



UNITED STATES DEPARTMENT OF COMMERCE

Bureau of Industry and Security

1401 Constitution Avenue, Suite 3896

Washington, DC 20230

March 2, 2022

MEMORANDUM FOR: Dominic Mancini
Deputy Director, Office of Information
and Regulatory Affairs
Office of Management and Budget

FROM: Karen Nies-Vogel
Director, Office of Exporter Services

SUBJECT: Request for OMB Emergency Review and Approval of
Information Collection for Implementation of Sanctions
Against Russia Under the Export Administration
Regulations (EAR)

On behalf of the Bureau of Industry and Security (BIS), I am seeking approval for emergency Paperwork Reduction Act (PRA) clearances to allow the Department of Commerce (DOC), as represented by BIS, to publish a Federal Register Notice (FRN)(rule) announcing the Implementation of Sanctions Against Belarus Under the Export Administration Regulations (EAR) (15 CFR 730 – 774).

BACKGROUND

In response to Belarus’s substantial enabling of the Russian Federation’s (Russia)’s further invasion of Ukraine, this rule is adding new license requirements and review policies for Belarus to the EAR to render Belarus subject to the same sanctions that were imposed on Russia under the EAR (effective February 24, 2022). These new sanctions impose new Commerce Control List (CCL)-based license requirements for Belarus; revise the two foreign “direct product” rules (FDP rules) that are specific to Russia and Russian ‘military end users’ to make them applicable to Belarus and Belarusian ‘military end users;’ specify a license review policy of denial for all of the license requirements on Belarus that are being added in this rule, with certain limited exceptions; significantly restrict the use of EAR license exceptions; expand the existing ‘military end use’ and ‘military end user’ control scope to include Belarus for all items “subject to the EAR” other than food and medicine designated EAR99; and add two new Belarusian entities to the Entity List as ‘military end users.’ This rule also imposes a license requirement for nuclear nonproliferation items for exports and reexports to Belarus and removes Belarus from Country Group A:4 under the EAR.

JUSTIFICATION

The collection of information is needed prior to the expiration of the time period normally associated with a routine submission for review under the provisions of the PRA. In response to Russia’s February 2022 invasion of Ukraine, and Belarus’s substantial enabling of this invasion by supporting the staging of Russian military forces on Belarusian territory and supporting the invasion from such territory, BIS is imposing extensive sanctions on Belarus



by amending the EAR. This rule will subjects Belarus to the same licensing restrictions under the EAR that were imposed on Russia as part of the final rule, *Implementation of Sanctions Against Russia Under the Export Administration Regulations (EAR)*, effective on February 24, 2022¹ (“Russia Sanctions rule”). This rule also revises the designation for Belarus in the Country Groups in supplement no. 1 to part 740 of the EAR to impose a license requirement for Nuclear Nonproliferation (NP) column 1 reasons in the Commerce Country Chart in supplement no. 1 to part 738 of the EAR, as described further below.

Russia’s invasion of Ukraine, substantially enabled by Belarus, flagrantly violates international law, is contrary to U.S. national security and foreign policy interests, and undermines global order, peace, and security, and therefore necessitates these stringent and expansive sanctions. The Commerce Department’s sanctions on both Russia and Belarus are one aspect of the broad U.S. Government response to Russia’s unprovoked aggression, as furthered by Belarus’s substantial enabling of such aggression, and are being imposed in coordination with allies and partners.

After imposing sanctions on Russia on February 24, 2022, in response to Russia’s invasion of Ukraine, the U.S. Government announced that should Russia encroach further into Ukraine’s territory, it would impose additional, comprehensive sanctions with even graver consequence. The U.S. Government also made it clear to the government of Belarus that there would be significant consequences if it enabled or otherwise facilitated Russian military actions against Ukraine. Notably, State Department spokesman Ned Price told reporters on January 25, 2022 that “[w]e’ve also made clear to Belarus that if it allows its territory to be used for an attack on Ukraine, it would face a swift and decisive response from the United States and our allies and partners.”

The export control measures implemented in this final rule protect U.S. national security and foreign policy interests by restricting Belarus’s access to items that it needs to support its military capabilities and preventing such items from being diverted through Belarus to Russia. These items include sophisticated technologies designed and produced in the United States, as well as certain foreign-produced items that contain or are based on U.S.-origin technology and software subject to the EAR or other technology and software that is subject to the EAR that are essential inputs to Belarus’s and Russia’s key technology and other sectors.

BIS is primarily targeting the Belarusian defense, aerospace, and maritime sectors with these new export controls. These export controls include controls on the export from abroad of certain foreign-produced items that are subject to the EAR. Given the global prevalence of U.S.-origin software, technology, and equipment (including tooling) used in advanced equipment and systems, these new controls, implemented in parallel with similarly stringent measures by partner and allied countries, will cover a broad scope of items that Belarus seeks to advance its military capabilities or to provide to the Russian government to enable the latter’s projection of power and fulfillment of its strategic ambitions.

¹ FR 2022-04300, scheduled to publish 3/3/2022.