

**SUPPORTING STATEMENT
U.S. Department of Commerce
Bureau of Industry and
Security License Exceptions and
Exclusions OMB CONTROL
NO. 0694-0137**

A. JUSTIFICATION

A change 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 significantly increase due to the large number of additional license applications and increase for other activities related to regulating these items under the EAR. BIS feels that this collection of information fits within the scope of this IC.

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

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.

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

The following table identifies all existing BIS information collections that are covered under this IC.

| Control No. 0694 | Collection Title | Responses | Hours | Exception/ Exclusion |
|-------------------------|--|------------------|--------------|-----------------------------|
| 0694-0023 | Written Assurances for Exports of Technical Data Under License Exception TSR | 500 | 258 | TSR |
| 0694-0025 | Short Supply – Unprocessed Western Red Cedar | 35 | 35 | WRC |
| 0694-0027 | TAPS Reporting and Recordkeeping | 55 | 28 | |
| 0694-0029 | License Exception TMP: Special Requirements | 3 | 1 | TMP |
| 0694-0033 | Humanitarian Donations | 2 | 10 | GFT |
| 0694-0086 | Report of Sample Shipments of Chemical Weapons Precursors | 28 | 16 | NLR |
| 0694-0101 | One-time Report For Foreign Technology Eligible For De Minimis Exclusion | 237 | 5,925 | De Minimis |
| 0694-0104 | ENC/ELA Semi-annual reports | 200 | 4,000 | ENC/ELA |
| 0694-0104 | Encryption Pre-Shipment Notification for publicly available encryption | 282 | 47 | |
| 0694-0104 | Encryption Key Length Increase | 10 | 2 | |
| 0694-0104 | TSU Notifications | 230 | 38 | TSU |
| 0694-0104 | Encryption Registration | 366 | 122 | |

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|-----------|--|--------|--------|--|
| 0694-0104 | Annual Self-Classification Report | 750 | 1,031 | |
| 0694-0106 | Recordkeeping Requirements Under the Wassenaar Arrangement | 840 | 84 | LVS, GBS, CIV, CTP, TSR, GOV, STA, VEU |
| 0694-0106 | Reporting under the Wassenaar Arrangement | 420 | 35 | |
| 0694-0123 | Prior Notification of Exports Under License Exception AGR | 167 | 161 | AGR |
| | Strategic Trade Authorization (STA) | 20,450 | 23,858 | STA |
| | TOTALS | 24,575 | 35,651 | |

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.

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 March 7, 2019, 84 FR 8302. One public comment was received from Mr. William Root. Mr. Root email a 24 page list of suggested changes to the EAR. BIS sent an email to Mr. Root thanking him for his suggestions and informing him that BIS would take his suggested changes under advisement when making updates to the EAR.

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 Export Control Reform Act of 2018.

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 will increase from 29,998 to 35,651 hours due to a program change described in para 15. The estimated annual cost is \$1,319,087 (35,651 x \$37 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:

| Control No. | Collection Title | Cost |
|--------------------|--|-------------|
| 0694-0023 | Written Assurances for Exports of Technical Data Under License Exception TSR | 0 |
| 0694-0025 | Short Supply – Unprocessed Western Red Cedar | 0 |
| 0694-0027 | TAPS Reporting and Recordkeeping | 0 |

| | | |
|-----------|--|---------|
| 0694-0029 | License Exception TMP: Special Requirements | 0 |
| 0694-0033 | Humanitarian Donations | 0 |
| 0694-0086 | Report of Sample Shipments of Chemical Weapons Precursors | 175 |
| 0694-0101 | One-time Report For Foreign Technology Eligible For De Minimis Exclusion | 2,963 |
| 0694-0104 | Commercial Encryption Items Under the Jurisdiction of the Department of Commerce | 59,200 |
| 0694-0106 | Recordkeeping Requirements Under the Wassenaar Arrangement | 292 |
| 0694-0123 | Prior Notification of Exports Under License Exception AGR | 10,020 |
| 1405-0003 | Taken from the State Department's collection: "Application/License for Permanent Export of Unclassified Defense Articles and Related Unclassified Technical Data." | 240,000 |
| | Estimated Total Annual Cost to Federal Govt. | 312,650 |

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 5,653 hours due to the increase in the use of license exceptions. This rule removes the responsibility for Category I, II, and III under the USML, controlled by the Department of State, to the CCL which is controlled by BIS.

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.