



U.S. Department of Justice

National Security Division

Counterintelligence & Export Control Section

Foreign Agents Registration Act (FARA) Unit

Washington, D.C. 20530

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SUBJECT: Justification for No Material or Non-Substantive Revision
“Change Request” to an Existing and Currently-Approved
Information Collection Request (ICR), DOJ Form NSD-3 /
OMB Control No. 1124-0006 /
Exhibit A to Registration Statement of Foreign Agents
(Expires May 31, 2020)

DATE: June 17, 2019

Introduction – Why is DOJ-NSD requesting a Non-Substantive Change?

NSD is changing its FARA eFile information collection, from the current *.pdf paper-based fillable form to a web-form processed digitized form. The web-form will improve information quality, standardize fields, and minimize user error, while reducing respondent burden. Other improvements include additional capabilities to capture certain datasets offered for public user customization and manipulation on the FARA public webpage, <https://www.justice.gov/nsd-fara>.

The changes described in this request are non-substantive. OMB previously approved the current version of the form in May 2017 for an additional three years until May 31, 2020 as a normal 3-year extension under OMB Control No. 1124-0004. As directed by the OIRA Desk Officer assigned to DOJ PRA submissions, a new paragraph description was added to each of the following documents:

- Justification/Supporting Statement – April 13, 2017
- 60-Day (Vol. 82, No. 23, pages 9395-9396) February 6, 2017 Federal Register notice (FRN)
- 30-Day (Vol. 82, No. 68, page 17449-17450) April 11, 2017 Federal Register notice (FRN).

The FRNs were published on February 6, 2017 and April 11, 2017, respectively, in order to effectively alert the public of this adjusted future non-substantive webform process for registering FARA submissions, and to encourage public feedback during the 90-Day comment period. The following narrative was a part of the FRN:

Registrants/foreign agents and the general public are alerted that in the future, the National Security Division will complete its ongoing multi-year design review, testing, and requirements enhancement efforts to offer a web form version of form NSD-1. NSD continues to make progress in enhancing the functionality of FARA eFile. Personnel are in the process of developing and testing new web form versions of its current fillable FARA registration forms with the intent of providing greater standardization, improved intuitive features, and less burdensome requirements that will benefit registrants and foreign agents who are required to register under FARA. New capabilities are expected to improve online search capabilities. NSD is confident that the new features will offer an enhanced system, promoting greater transparency.

Another reason why the changes described in this request are “non-substantive” is because they nicely synchronize with OMB’s guidance strongly encouraging – with reasonable flexibility - agencies to develop and provide more, “interactive, web-based, or similar applications to help facilitate (public) responses.”¹

One public comment was received on April 7, 2017 from Daniel Schuman, Policy Director of Demand Progress, a public interest civil society group primarily focused on encouraging governmental transparency initiatives. He was the single point person representing numerous other civil society groups and speaking on their behalf. The groups decided that instead of filing separate responses, that one overall response with all groups as signatories, would help impress on the Department of Justice a unified position that would provide more clarity of viewpoint. See document URL here:

https://s3.amazonaws.com/demandprogress/reports/2017-04_07_Civil_Society_Comments_on_FARA.pdf

¹ Shelanski, Howard; Administrator, Office of Information and Regulatory Affairs (OMB-OIRA), Memorandum for the Heads of Executive Departments and Agencies and Independent Regulatory Agencies, July 22, 2016, Flexibilities under the Paperwork Reduction Act for Compliance with Information Collection Requirements, “Non-Substantive Changes” segment, see pp. 4-5.

This document was uploaded into ROCIS and is also available to the general public on OMB’s public REGINFO.gov website. The NSD PRA Coordinator reached out to Mr. Schuman to explain NSD’s plans for FARA eFile enhancement. This eFile enhancement is now being realized with this and five other related FARA change requests being submitted for OMB approvals now (June 13, 2019).

Background – Historical Overview of DOJ-NSD’s FARA registration ICRs & eFile Registration

On April 15 2011, the Department of Justice’s National Security Division (NSD) began an operational roll-out of its newly-developed and OMB-approved FARA eFile online registration and payment system. This multi-faceted system was a milestone development that moved away from a traditional paper-based form(s) and check/cash payment procedure via the US Mail and similar couriers. FARA eFile greatly enhanced the ability of foreign agents to register with NSD’s FARA Unit of the National Security Division.

This enhancement allowed for ease of registration using: (1) *.pdf fillable forms, (2) online eFile screens, (3) payment options through the Department of Treasury’s Pay.gov service, (4) and set-up of online FARA eFile registration accounts. Together, these features improved the overall registration process so that users could better meet their obligations under the Foreign Agents Registration Act of 1938, as amended (FARA or the Act). See 22 U.S.C. § 611 *et seq.*

In 2007, Congress passed “ethics reform” legislation known as the Honest Leadership and Open Government Act of 2007 (HLOGA). Section 212 of HLOGA amended Sections 612 and 616 of FARA to require:

- An online searchable and sortable database of FARA registration statements and supplements to promote further transparency for the public. NSD had already completed this development and started to offer these online tools for access to FARA’s public disclosure filings at the fara.gov public website in May 2007.
- Registration in an electronic form. FARA eFile was launched in 2011.

FARA requires registrants to disclose information using the following six (6) registration forms (ICRs).

Table 1 - All FARA Six (6) ICRs

<u>ICR / Registration Form</u>	<u>Form Identifier</u>	<u>OMB Control No.</u>
Registration Statement	Form NSD-1	1124-0001
Supplemental Statement	Form NSD-2	1124-0002
Exhibit A	Form NSD-3	1124-0006
Exhibit B	Form NSD-4	1124-0004
Amendment	Form NSD-5	1124-0003
Short Form	Form NSD-6	1124-0005
Exhibit C	N/A (No Form Required)	N/A

Exhibit D	N/A (No Form Required)	N/A
Informational Materials	N/A (No Form Required)	N/A

These forms are approved every three (3) years as “extensions to currently-approved information collections” pursuant to the requirements under the Paperwork Reduction Act, as overseen by OMB’s Office of Information and Regulatory Affairs (OIRA). These six ICRs as described above, work in conjunction with the various eFile screens that are also incorporated into ROCIS and approved by OIRA. These *.pdf registration forms (ICRs) were re-approved in 2011, 2014 and 2017, and expire on May 30, 2020.

The Department and NSD continually upgrade and enhance FARA’s eFile system, registration forms, and FARA public website containing online research tools and other useful researching features located at the following URL: <https://www.justice.gov/nsd-fara> . Consistent with this strategy and commitment are the longstanding public positions for exploring ever more ways to improve and expand on transparency initiatives by continually increasing releases of FARA information and datasets.

Since 2010, NSD’s extensive participation and commitment to the goals and strategies found in the White House’s Open Government Initiatives (OGI) and the corresponding DOJ Open Government Plans, Assessments, and Progress Reports, have been part of the public record. NSD has continued its improvements to FARA’s systems and development of newer features that are also encouraged by OMB and DOJ’s Justice Management Division (JMD).

The most recent **DOJ Open Government Plan 4.0** was published in **September 2016**. On pp. 17-18 of this report (pp. 20-21 of the *.pdf) you find the following description:

National Security Division / Foreign Agents Registration Act

*The National Security Division continues to make progress in enhancing the functionality of FARA eFile. Personnel are developing and testing improved **web form versions** of its current fillable forms with the intent of providing greater standardization, improved intuitive features, and less burdensome requirements that will benefit registrants who are required to register under FARA. New capabilities are expected to improve online search capabilities. NSD is confident that the new features will offer an enhanced system promoting greater transparency.*

In August 2014, the Department’s Progress Report 3.0 provided the following information on the FARA system:

Foreign Agents Registration Act (FARA): *FARA Staff met with the Software Engineering Section (SWE) to discuss the approach and level of effort surrounding the various enhancement requirements for www.FARA.gov . During this discussion, it was decided to approach this project using the Agile Methodology commonly referred to as SCRUM. SWE, FARA, and other relevant stakeholders will partner to create a healthy backlog of enhancement requirements. Upon validation and approval of these requirements, the project team will begin prioritizing and*

developing individual enhancement features. Given the nature of Agile SCRUM, features can be released as they are developed, tested, and approved. This approach provides continuous improvements on the features, allows the project team, owner, and system users to see changes as they occur, and adapts well to overall changes in the process.

To date, the NSD IT project team and FARA Unit staff have conducted over 58 individual Agile SCRUM development requirements sessions, or sprints (so far). It is anticipated that all development, feedback, and testing of the new web-form versions of the registration ICR/forms, screens, and upgraded systems, will be completed as a stable test system in 2019.

The FARA Unit has now uploaded finalized:

- Non-substantive or No Material Change Request documents for the six (6) ICRs;
- Webform version of the completed-specific FARA ICR as a *.pdf;
- Upgraded web-form eFile screens as one *.pdf document;
- DOJ-OPCL & OMB Privacy Assessment template document that went into effect after OMB approved NSD’s current six ICR 3-year extensions in May 2017.

NSD is expected to begin to rollout these features to all FARA “new registrants” in July 2019. Within six months after this initial release, NSD will receive all registration materials (new & existing) through the newly enhanced FARA eFile.

Description of Non-Substantive Changes

What Information Collection Request is DOJ-NSD changing?

ICR Title: Exhibit A to Registration Statement of Foreign Agents

ICR Numbers: (DOJ) ICR (form) NSD-3; OMB Control No. 1124-0006

What is the current status of this ICR?

This ICR is currently approved through May 31, 2020. This ICR currently identifies the information collections (IC), number of annual responses to the IC, time burden per response, and annual burden for all responses.

Table 2 – Current *.PDF version Registration Statement ICR

<u>Title</u>	<u>Annual Responses</u>	<u>Time (Hours) per Response</u>	<u>Annual Hours</u>
Exhibit A to Registration Statement of Foreign Agents / form NSD-3 & OMB Control No. 1124-0006	57 <i>(as of May 2017)</i>	29 minutes (.49 hours)	27.93 hours

What are the changes that DOJ-NSD is making to this ICR?

DOJ-NSD is making several non-substantive changes to this ICR. In offering a web-form replacement version to completing the ICR instead of the current *.pdf, registrants (respondent users) will benefit from a more intelligent process:

1. All typed in data will be captured and stored in the present web-form into a backend repository database, allowing for fields such as registrant name, registrant address, registrant number, registrant business address, to pre-populate on future registration statements by the same registrant.
2. The web-form version of the ICR will incorporate an auto-check feature for users to confirm data entry in order to ensure completion of required fields. This will reduce the need for amending the filings due to user error saving time and reducing burden.
3. A new spreadsheet tool will store certain data into a standardized, machine-readable table, allowing for additional internal searchable features to be provided to the general public.

Table 3 - New Web-form Registration Statement ICR and Burden & Overall Program Change Conclusions that meet FARA eFile Enhanced Procedures

<u>New Web-form ICR</u>	<u>Annual Responses</u>	<u>Time (Hours) per Response</u>	<u>*.PDF Form v. Web-form Burden Hour Contrast per Response</u>	<u>Annual Hours</u>	<u>*.PDF v. Web-form Burden Hour Contrast Annual Hours</u>
Exhibit A to Registration Statement of Foreign Agents / Form NSD-3 & OMB Control No. 1124-0006	296 <i>(projected increase in registrations from 2017 to 2019)</i>	.22 hours (13 minutes)	.49 hours *.pdf form <i>versus</i> .22 hours web-form <i>(reduced burden per respondent due to improved e-File web-form features)</i>	65.12 hours	Overall improved burden reductions: 27.93 Annual Hours *.pdf form <i>versus</i> 65.12 Annual Hours web-form <i>(projected increase in registrations from 2017 to 2019)</i>

The Department of Justice’s National Security Division (NSD) respectfully requests OMB-OIRA to issue a Notice of Action for Approval of this No Material & Non-Substantive Enhancement Change Request to an Existing / Currently-Approved Information Collection (ICR) identified as

DOJ Form NSD-3 / OMB Control No. 1124-0006 / Exhibit A to Registration Statement of Foreign Principals that Expires on May 31, 2020.

The enhanced web-form version for this ICR and FARA eFile system New Registrant Module Strategy will launch in July 2019. Within six months after the initial release, all registrants (new & existing) will use the newly enhanced FARA eFile.

NSD will work with JMD-OCIO to have this ICR, Form NSD-3 & OMB Control No. 1124-0006, Exhibit A to Registration Statement of Foreign Agents, re-approved for another 3-year scheduled extension under the normal PRA approvals process to include issuing 60-Day & 30-Day Federal Register notices (FRNs) in early 2020, ultimately approved on or around June 1, 2020, with an expected expiration date of June 30, 2023.