

**SUPPORTING STATEMENT FOR
PAPERWORK REDUCTION ACT SUBMISSIONS**

**Application/License for Temporary Import of Unclassified Defense Articles
OMB No. 1405-0013
DSP-61**

A. Justification

1. The Directorate of Defense Trade Controls (DDTC), Bureau of Political-Military Affairs, U.S. Department of State, in accordance with the Arms Export Control Act (AECA) (22 U.S.C. 2751 *et seq.*), the International Traffic in Arms Regulations (ITAR) (22 CFR Parts 120-130), and associated delegations of authority, has the principal missions of promulgating regulations for the import and export of defense articles and defense services; taking final action on license applications and other requests for defense trade transactions via commercial channels, ensuring compliance with the statute and regulations, and collecting information for various types of reports that are submitted to Congress. By statute, Executive Order, regulation, and delegation of authority, DDTC is charged with controlling the export and temporary import of defense articles, the provision of defense services and the brokering thereof which are covered by the U.S. Munitions List (USML).

The statutory authority of the President to promulgate regulations with respect to the export and the temporary import of defense articles and the provision of defense services was delegated to the Secretary of State by Executive Order 13637, as amended. These regulations are primarily administered by the Deputy Assistant Secretary of State for Defense Trade and DDTC.

DDTC reviews license applications and technical assistance and manufacturing license agreement requests to determine, *inter alia*:

- Whether the transactions further U.S. foreign policy objectives, national security interests, and world peace;
- Eligibility of parties (*e.g.*, applicants, consignees, end-users) to participate in U.S. defense trade;

- Appropriate end-use of commodities subject to U. S. Government approval of munitions exports and transfers;
- Whether law enforcement concerns have been adequately addressed; and
- Whether appropriate offers or payment of political contributions, gifts, commissions, and fees, have been adequately addressed.

In accordance with Part 123 of the ITAR, any person who intends to temporarily import unclassified defense articles must obtain DDTC authorization prior to import. “Application/License for Temporary Import of Unclassified Defense Articles” (Form DSP-61) is the licensing vehicle typically used to obtain permission for the temporary import of unclassified defense articles covered by the USML.

Section 405 of the Security and Accountability for Every Port Act of 2006 (SAFE Port Act) (Pub. L. 109-347) required agency participation in the International Trade Data System (ITDS) for all Federal agencies that have oversight of imports and exports. Executive Order 13659 required implementation no later than December 31, 2016. As a result, industry respondents must transmit relevant shipment data to CBP electronically, as opposed to providing hard copy licenses at U.S. ports. Questions 2, 3, and 15 of this document provide more details on this process and the changes made to this collection as a result of the requirements imposed by the SAFE Port Act and E.O. 13659.

2. DDTC uses the information provided by applicants to meet the mandate described in item 1 above. Form DSP-61 is used initially by DDTC to analyze the proposed temporary import for foreign policy and national security considerations. Depending on the complexity of the proposed temporary import, the application is forwarded to other Federal Government agencies for further review and recommendations. Discontinuation of the DSP-61 would make it extremely difficult to meet statutory and regulatory requirements concerning the control of commercial defense trade.

At U.S. ports, U.S. Customs and Border Protection (CBP) officials utilize the information collected by Form DSP-61 to monitor temporary imports. Prior to import, relevant data, determined by DDTC’s Partner Government Agencies (PGA) Message Set, will be transferred from the exporter or freight forwarders’ electronic system to CBP’s electronic system. CBP will use the relevant data to

validate and electronically decrement the approved license. CBP will then electronically transmit the relevant shipment details to DDTC, eliminating the need for traders to notify DDTC separately. CBP may delay shipments if they are thought to be defense articles and the relevant information has not been received by CBP's electronic system. If it is determined that the item(s) in question are covered by the USML, the item(s) will be detained or seized. If the shipment is seized and it is determined that Form DSP-61 was required but not submitted and approved, the shipper may be fined and/or charged with a crime.

3. Pursuant to ITAR §123.1(a), the DSP-61 must currently be submitted electronically. This is accomplished via the electronic licensing subsystem (D-Trade) of the Defense Trade Application System. Upon implementation expected late 2018, temporary importers will submit form DSP-61 electronically via the Defense Export Control and Compliance System (DECCS) —DDTC's new web-based electronic case management system. Respondents will access form DSP-61 via DECCS on DDTC's electronic website (www.pmdtdc.state.gov).

Prior to the temporary import, relevant shipment information must be transferred from the importer or freight forwarder via an electronic data interchange (EDI). Utilization of EDI allows the information to be transmitted to CBP automatically based on DDTC's PGA Message Set. DDTC's PGA Message Set specifies certain information included on the DSP-61 that must be transferred to CBP electronically. Respondents may view DDTC's PGA Message Set Implementing Guidance on CBP's website (<https://www.cbp.gov/document/guidance/ddtc-implementation-guide-ig>). Also posted to CBP's website is a document that provides in-depth explanations of the requirements for each line item of the PGA Message Set, as well as processing instructions for submission (<https://www.cbp.gov/document/guidance/pga-message-set>).

4. The Department of State is unaware of any other U.S. Government requirements that would cause U.S. industry to duplicate this reporting requirement.

5. Export control laws and regulations are designed to safeguard U.S. Government foreign policy and national security interests and to further world peace. The laws and regulations are applicable equally to large and small businesses or entities. Only registered exporters are required to complete the "Application/License for Temporary Import of Unclassified Defense Articles"

(Form DSP-61), and only when temporarily importing an unclassified defense article.

6. The AECA and the ITAR established the frequency of information collection. The information required for the proper assessment of a proposed temporary import request is reviewed on a case-by-case basis and is specific to the transaction under consideration. Absent this reporting requirement, it would be extremely difficult for DDTC to meet its legally mandated responsibilities to ensure oversight of defense trade in furtherance of foreign policy objectives, national security interests, and world peace.

7. Respondents may have to report information to the Department more often than quarterly because they need approval on a case-by-case basis when seeking authorization to temporarily import defense articles.

8. The Department has published a 60 day notice in the Federal Register soliciting public comment. **83 FR 8312, dated February 26, 2018.** No comments were received.

9. No payment or gift has been or will be provided to any respondent.

10. Respondents are engaged in the business of exporting or temporarily importing defense articles/services or brokering thereof, have registered with DDTC pursuant to the ITAR (22 CFR Subchapter M), and correspondingly use the ITAR in the regular course of business. Thus, respondents would be familiar with §126.10 of the ITAR, which outlines limitations on, and requirements to, disclose licensing information. No promises of confidentiality have been made to the respondent.

11. Form DSP-61 does not solicit any information regarding questions of a sensitive nature or matters commonly considered private.

12. The Department of State has reason to believe that the information that is required for the proposed temporary import is already available to U.S. industry in some form due to other needs and requirements (e.g., business transactional records, tax records, quality assurance and productivity, and legal issues posed by other federal laws). An estimated 1,103 annual responses are expected from 204 respondents. Frequency of response is on occasion. The estimated time that the respondent devotes to each submission is approximately 30 minutes. The estimated annual hour burden is 552 hours (1,103 times 0.5 hour). According to the

U.S. Department of Labor Bureau of Labor Statistics website (www.bls.gov), the weighted wage rate category for a “Compliance Officer” is estimated to be \$44.94 per hour (\$32.10 average wage x 1.4 multiplier). Therefore, the estimated annual burden hour cost to respondents “all occupations” is \$24,807 (552 annual burden hours x \$44.94).

13. There are no anticipated additional costs to respondents.

14. Processing the 1,103 responses received by DDTC during CY 2016 accounted for approximately 2.7% of its \$8.9 million licensing budget. The estimated annual cost to the Federal Government is \$240,300 for reviewing these applications. This estimated figure was determined by identifying the percentage constituted by these submissions of the overall DDTC licensing caseload.

15. The number of respondents has been adjusted from 311, the previously estimated number of registrants who temporarily import defense articles, to 204, the most recent estimate, adjusting the total annual responses from 1,671 to 1,103. As a result, the total annual hours requested for this collection has been adjusted to 552. The revised respondent number is a more accurate figure taken directly from the DDTC database, while the reduced number of license applications accords with the trend of decrease in defense trade licensing.

This collection was previously amended to include the electronic process by which licenses are validated and decremented by CBP at U.S. ports. Previously, importers or freight forwarders were required to bring their original DSP-61 to U.S. ports to be validated and decremented by CBP prior to the import of the controlled item(s). Now, this information is sent automatically from the respondent’s electronic system to CBP’s electronic system via EDI. Respondents now realize the following benefits as a result of this change:

1. CBP electronically validates and decrements approved DSP-61 licenses. CBP then shares the relevant shipment information with DDTC. As a result, respondents to this collection no longer have an obligation to provide information to DDTC separately.
2. Respondents to this collection no longer have an obligation to bring their original license to U.S. ports prior to temporary import since relevant information is transferred electronically to CBP. Not only does this reduce the time spent interacting with CBP at the port of entry, but it also ensures that port officials only have access to relevant information. DDTC’s PGA Message Set only requires industry to electronically provide the information required by CBP to validate and decrement the license. It prevents

unnecessary access by CBP to business sensitive or proprietary information located elsewhere on the license.

3. It allows DDTC to stay apprised of the remaining value of issued licenses and the frequency of shipments. DDTC will use this information to monitor trends, run reports, and keep records to be used, if necessary, in current or future administrative or law enforcement investigations.
16. DDTC will not publish relevant information.
17. DDTC will display the expiration date for OMB approval of the information collection on the form.
18. The Department of State does not seek any exception to the statement, "Certification for Paperwork Reduction Act Submissions," of DS-83-I.

B. Collections of Information Employing Statistical Methods

This collection of information does not employ statistical methods.