Huawei entities.

#### **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.**

This package supports the collection of various documents, notifications, reports, and information exchanges that are needed by the Office of Export Enforcement and Customs to enforce the EAR and maintain the National Security of the United States.

- a. **Assumption of Responsibility in Writing. (758.3(b) of the EAR):** For most export transactions, the EAR make the U.S. principal party in interest (typically the U.S. seller) responsible for determining whether a license is required and for obtaining any required licenses. In the case of routed transactions (transactions where the foreign principal party in interest selects the freight forwarder and instructs the U.S. seller to ship to that forwarder), the EAR allow the parties to shift responsibility for determining license requirements and obtaining any needed licenses to the foreign principal party interest, making the U.S. agent of the foreign principal party in interest the exporter for purposes of the EAR. Under the EAR, this shift is effective only if the foreign principal party in interest expressly assumes these responsibilities in writing and gives that writing to the U.S. principal party in interest. One writing may cover as many shipments as the parties elect to cover. The requirement to deliver a written assumption of responsibility is necessary to avoid ambiguity over the issue of whether the parties elected to depart from standard EAR provisions that place these responsibilities on the U.S. principal party in interest.
- b. **Information Sharing Requirements. (758.3(c) of the EAR):** In routed export transactions where the foreign principal party in interest assumes responsibility for determining license requirements and for obtaining licenses through its U.S. agent, the U.S. principal party in interest must, upon request, provide the foreign principal party in interest and its forwarding or other agent with the Export Control Classification Number (ECCN), or with sufficient technical information to determine the ECCN of the item to be exported. In addition, the U.S. principal party in interest must provide the foreign principal party in interest or the foreign principal agent any information that it knows will affect the determination of license requirements. This information can be transmitted electronically, orally, or by other conventional means as often as is requested with respect to the ECCN, or as often as the U.S. principal party in interest has knowledge that will affect the determination of the license in routed transactions. This information sharing requirement is necessary because the foreign principal and/or its agent has taken on the responsibility for license requirements without necessarily having all the information necessary to make a license determination or obtain a license. The sole source of this information in most cases is the U.S. principal party in interest.
- c. **Power of attorney or other written authorization. 748.4(b) and 758.1(h):** A person who acts as an agent, applicant or exporter for a Foreign Principal Party in Interest and a person who acts as an agent for a U.S. Principal Party in Interest must obtain a power of attorney or other written authorization as evidence of its authority. Requiring written evidence of authority is necessary to prevent uncertainty regarding the authority of persons who submit license applications to the government on behalf of others.
- d. **Procedures for unscheduled unloading. 758.5(e):** Unloading in a country where a license is required. When, due to unforeseen circumstances, items are unloaded

in a country in which they were not scheduled to be unloaded and to which the items would require a license, the EAR require that the carrier take steps to prevent those items from entering the economy of that country and to notify the exporter in sufficient time that the exporter will be able to notify BIS within 10 days of the unscheduled unloading, report the facts to, and request authorization for disposition from, BIS using mail, fax, or E-mail. The report to BIS must include a copy of the manifest of the diverted cargo and identify the place of unloading. The report must also propose a disposition of the items and request authorization for such disposition from BIS.

This collection is needed so that BIS may review the facts and determine whether to authorize the proposed disposition of the items under applicable licensing policies.

- e. **Return or Unloading at Direction of U.S. Dept. of Commerce (758.8 of the EAR)**: Background: Where there are reasonable grounds to believe that a violation of the EAR has occurred or will occur with respect to a particular export from the U.S., BIS or any U.S. Customs officer may order any person in possession or control of such shipment to return or unload the shipment. Such person shall, as ordered, either:

(1) Return the shipment to the U.S., or

(2) Unload the shipment at a port of call and take steps to assure that it is placed in custody under bond or other guaranty not to enter the commerce of any foreign country without prior approval of BIS.

**Notification:** Upon discovery that a violation of the EAR has occurred or will occur with respect to a shipment on board, or otherwise in the possession or control of the carrier, such person shall immediately notify by any means both:

- (1) Office of Export  
Enforcement U.S.  
Department of Commerce  
Room 4520  
14<sup>th</sup> Street and Constitution Ave.  
N.W. Washington, D.C. 20230  
Telephone (202) 482-0694  
Facsimile (202) 482 0964; and

(2) The person in actual possession or control of the shipment.

This collection is necessary to allow the Office of Export Enforcement to evaluate the facts in a timely manner to determine the appropriate disposition of the items involved.

- f. **Destination Control Statement (758.6 of the EAR):** The Destination Control Statement (DCS) must be entered on the commercial invoice that accompanies the shipment from its point of origin in the United States to the ultimate consignee or end-user abroad. The person responsible for preparation of those documents is responsible for entry of the DCS. The DCS is required for all exports from the United States of items on the Commerce Control List that are not classified as EAR99, unless the export may be made under License Exception BAG or GFT (see part 740 of the EAR). At a minimum, the DCS must state: These items are controlled by the U.S. Government and authorized for export only to the country of ultimate destination for use by the ultimate consignee or end-user(s) herein identified. They may not be resold, transferred, or otherwise disposed of, to any other country or to any person other than the authorized ultimate consignee or end-user(s), either in their original form or after being incorporated into other items, without first obtaining approval from the U.S. government or as otherwise authorized by U.S. law and regulations.

The DCS is a preventive enforcement measure to remind the public that the goods covered by a document that contains the DCS are controlled for export by the U.S. Government and if they plan to export or re-export it they should look at the EAR to make sure they are in compliance.

- g. **Notation on Export Documents for Exports Exempt from SED Requirements. (758.1(d) of the EAR):** When an exemption from filing the Shipper's Export Declaration applies, the forwarding or other agent must include on the bill of lading, air waybill, or other loading document the export authority of the items, i.e., the appropriate License Exception symbol or "NLR," No License Required designator. This notation applies to any bill of lading or other loading document, including one issued by a consolidator (indirect carrier) for an export included in a consolidated shipment. However, this requirement does not apply to a master bill of lading or other loading document issued by a carrier to cover a consolidated shipment. The bill of lading or other loading document must be available for inspection along with the items prior to lading on the carrier.

This notation provides an indication to the U.S. Government that the shipper of the items is aware of the Export Administration Regulations and the requirements of the regulations, and provides a preliminary indication of whether the export is being made in compliance with the regulations.

- h. **Issuance of License, Responsibility of the Licensee. (750.7(d) of the EAR):** It is the licensee's responsibility to communicate the specific license conditions to the parties to whom those conditions apply. In addition, when required by the license, the licensee is responsible for obtaining written acknowledgment(s) of receipt of the conditions from the parties to whom those conditions apply.

This requirement is needed to document that the consignees and end users of exports made pursuant to licenses are informed of any conditions. Typically, the government has dealt directly with the licensee, but not the consignee or end user. In addition, because the timing of the shipment is not up to the government, the licensee is in a better position than the government to convey this information to the consignee.

**i. Certification statement under temporary general license. (Supplement No. 7 part 744, paragraph (d)):**

In the above referenced final rule, the U.S. Government, has decided to revise the temporary general license by changing which party to the transaction is required to create the certification statement by requiring that the exporter, reexporter, or transferor obtain a certification statement from the pertinent Huawei listed entity prior to using the temporary general license, along with other changes being made in that rule, such as to the validity date of the temporary general license.

Paragraph (d) in Supplement No. 7 to part 744 will specify the EAR procedures for certification statements under the temporary general license.

The above referenced final rule will revise paragraph (d) (Certification statement) to remove the requirement under paragraph (d) for the exporter, reexporter, or transferor to create a basic certification statement indicating the export, reexport, or transfer (in-country) was going to be done in accordance with the temporary general license and adds in its place a more detailed requirement under paragraph (d) that the exporter, reexporter, or transferor obtain a certification statement and any additional support documentation needed to substantiate the certification statement from the listed Huawei entity that is to receive the items. The certification statement must be obtained from the pertinent Huawei entity prior to exporting, reexporting, or transferring (in-country) any item under the temporary general license.

The referenced rule also revises paragraph (d)(1) to add a recordkeeping requirement to specify that the exporter, reexporter, or transferor and the pertinent Huawei entity are each responsible for retaining the certification statement and any additional support documentation needed to substantiate the certification statement for purposes of the EAR recordkeeping requirements under part 762.

New paragraph (d)(1) describes the general requirements for the certification statement, *e.g.*, that the certification statement must be in writing and must be obtained by the exporter, reexporter, or transferor prior to the export, reexport, or transfer (in-country) that is being made under the temporary general license. New paragraph (d)(1) also describes the types of documentation that is needed in order to confirm whether the criteria of paragraph (c)(1) are met when an export, reexport, or transfer (in-country) is in

support of a ‘fully operational network.’

The referenced final rule adds paragraphs (d)(1)(i)-(v) to specify the information that must be included in the certification statement. Paragraph (d)(1)(i) requires identifying the Huawei entity receiving the items and making the certification statement, and paragraph (d)(1)(ii) requires identifying the items and quantity thereof (for tangible shipments of commodities and software) involved. The Huawei entity must also certify in a single certification statement that: under paragraph (d)(1)(iii), the end-use of the items to be received will be for an end-use within the scope of a specified authorizing paragraph under paragraph (c) of the temporary general license; under (d)(1)(iv), the entity will comply with the recordkeeping requirements in part 762, including by providing copies of the certification statements and all other records required under the EAR to any authorized agent, official, or employee of BIS, the U.S. Customs Service, or any other agency of the U.S. Government as required in § 762.7; and under (d)(1)(v), the individual signing the certification statement has sufficient authority to legally bind the entity.

This final rule also adds a new paragraph (d)(2) (Certification statements may be used for multiple exports, reexports, and transfers (in-country)) to clarify that certification statements obtained under paragraph (d)(1) may be used for multiple exports, reexports, or transfers (in-country) of the same item(s) under the temporary general license provided the information included in the certification statement is still accurate for those additional exports, reexports, or transfers (in-country). New paragraph (d)(2) specifies that if multiple exports, reexports, or transfers (in-country) are made against the same certification statement obtained under paragraph (d)(1), the exporter, reexporter, or transferor relying on that certification statement must maintain a log or other similar record that identifies each item and the quantity thereof for each export reexport, or transfer (in-country) made against that specific certification statement. Lastly, paragraph (d)(2) requires the log or other similar record be retained in accordance with the part 762 recordkeeping requirements.

**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 following collections involve the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology:

- a. **Assumption of Responsibilities in Writing.** This writing may be transmitted via fax or e-mail from the foreign principal party in interest to the U.S. principal party in interest. This decision was made to accommodate the fast pace of the business

community to process orders.

- b. Information sharing requirements.** This writing may be transmitted electronically via fax, or e-mail. This decision was made to accommodate the fast pace of the business community to process orders.
- c. Power of attorney or other written authorization.** This writing may be transmitted via fax, or e-mail. This decision was made to accommodate the fast pace of the business community to process orders.
- d. Procedures for unscheduled unloading.** This writing may be transmitted via fax, or e-mail. This decision was made to accommodate the fast pace of the business community to process orders.
- e. Return or Unloading at Direction of U.S. Department of Commerce.** This writing may be transmitted via fax. This decision was made to accommodate the fast pace of the business community to process orders.
- f. Destination Control Statement.** Completion of the DCS can be done through automation. The DCS can also be preprinted on documents requiring the information.
- g. Notation on export documents for exports exempt from SED requirements. (758.1(d) of the EAR):** This must appear on paper documents that accompany the shipment and cannot be provided electronically
- h. Exports by U.S. Mail (758.1(i) of the EAR):** This must appear on paper documents that accompany the shipment and cannot be provided electronically
- i. Issuance of License, Responsibility of the licensee.** This writing may be transmitted via fax, or e-mail. This decision was made to accommodate the fast pace of the business community to process orders.
- j. Certification statement for use of temporary general license.** The certification statement does not use an established form. The regulatory requirement in paragraph (d) of Supplement No. 7 to part 744 will specify what needs to be included in the certification statement and when the certification statement needs to be exchanged between the consignee receiving items under the temporary general license and the exporter, reexporter, or transferor, but the mode of transmission may be done in hard copy or electronic form, *e.g.*, by email or fax. The certification statement and other documentation required pursuant to the certification statement in paragraph (d) of Supplement No. 7 to part 744 will be submitted to the exporter, reexporter, or transferor from the ultimate consignee after it create the certification statement.



**4. Describe efforts to identify duplication.**

This information is not duplicated elsewhere. Each collection provides information concerning specified details of individual export transactions. This information is not available from any source other than from the respondents.

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

This recordkeeping requirement must be adhered to by all affected parties regardless of the size of the business. The failure to keep this writing would not assure the necessary control of exports as required by export regulations. The information required for the certification statement requirements for use of the temporary general license is necessary for the ultimate consignee to create and for the exporter, reexporter, or transferor to obtain in order for each party to the transaction to document that the export, reexport, or transfer (in-country) will be made under the temporary general license and is aware of the requirements of receiving items under the temporary general license.

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

The consequences to Export Enforcement and Compliance if the collection is not conducted or conducted less frequently, are as follows:

- a. **Assumption of responsibilities in writing.** If the assumption of responsibilities in writing were not required then the likelihood of illegal exports would increase, as a result of not requiring the parties to confirm who is responsible for determining license requirements and obtaining the license. The frequency of the writing is decided between the principal parties in interest, which satisfies the regulatory requirement as long as it covers all routed transactions where the foreign principal party in interest has taken on these responsibilities.
- b. **Information sharing requirements.** Without this collection forwarding and other agents would be forced to either delay exports, guess, research to obtain the information, or leave the information blocks empty. This information is necessary to enable the foreign principal or its forwarding or other agents to make correct license determinations, apply for licenses, and correctly and completely prepare and file export documents. Compliance with export regulations is impossible without having the Export Control Classification Number (ECCN) of the item being exported. The ECCN must be known for each item being exported. The frequency is dependent upon the how often the foreign principal or its agent makes the request of this information to the U.S. principal. To alleviate some of the burden on the U.S. principal in having to provide this information for every transaction, the requirement triggered upon request of the foreign principal or its agent, because the

foreign principal or its agent may already have the ECCN from previous transactions or being very familiar with the product.

- c. Power of attorney or other written authorization.** The consequences of not requiring this collection is lack of communication between parties, confusion about who is responsible for obtaining a license, increased violations of the EAR, and lack of evidence to prosecute violators. The power of attorney or other written authorization assures that the principal has communicated to the agent that it is being hired and authorized to apply for a license on behalf of the principal. Since a foreign person cannot apply for a license, the need to establish who is responsible for this task in the United States is essential to export enforcement. One authorization may cover many transactions, as long as all transactions for which an agent acts on behalf of another party is covered. Therefore, frequency is determined by the parties.
- d. Procedures for unscheduled unloading.** The consequences of not requiring the public to notify BIS and the exporter of the unscheduled unloading of sensitive items that are controlled for export on the Commerce Control List of the EAR, is that the items could be diverted, presenting a national security risk to the United States. It is important that BIS be notified quickly so that acceptable permanent disposition of the items may be arranged as soon as possible. The longer the delay, the higher the risk of theft or erroneous movement of the items. This notification and reporting requirement could not be done less frequently, as it would pose a high risk of diversion of national security or foreign policy controlled items.
- e. Return or unloading at direction of U.S. Department of Commerce notification of violation:** It is important that BIS be notified by an exporting carrier of a violation so that acceptable disposition of the items may be arranged as soon as possible. This notification and reporting requirement could not be done less frequently, as it would pose a high risk of diversion of national security or foreign policy controlled items.
- f. Destination Control Statement (DCS).** The DCS is a reminder to all parties that are involved in a transaction that includes items controlled for export by the EAR, that the transaction must be in compliance to the EAR. If it were required less frequently or not at all, then more items would be subject to higher risk of diversion and an increase in illegal exports and re-exports would take place.
- g. Notation on export documents for exports exempt from SED requirements.** This notation must be required for all exports exempt from SED requirements to ensure that the exporter has determined the appropriate authority for the export or that no authorization is required. If this notation were required less frequently or not at all, then more items would be subject to higher risk of diversion and an increase in illegal exports could result.
- h. Exports by U.S. Mail:** This notation must be required for all exports exempt from

SED requirements to ensure that the exporter has determined the appropriate authority for the export or that no authorization is required. If this notation were required less frequently or not at all, then more items would be subject to higher risk of diversion and an increase in illegal exports could result.

- i. Issuance of License, Responsibility of the licensee.** If the receipt of conditions by the parties were required less frequently, it could result in violations of the EAR. The licenses are approved contingent on the fulfillment of the conditions. If the conditions are not communicated to the parties, then adherence to them would be at risk. Adherence of the conditions is one of the basic General Prohibitions in part 736 of the EAR. Violations of the conditions could result in a National Security threat to the United States.
  
- j. Certification statement under temporary general license.** Conducting this collection less frequently would increase the likelihood of a violation of the EAR for the parties involved in transactions that would be made under the temporary general license. Not collecting this information in the certification statement may increase the likelihood of exports, reexports, or transfers (in-country) being made under the temporary general license that were not authorized under the temporary general license and therefore were subject to a license requirement for all items subject to the EAR and a license review policy of a presumption of denial when destined to these listed entities.

**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 the guidelines in 5 CFR 1320.6.

**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 June 5, 2018, page 25997. No comments were received. BIS is making an emergency modification of this collection and intends to publish a notice providing an opportunity for public comment on the expanded collection within six months.

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

There is no plan to provide any payment or gift 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 Export Control Reform Act of 2018][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 from 96,618 hours to 97,405 hours (an increase of 787.7 hours) due to a program change described in paragraph 15 and sub-paragraph j. and the existing burdens under this collection, as listed below.

- a. Assumption of Responsibility in Writing:** This collection affects approximately 177,778 routed exports annually. This is based on the figure from the Census Bureau (0607-0152 - AES) of roughly 16 million exports annually, with an estimate of 1/3 of the exports being routed, an estimate of 1/10 transactions in which the foreign principal party in interest assumes responsibility, and approximately 3 exports per project covered by a single writing. The total annual public burden for respondents is 44,445 hours. This is based on an average time of 15 minutes to prepare the writing.
- b. Information sharing requirements.** This collection affects approximately 177,778 routed exports annually. The total annual public burden for respondents is 44,445 hours. This is based on an average time of 15 minutes to communicate the ECCN or technical information, and any other pertinent information that would affect license determination.
- c. Power of attorney or other written authorization.** This collection affects approximately 6,667 routed exports annually. BIS receives approximately 20,000 applications per year (OMB 0694-0088 - Multipurpose Application). Approximately 1/3 of these are for routed exports. The total annual public burden for respondents is 1,667 hours. This is based on an average time of 15 minutes to prepare the power of attorney or other written authorization.
- d. Procedures for unscheduled unloading.** This collection of information consists of approximately 1 respondent annually. The total annual public burden for

respondents is estimated to be 2 hours. This is based on an average time of one hour to prepare one report of unscheduled unloading, and one hour to prepare one report of an incident requiring the return or unloading of cargo at the direction of U.S. Dept. of Commerce.

- e. **Return or unloading at direction of U.S. Department of Commerce.** This collection of information consists of approximately 2 respondents annually. The total annual public burden for respondents is 4 hours. This is based on an average time of one hour to prepare one report of unscheduled unloading, and one hour to prepare one report of an incident requiring the return or unloading of cargo at the direction of U.S. Dept. of Commerce.
- f. **Destination Control Statement (DCS).** The estimated yearly total burden placed on the exporting public required to use the DCS is 2,222 hours. This is based on the figure from the Census Bureau of 16 million exports annually, an estimate of 5% of the exports subject to the EAR, 2 documents for each export requiring use of the DCS and 5 seconds required to complete each document ( $16,000,000 \times .05 \times 2 = 1,600,000 \times 5/3600 = 2,222$  hours)
- g. **Notation on export documents for exports exempt from SED requirements.** The estimated yearly total burden placed on respondents/forwarders is approximately 222 total hours. This is based on the figure from the Census Bureau of 16 million exports annually, an estimate of 5% of the exports subject to the EAR, an estimated 20% of these controlled exports will meet SED exemptions ( $16,000,000 \times .05 \times 0.2 = 160,000$ s). Therefore, there are 160,000 shipments for which the forwarder is required to insert on the bill of lading the license number and expiration date, License Exception, or No License Required (NLR) symbol, requiring approximately 5 seconds to complete. This results in an annual burden of 222 hours ( $160,000 \times 5/3600 = 222$  hours).
- h. **Exports by U.S. Mail.** The estimated yearly total burden placed on those members of the private sector who export parcels is 111 total hours. This is based on an estimated 8 million parcels mailed internationally on an annual basis. Of these packages, an estimated 5% are controlled by the EAR and 80% of these are eligible for an exemption. This leaves only 1% that require inscription. It takes about 5 seconds per package. Therefore the total time required is  $8,000,000 \times .01 \times 5/3600 = 111$  hours.
- i. **Responsibility of the Licensee.** The estimated annual burden of communicating licensing conditions is estimated to be 3,500 hours. There were approximately 21,000 license applications approved with conditions in calendar year 2017. It is estimated to take a total of about 10 minutes to communicate conditions to and from the licensee and the parties to whom they apply.
- j. **Certification statement under temporary general license.** The estimate annual

burden for exporters, reexporters, and transferors on obtaining from Huawei and its non-U.S. affiliates on the Entity List a certification statement prior to exports, reexports, or transfers (in-country) being made under the temporary general license is estimated to be 437.5 hours. BIS estimates exporters, reexporters, and transferors will receive an estimated 875 certification statements under the temporary general license annually. Based on an average time of 30 minutes for preparing each certification statement response, the annual burden for this portion of the collection is 437.5 hours (875 x 30 minutes = **437.5 hours**). This estimate is based on a BIS search of data received from the U.S. Census Bureau's Electronic Export Information (EEI) filing to the Automated Export System (AES) database for exports to Huawei and its non-U.S. affiliates listed on the Entity List made under the temporary general license, as well as other internal BIS analysis on how widely the temporary general license is being used for exports, reexports, and transfers (in-country).

The annual recordkeeping requirement for certification statements is based on an average time of one minute for filing each response. Pursuant to paragraph (d)(2) of the temporary general license, a single certification statement may be used for multiple exports, reexports, or transfers (in-country) provided the particulars are the same for the transaction (e.g., same types of items going to the same listed entity). BIS anticipates twelve exports, reexports, or transfers (in-country) to be made per year for each certification statement obtained with the exporter, reexporter, or transferor requiring one minute for filing each response and the listed entity that provided the certification statement one minute for filing each response for a total of two minutes for total filing for each export, reexport, or transfer (in-country) made under the temporary general license. The recordkeeping burden for this portion of the collection is 350 hours (21,000 x 1 minute = **350 hours**). The 21,000 transactions is determined by 875 (certification statements) x 12 (number of annual exports, reexports, or transfers (in-country) that will be made under the temporary general license using each certification statement on average) x 2 (to account for the exporter, reexporter, or transferor taking 1 minute for filing each response and to take into account for the listed entity taking 1 minute for filing the certification statement).

Therefore, the total increase in burden to this collection for the certification statement is expected to increase this information collection by 787.7.

This information is summarized in the table below:

<b>Activity</b>	<b>Burden</b>	<b>Number</b>	<b>Total Hours</b>
Certification statement (TGL)	26,250 min.	875	<b>437.5</b>
Certification statement recordkeeping (TGL)	21,000 min.	21,000	<b>350</b>
<b>Total</b>	<b>47,250</b>	<b>21,875</b>	<b>787.7</b>

**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).**

There will be no cost burden to the respondents resulting from this collection, as all notifications, reports, and information exchange requirements do not require any special form or format, therefore may be produced or accomplished using standard business equipment and supplies.

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

Items (a) through (f) and (i) and (j) (the new certification statement under the temporary general license being added to this collection) are not applicable since these items are not received by the government.

**(g) Notation on export documents for exports exempt from SED requirements.** The estimated yearly cost to the Federal Government is \$211,000. This is based on a spot check of bills of lading covering one-third of the approximately 16 million exports annually. Each spot check takes roughly 5 seconds. The total amount of time is  $16,000,000 \times \frac{1}{3} \times \frac{5}{3600} = 7,407$  hours. The cost is estimated to be  $7,407 \times \$35 = \$259,000$ .

**(h) Exports by U.S. Mail.** The estimated yearly cost to the Federal Government is \$111,000. This estimate is based on a spot check of one-third of the approximately 8 million international mail exports annually. Each spot check takes roughly 5 seconds. The total amount of time is  $8,000,000 \times \frac{1}{3} \times \frac{5}{3600} = 3,704$  hours. The cost is estimated to be  $3,704 \times \$30 = \$111,000$ .

The total estimated cost to the USG is  $\$259,000 + 111,000 = \$370,000$ .

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

The number of responses and burden hours has been adjusted to reflect updated data obtained from the ECASS and AES systems and because of the amendment to the collection described in paragraph a.

**(a) Certification statement under temporary general license.** As referenced above, a final rule will be published revising a temporary general license under the EAR by changing which party to the transaction is required to create the certification statement by requiring that the exporter, reexporter, or transferor obtain a certification statement from the pertinent Huawei listed entity prior to using the temporary general license, along with other changes being made in that rule, such as to the validity date of the temporary general license. As BIS oversees the temporary general license, burden hours are expected to increase by [INSERT #] hours due to the addition of the certification statement requirement under paragraph (d) of the temporary general license in Supplement No. 7 to part 744.

The referenced final rule adds paragraphs (d)(1)(i)-(v) to specify the information that must be included in the certification statement:

- Paragraph (d)(1)(i) requires identifying the Huawei entity receiving the items and making the certification statement.
- Paragraph (d)(1)(ii) requires identifying the items and quantity thereof (for tangible shipments of commodities and software) involved.
- The Huawei entity must also certify in a single certification statement that:
  - under paragraph (d)(1)(iii), the end-use of the items to be received will be for an end-use within the scope of a specified authorizing paragraph under paragraph (c) of the temporary general license;
  - under (d)(1)(iv), the entity will comply with the recordkeeping requirements in part 762, including by providing copies of the certification statements and all other records required under the EAR to any authorized agent, official, or employee of BIS, the U.S. Customs Service, or any other agency of the U.S. Government as required in § 762.7; and
  - under (d)(1)(v), the individual signing the certification statement has sufficient authority to legally bind the entity.

This final rule also adds a new paragraph (d)(2) (Certification statements may be used for multiple exports, reexports, and transfers (in-country)) to clarify that certification statements obtained under paragraph (d)(1) may be used for multiple exports, reexports, or transfers (in-country) of the same item(s) under the temporary general license provided the information included in the certification statement is still accurate for those additional exports, reexports, or transfers (in-country). New paragraph (d)(2) specifies that if multiple exports, reexports, or transfers (in-country) are made against the same certification statement obtained under paragraph (d)(1), the exporter, reexporter, or transferor relying on that certification statement must maintain a log or other similar record that identifies each item and the quantity thereof for each export reexport, or transfer (in-country) made against that specific certification statement. Lastly, paragraph (d)(2) requires the log or other similar record be retained in accordance with



the part 762 recordkeeping requirements.

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

There are no plans to publish this information for statistical purposes.

**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**

Not applicable.