

SUPPORTING STATEMENT
U.S. Department of Commerce Bureau of Industry and Security
Multipurpose Application
OMB No. 0694-0088

A. Justification for revision:

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

BIS is revising this information collection because of the estimated increase of license application submissions that will result from the publication of this rule entitled, **“Imposition of Sanctions Against Belarus Under the Export Administration Regulations (EAR).”**

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 Export Administration Regulations (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 also applicable to Belarus and Belarusian ‘military end users;’ specify a license review policy of denial applicable to 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.

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 to proceed from such territory, the Bureau of Industry and Security (BIS) imposes extensive sanctions on Belarus by amending the Export Administration Regulations (15 CFR parts 730 – 774) (EAR). This rule 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 to impose a license requirement for Nuclear Nonproliferation (NP) column 1 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, along

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

with 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 further 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 consequences. The U.S. Government made it clear to the government of Belarus that there would be significant consequences should it enable or otherwise facilitate 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.

Section 1761(h) under the Export Control Reform Act (ECRA) of 2018, authorizes the President and the Secretary of Commerce to issue regulations to implement the ECRA including those provisions authorizing the control of exports of U.S. goods and technology to all foreign destinations, as necessary for the purpose of national security, foreign policy and short supply, and the provision prohibiting U.S. persons from participating in certain foreign boycotts. Export control authority has been assigned directly to the Secretary of Commerce by the ECRA and delegated by the President to the Secretary of Commerce. This authority is administered by the Bureau of Industry and Security through the Export Administration Regulations (EAR).

BIS administers a system of export, re-export, and in-country transfer controls in accordance with the EAR. In doing so, BIS requires that parties wishing to engage in certain transactions apply for licenses, submit Encryption Review Requests, or submit notifications to BIS. BIS also reviews, upon request, specifications of various items and determines their proper classification under the EAR. Currently, members of the public submit these applications, requests and notifications to BIS in one of four ways, via:

1. BIS' Simplified Network Application Process - Redesign (SNAP-R);

2. BIS' System for Tracking Export License Applications (STELA);
3. Multipurpose Application, Form BIS 748P, and its two appendices the BIS 748P-A (item appendix) and the BIS 748P-B (end-user appendix); or
4. Advisory opinion requests, pursuant to the instructions in § 748.3(c) of the EAR.

Specific to the submission of applications, requests and notifications, BIS will, under one or more the circumstances specified in § 748.1(d)(1) of the EAR, accept paper submissions of license applications, notifications and requests. However, BIS has not recently received any paper submissions of license applications, notifications or requests.

In many instances, BIS needs additional documents to act on the submission. For submissions made electronically via SNAP-R, the applicant must scan and attach the additional documents in SNAP-R.

For documents that relate to paper submissions, the documents can be mailed or delivered to BIS with the BIS 748P form, as appropriate.

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.

Export information collected either electronically or from the Multipurpose Application (Forms BIS-748P, 748P-A and 748P-B) is used by BIS as the basis for decisions to grant licenses for export and re-export, for national security reviews of encryption items, and for classifications of items that are controlled for reasons of national security, short supply or foreign policy. These decisions are typically made on a case-by-case basis and are dependent upon the information provided and the policies in effect at the time of the transaction. In many cases, this information is shared with other Federal agencies such as the Department of Defense, State Department, and Department of Energy, to obtain their recommendations on these decisions.

Both the paper and electronic versions of the Multipurpose Application provide detailed instructions and explanations of what data is required in each field. In addition, the SNAP-R system includes a large number of software validations to insure high quality data.

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.

BIS redesigned the SNAP system to enhance security, support electronic submission of supporting documents and provide increased functionality. BIS currently receives approximately 100% of all submissions of license applications, notifications and commodity classification and encryption registration requests electronically through the SNAP-R system. SNAP-R is located at: <https://snapr.bis.doc.gov/>

Advisory opinion requests are delivered to BIS by mail, delivery service or via e-mail.

4. Describe efforts to identify duplication.

The information received when applying for an export license, classifications and advisory opinions, Encryption Review Request, or license exception AGR is unique to each application. 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 when applying for an export license, classification request, advisory opinion, Encryption Review Request, and license exception AGR notification must be submitted by exporters or their designated agents, regardless of size. This procedure, as part of the EAR, is governed by national security, foreign policy and proliferation of weapons of mass destruction requirements. BIS maintains an active seminar and counseling program to help all businesses understand and comply with BIS requirements. BIS also maintains an informative web site that provides detailed instructions on how to comply with our paperwork requirements. This web site is located at: <https://www.bis.doc.gov>.

6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.

If this information were submitted less frequently, it could result in decreases and delays in trade as well as a higher number of exports to unapproved consignees with the possibility that illegal shipments would be made to countries of concern.

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 the guidelines in 5 CFR 1320.6.

8. Provide a copy of 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 record keeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

N/A

9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.

No payment or gift will be provided to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.

Section 1761(h) of the ECRA provides for the confidentiality of export licensing information submitted to the Department of Commerce.

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 burden of this collection is 32,816 hours. This estimate includes the increase of burden hours from the final rule, “Changes to Country Policy Under the Export Administration Regulations (EAR).”

BIS estimates that exporters will require 17 minutes to input their application-specific data into the SNAP-R system. 17 additional minutes are required to submit supporting documents into SNAP-R for those applications that require supporting documentation.

Commodity classifications typically require more supporting documentation than other types of applications. About 75% of the commodity classifications and 33% of the other applications require supporting documentation. It is estimated to take one hundred and nine minutes per commodity classification to acquire the corresponding documentation. It is estimated to take 25 minutes for all other types of applications. There is also a record keeping requirement of 2 minutes associated with each application.

The burden hour estimate is detailed in the following table:

| Burden Activity | Annual Responses | Average Minutes per Response | Annual Burden Hours |
|---------------------------------------------------------------------|-------------------------|-------------------------------------|----------------------------|
| Commodity Classifications Without Supporting Documentation | 1,607 | 17 | 455 |
| Other SNAP-R Applications Without Supporting Documentation | 16,733 | 17 | 4,741 |
| Commodity Classifications With Supporting Documentation | 4,820 | 109 | 8,756 |
| Other SNAP-R Applications With Significant Supporting Documentation | 8,550 | 49 | 6,983 |
| Other Applications With Minimal Supporting Documentation | 32,662 | 19 | 10,343 |
| EAR Amendments | 3,076 | 30 | 1,538 |

| | | | |
|-------|--------|------|--------|
| Total | 67,448 | 29.6 | 32,816 |
|-------|--------|------|--------|

The cost associated with this burden is estimated to be \$984,480. This is obtained by multiplying 32,816 hours times \$30 per hour.

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 #12 above).

There is no additional cost to the respondent.

14. Provide estimates of annualized cost to the Federal government.

The annual cost to the Federal Government is approximately \$2,023,440. This is based on licensing officers spending 45 minutes to review each of the 67,448 applications at \$40 per hour.

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB 83-I.

Not applicable.

16. For collections whose results will be published, outline the plans for tabulation and publication.

BIS publishes information based on aggregate data from export license applications. It does not publish information that would identify the details of specific applications or requests. Section 1761(h) of the ECRA restricts release of such detailed data to Congress, the GAO, or to situations in which the Secretary (authority delegated to the Under Secretary for Industry and Security) determines that release is in the national interest.

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 identified in Item 19 of the OMB 83-I.

Not applicable.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Not applicable.