

**SUPPORTING STATEMENT FOR
PAPERWORK REDUCTION ACT SUBMISSIONS**

**Application/License for Temporary Export of Unclassified Defense Articles
OMB No. 1405-0023
DSP-73**

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 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 various types of reports. 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 export unclassified defense articles must obtain authorization from DDTC prior to export. “Application/License for Temporary Export of Unclassified Defense Articles” (Form DSP-73) is the licensing vehicle typically used to obtain permission for the temporary export 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. Responses to questions 2 and 3 of this document provide more details on this process.

2. DDTC uses the information provided by applicants to meet the mandate described in item 1 above. Form DSP-73 is used initially by DDTC to analyze the proposed temporary export for foreign policy and national security considerations. Depending on the complexity of the proposed temporary export, the application may be forwarded to other Federal Government agencies for further review and recommendations. Discontinuation of the DSP-73 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-73 as part of their outbound shipment monitoring. Prior to export, relevant data, determined by DDTC’s PGA Message Set, will be transferred from the exporter or freight forwarder’s electronic system into 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 enumerated on the USML, the item(s) will be detained or seized. If the shipment is seized and it is determined that Form DSP-73 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-73 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 exporters will submit form DSP-73 electronically via the Defense Export Control and Compliance System (DECCS), which is DDTC's new web-based electronic form system. Respondents will access form DSP-73 via DECCS on DDTC's website (www.pmddtc.state.gov).

Prior to the temporary export, 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-73 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 explanation 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 Export of Unclassified Defense Articles" (Form DSP-73), and only when temporarily exporting 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 export 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 export defense articles.

8. The Department published a 60 day notice in the Federal Register soliciting public comment. **83 FR 8312, dated February 26, 2018.** One comment was received. One company stated that Blocks 6 and 7 on the DSP-73 cause confusion, as exports often leave from ports other than the port listed on the DSP license. The Department will consider removing this field on the Single Form (DS-7788) once implemented.

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-73 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 export 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 3,222 annual responses are expected from 470 respondents. Frequency of response is on occasion. The estimated time that the respondent devotes to each submission is approximately one hour. The estimated annual hour burden is 3,222 hours. 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 is \$144,797 (3,222 annual burden hours x \$44.94).

13. There are no anticipated additional costs to respondents.

14. Processing the 3,222 responses received by DDTC during CY 2016 accounted for approximately 7.8% of its \$8.9 million licensing budget. The estimated annual cost to the Federal Government is \$694,200 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 605, the previously estimated number of respondents who temporarily export defense articles, to 470, the most recent estimate, adjusting the total annual responses from 4,807 to 3,222. As a result, the total annual hours requested for this collection has been adjusted to 3,222. 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 decrease in defense trade licensing.

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.