



August 7, 2019

MEMORANDUM FOR: Neomi Rao
Administrator, Office of Information and Regulatory Affairs
Office of Management and Budget

FROM: Karen Nies-Vogel *KNV*
Director
Office of Exporter Services

SUBJECT: Request for OMB Emergency Review and Approval to the
modification of Information Collection, 0694-0122, *Miscellaneous
Licensing Responsibilities and Enforcement*

JUSTIFICATION

The Bureau of Industry and Security (BIS) publishes the names of certain foreign persons – including businesses, research institutions, government and private organizations, individuals, and other types of legal persons - that are subject to specific license requirements for the export, reexport and/or transfer (in-country) of specified items. These persons comprise the Entity List, which is found at Supplement No. 4 to Part 744 of the Export Administration Regulations (EAR). The persons on the Entity List are subject to individual licensing requirements and policies supplemental to those found elsewhere in the EAR. On May 16, 2019, Huawei Technologies Co., Ltd. (Huawei) and sixty-eight of its non-U.S. affiliates were added to the Entity List. 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. The U.S. Government has decided to extend the temporary general license through November 18, 2019. In order to implement this decision, this final rule revises the temporary general license to remove the expiration date of August 19, 2019, and substitutes the date of November 18, 2019. This final rule also makes certain clarifying changes to the authorized transactions under the temporary general license to improve public understanding. Lastly, this final rule revises 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.



The changes in this rule will force a modification to IC 0694-0122 and the need for emergency approval as this final rule will impose requirements on exporters, reexporters, and transfers to obtain a certification statement from Huawei and its non-U.S. affiliates on the Entity List prior to receiving items under a temporary general license under the EAR. The total estimated annual burden hours for this collection will increase from 96,618 hours to 97,405 hours (an increase of 787 hours) due to the changes included in this final rule.

If this emergency collection were delayed to allow for public comment before becoming effective, U.S. national security and foreign policy interests may be undermined if exports, reexports, or transfers (in-country) are made under the temporary general license that should not have been. The certification requirement included in this final rule is added to ensure appropriate written communication is occurring between Huawei and its non-U.S. affiliates on the Entity List with exporters, reexporters, and transfers prior to items being exported, reexported, or transferred (in-country) under the temporary general license. BIS intends to publish a notice in the *Federal Register* informing the public that DOC submitted a request for an emergency collection and the request was approved by OMB.

Sincerely,

Karen H. Nies-Vogel
Director
Office of Exporter Services
Bureau of Industry and Security