

**Supporting Statement
e-Allegations Submission
1651-0131**

A. Justification

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.**

U.S. Customs and Border Protection (CBP) has historically collected information regarding violations of the customs laws. For example, CBP established the e-Allegations program in June 2008 to create a central location for the public to report allegations of trade law violations. The information provided by the public enables CBP, in collaboration with our partners, to protect our economy from the effects of unfair trade practices and guard against the entry of products that could pose a threat to health and safety. The information collected through the portal includes the name individual filing the allegation (this individual may remain anonymous), their contact information, and information pertinent to the allegation of a trade law violation.

This collection of this information is authorized by the Tariff Act of 1930, as amended (19 U.S.C.1202 *et seq.*), the Homeland Security Act of 2002 (Title 6, U.S.C. 101), and the Security and Accountability for Every Port Act of 2006 ["SAFE Port Act"] (Pub. L. 109-347, Oct. 13, 2006). The e-Allegations website is accessible at <https://www.cbp.gov/trade/e-allegations/>.

Congress passed the Enforce and Protect Act ("EAPA"), as a part of the Trade Facilitation and Trade Enforcement Act ("TFTEA") of 2015 (Pub. L. 114-125, Feb. 24, 2016). The EAPA legislation specifically was intended to improve trade law enforcement and duty collection for antidumping and countervailing duty orders, thus helping to create a level-playing field for U.S. businesses. To that end, and consistent with statute, CBP designed an investigative process that provides for a multi-party, transparent, on-the-record administrative proceeding, where parties can both participate in and learn the outcome of the investigation. See 19 U.S.C. § 1517; see *also* 19 CFR Part 165.

Updates to collection:

The information collected through the EAPA allegation submissions portal, the Case Management System (CMS) (also known as the EAPA portal), includes the following: filer category, name of individual filing the allegation and their contact information, the name and address of the company they represent, and their interested party designation; information related to the alleged evasion scheme, including type of products, type of scheme and antidumping (AD)/countervailing duty (CVD) Order information; the name and address of the company engaging in the alleged evasion scheme; and various certifications regarding the truthfulness of the allegation and how notifications about how the information will be used during

the investigation. Additionally, CBP requests information to include alleged and violating importer email and phone number, optional representing attorney contact information, and the type of violation and the corresponding details. Interested parties will upload documents with the appropriate confidentiality status (e.g., business confidential version, public version, or public document).

New users will need to create an account with their name and email address before accessing the EAPA portal, filing allegations, uploading documents for cases to which they are assigned to participate, and communicating with EAPA staff.

The EAPA Allegation form has been modified from the original version to provide clarifying information which validates that the allegation qualifies as an EAPA allegation. Additions to the form include alleged name and phone number and the alleged violating importer's email and phone number, the contact information for the representing attorney contact information which was an optional data element, and a requirement to select the type of violation and provide the corresponding details. The updated form also requires users to upload at least one document to the allegation submission and select a document category in addition the existing classification for confidentiality status. Users will have the option to select additional categories including document date and if a document has been served after upload. Harmonized Tariff Schedule product categories and questions that would make an allegation non-qualifying for an EAPA allegation have been removed and replaced by system validations or additional instructions.

Collection of information for an EAPA investigation is authorized by the Tariff Act of 1930, as amended (19, U.S.C. 1517), Section 421 of the TFTEA (Pub. L. 114-125, Feb. 24, 2016), and 19 CFR 165. The EAPA portal is accessed through the e-Allegations website at <https://eallegations.cbp.gov/Home/Index2>.

In July 2023, the U.S. Court of Appeals for the Federal Circuit mandated¹ that CBP implement a mechanism called an Administrative Protective Order (APO) for parties to the investigation to access business confidential information used to make determinations in CBP's EAPA investigations, administrative reviews, and court remands.

To comply with the mandate, CBP will need to collect additional information related to the ability to grant parties under EAPA investigation/administrative review/court remand, access to this business confidential information.

Specifically, U.S. lawyers, or personnel under the direct control of U.S. lawyers, will need to provide the following additional information, not previously collected:

- 1) a request to view BC information;
- 2) the names of all individuals, U.S. lawyers and personnel under the direct control of U.S. lawyers, who will have access to the BC information;

¹ Royal Brush Mfg., Inc. v. United States, 75 F.4th 1250 (Fed. Cir. 2023)

- 3) the bar license number(s) and relevant United States jurisdiction(s) for the responsible U.S. lawyers who access or who oversee personnel accessing the BC information;
- 4) certifications that the people viewing the BC information do not, and will not, have any decision-making authority or official business relationship with the party they are representing in the EAPA proceeding;
- 5) certifications agreeing to protect and not disclose any BC information to unauthorized persons;
- 6) certifications to only use the BC information for the specific EAPA proceeding for which access is approved;
- 7) certifications that the statements they are providing are true and accurate; and
- 8) certifications that the authorized representatives will destroy all BC information at the conclusion of the EAPA proceeding, including any related judicial proceeding.

CBP published a Final Rule² March 18th, 2024, establishing the APO implementation, formally announcing the EAPA Portal, and, when the Final Rule is effective, an allegor will be able to withdraw an allegation and a Federal agency will be able to withdraw a request for an investigation (referral) in the EAPA Portal.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

The information collected has been used by select CBP officials, and partner government agencies, solely for the purpose of pursuing trade violations. CBP will continue to use this information for the purpose of pursuing trade violations.

The information is being collected to assist CBP with its mission of protecting the revenue through trade compliance and enforcement. The information will also assist CBP with its other areas of responsibility such as intellectual property rights enforcement and import safety issues. This system helps CBP address violations of law.

The information collected for EAPA investigations through the EAPA portal is used by a select team of CBP officials for the purpose of enforcing the collection of proper AD/CVD duties; partner government agencies are consulted and receive information as needed and in accordance with law. CBP collects the information for analysis to ensure that CBP collects revenue lawfully owed to the U.S. government and to confirm compliance with U.S. AD/CVD laws and regulations. CBP will refer any health and safety issues that arise during an EAPA investigation to the proper U.S. Government officials.

With the new change in collecting additional information, legal representatives, as well as their support staff, for the allegor or U.S. importer, in addition to the U.S.

² Investigation of Claims of Evasion of Antidumping and Countervailing Duties
<https://www.federalregister.gov/documents/2024/03/18/2024-04713/investigation-of-claims-of-evasion-of-antidumping-and-countervailing-duties>

officials mentioned above, will be allowed to view business confidential information used during the EAPA proceeding.

- 3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.**

Information regarding potential trade violations are electronically submitted via the e-Allegations website at <https://www.cbp.gov/trade/e-allegations/>.

The Trade Violations Reporting (TVR) portal facilitates reporting allegations of trade violations (i.e., e-Allegations) and evasion violations via the Enforce and Protect Act of 2015 (EAPA). Additionally, TVR provides a link to the ICE Tip Form <https://www.ice.gov/webform/ice-tip-form>, for reporting allegations of criminal or illegal activity to Immigration Customs Enforcement (ICE), which ICE is responsible for managing, The TVR portal is accessed through the e-Allegations website at <https://eallegations.cbp.gov>.

Information regarding e-Allegations is also electronically submitted via the TVR web portal. Allegers can submit documentation through the TVR at initial submission, and additional information pertinent to the allegation can be submitted electronically via email at eallegations@cbp.dhs.gov. Process notifications are sent automatically through the Analysis and Referral Management (ARM) application at various points in an allegation's lifecycle from submission to closure.

The new information will be submitted electronically through the EAPA Case Management System (CMS) (also known as the EAPA Portal). The portal can be reached in two ways – through the TVR web portal at <https://eallegations.cbp.gov/s/> and through the EAPA website at <https://cbp.gov/trade/trade-enforcement/tftea/eapa> by clicking the field titled "Filing an EAPA Allegation."

An interested party, as defined in 19 U.S.C. 1517(a)(6), can submit EAPA allegations through the EAPA portal, and parties to the investigation, as defined in 19 CFR 165.1, can submit, receive, and view documents relating to the investigation in the EAPA portal. Parties to the investigation will receive notifications delivered through the CMS (EAPA portal) for all actions, including when the administrative record is ready to be viewed. Requests for Information on CBP Form 28 (CF-28), Initial Request for Information questionnaires and Supplemental Request for Information questionnaires from the EAPA branches will come in form of a "task" in an email to the parties to the investigation. In addition, a party who filed an allegation and a Federal agency that filed a request for an investigation may withdraw the allegation/the request for an investigation by submitting a request to withdraw via email or the EAPA portal.

- 4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.**

This information is not duplicated in any other place or any other form.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

This information collection does not have a significant impact on a substantial number of small businesses or entities.

6. Describe consequences to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

The consequence of not allowing this collection is that, in order to maximize its law enforcement efforts to ensure collection of the revenue and compliance with relevant U.S. law, CBP relies on the trade community to report alleged violations through publicly available reporting mechanisms. To the extent that CBP does not collect this information, there is increased risk of economic injury to the United States, a risk to public health and safety, and a greater threat of terrorist attack in the U.S.

The consequence of not allowing this new collection is that the agency will not be able to afford due process contrary to a decision by the U.S. Court of Appeals for the Federal Circuit issued in July 2023, and two orders issued by U.S. Court of International Trade in March 2024.

7. Explain any special circumstances.

This information collection is conducted in a manner consistent with the guidelines in 5 CFR 1320.6.

The requirement for the collection of new information is consistent with the requirements in *Royal Brush Mfg., Inc. v. United States*, 75 F.4th 1250 (Fed. Cir. 2023) (*Royal Brush*). It is also imperative to initiate this requirement as soon as possible given that the CIT has recently required, in three separate matters, that CBP implement an APO mechanism because it has declined to extend a JPO to administrative remand proceedings in those cases.

8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments.

An Interim Final Rule (IFR) was published soliciting public comment on August 22, 2016 (Volume 81, Page 56477) and the Final Rule published March 18, 2024 (Volume 89, Page 19239).

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

There is no offer of a monetary or material value for this information collection.

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

There are no assurances of confidentiality provided to the respondents of this information collection.

This collection is covered by the following Privacy Impact Assessments:

- [DHS/CBP/PIA-060 e-Allegations Portal](#)
- [DHS/CBP/PIA-003 Automated Commercial Environment \(ACE\)](#) and subsequent series

This collection is covered by the following System of Record Notices (SORNs):

- [DHS/CBP-13 Seized Assets and Case Tracking](#)
- [DHS/CBP-001 Import Information System](#)
- [DHS/CBP-020 Export Information System](#)
- [DHS/ALL-004 GITAARS](#)

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. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

This information collection does not involve questions of a personal or sensitive nature.

12. Provide estimates of the hour burden of the collection of information.

INFORMATION COLLECTION	TOTAL ANNUAL BURDEN HOURS	NO. OF RESPONDENTS	NO. OF RESPONSES PER RESPONDENT	TOTAL RESPONSES	TIME PER RESPONSE
e-Allegations	272	1,088	1	1,088	15 minutes (.25 hours)
EAPA Allegations	30	149	1	149	12 minutes (0.20 hours)
EAPA Portal Account Creation	13	250	1	250	3 minutes (0.05 hours)
EAPA APO Information	17	100	1	100	10 minutes (.167 hours)
Total:	332	1,587		1,587	

Public Cost

e-Allegations: The estimated cost to the respondents is \$8,533. This is based on the estimated burden hours (272) multiplied by the average loaded hourly wage rate

for importers (\$31.37). CBP calculated this loaded wage rate by first multiplying the Bureau of Labor Statistics' (BLS) 2020 median hourly wage rate for Cargo and Freight Agents (\$21.04), which CBP assumes best represents the wage for importers, by the ratio of BLS' average 2020 total compensation to wages and salaries for Office and Administrative Support occupations (1.4912), the assumed occupational group for importers, to account for non-salary employee benefits.³ This figure is in 2020 U.S. dollars and CBP assumes an annual growth rate of 0 percent; the 2020 U.S. dollar value is equal to the 2021 U.S. dollar value.

EAPA Allegations: The estimated cost to the respondents is \$12,896. This is based on the estimated burden hours (30) multiplied by the average loaded hourly wage rate for external attorneys (\$429.86). CBP determined this is the best estimate for private lawyers hired outside of a company and was obtained from an American Intellectual Property Law Association (AIPLA) study on the average hourly billing rate for lawyers. AIPLA's study surveyed intellectual property (IP) lawyers that were used in the 2017 Report of the Economic Survey. The median hourly billing rate for these lawyers was \$400 in 2016 dollars, which is the most recent data available, and \$429.86 after adjustment to 2020 dollars.^{4 5} CBP assumes an annual growth rate of 0 percent for 2021; the 2020 U.S. dollar value is equal to the 2021 U.S. dollar value.

EAPA portal account creation: The estimated cost to the respondents is \$5,588. This is based on the estimated burden hours (13) multiplied by the average loaded hourly wage rate for external attorneys (\$429.86). CBP determined this is the best estimate for private lawyers hired outside of a company and was obtained from an American Intellectual Property Law Association (AIPLA) study on the average hourly billing rate for lawyers. AIPLA's study surveyed intellectual property (IP) lawyers that were used in the 2017 Report of the Economic Survey. The median hourly billing rate for these lawyers was \$400 in 2016 dollars, which is the most recent data

³ Source of median wage rate: U.S. Bureau of Labor Statistics. Occupational Employment Statistics, "May 2020 National Occupational Employment and Wage Estimates United States." Updated March 31, 2021. Available at https://www.bls.gov/oes/2020/may/oes_nat.htm. Accessed June 1, 2021. The total compensation to wages and salaries ratio is equal to the calculated average of the 2020 quarterly estimates (shown under Mar., June, Sep., Dec.) of the total compensation cost per hour worked for Office and Administrative Support occupations (\$28.8875) divided by the calculated average of the 2020 quarterly estimates (shown under Mar., June, Sep., Dec.) of wages and salaries cost per hour worked for the same occupation category (\$19.3725). Source of total compensation to wages and salaries ratio data: U.S. Bureau of Labor Statistics. Employer Costs for Employee Compensation. Employer Costs for Employee Compensation Historical Listing March 2004 – December 2020, "Table 3. Civilian workers, by occupational group: employer costs per hours worked for employee compensation and costs as a percentage of total compensation, 2004-2020." March 2021. Available at <https://www.bls.gov/web/ecec/ececqrtn.pdf>. Accessed June 1, 2021.

⁴ Source: American Intellectual Property Law Association. *2017 Report of the Economic Survey*. "Billable Hours, Billing Rate, Dollars Billed (Q29, Q30, Q27)." June 2017.

⁵ CBP calculated the 2020 adjusted dollar amount using the percent increase in the Annual Average GDP Price Deflator (2015 =100) between 2016 and 2020. The annual average GDP Price Deflator value in 2016 = 101.0481, the annual average GDP Price Deflator value in 2020 = 108.5904, the percent increase was estimated to be around 7.4641% ($108.5904/101.0481 = 107.4641$ or 7.4641%). This percent increase was applied to the 2016 estimated hourly billing rate of \$400 for external attorneys to estimate the 2020 hourly billing rate of \$429.86 for external attorneys.

Based on the CBP approved Service Delivery Requirements Document, below, are the costs for e-Allegations O&M. O&M costs begin in FY20 and include varying hours of work each year to address server maintenance and patching, code corrections, security, user support and troubleshooting. The estimated average cost to the federal government associated with this information collection based on the table below is \$103,940.

Type	FY19	FY20	FY21	FY22	FY23	FY24
e-Allegation O&M	\$0	\$130,737.58	\$133,429.84	\$110,959.60	\$85,716.29	\$58,858.52

EAPA Allegations:

Based on the DHS approved ATAP Life Cycle Cost Estimate (LCCE) document below are the estimated costs for EAPA O&M. O&M includes recurring costs for Infrastructure Support, Salesforce user licenses, contractor labor support for O&M bug fixes, and help desk support. Costs for FY22 and beyond include 2% inflation. O&M costs were derived via conversations with CBP Office of Information Technology (OIT), and Service Delivery Requirement (SDR) agreements with OIT. The estimated average cost to the federal government associated with this information collection, based on the table below is \$315,751.

ATA P LCC E	FY21	FY22	FY23	FY24	FY25	FY26	FY27	FY28	FY29	FY30
EAP A O&M	\$212,034	\$253,512	\$336,216	\$328,457	\$321,378	\$327,806	\$334,362	\$341,049	\$347,870	\$354,827

EAPA APO: The estimated annual cost to the Federal Government associated with the review of this information collection is \$3,038. This is based on the number of responses that must be reviewed (100) multiplied by the time burden to review and process each response (0.5 hours) = 50 hours multiplied by the average hourly loaded rate for other CBP employees (\$60.76)¹¹ = \$3,038.

15. Explain the reasons for any program changes or adjustments reported in Items 12 or 13 of this Statement.

There has been an increase in the estimated annual burden hours previously reported for this information collection as a result of the U.S. Court of Appeals for the Federal Circuit’s decision in *Royal Brush* indicating that due process requires CBP to implement a mechanism called an Administrative Protective Order (APO) for certain parties to access business confidential information used to make determinations in CBP’s EAPA investigations, administrative reviews, and court remands.

¹¹ CBP bases this wage on the FY 2023 salary and benefits of the national average of other CBP positions, which is equal to a GS-11, Step 4. Source: Email correspondence with CBP’s Office of Finance on September 26, 2023.

The new APO data collection adds 17 hours to the total annual burden and 100 new respondents/responses.

The EAPA allegation time burden was reduced by 3 minutes (0.05 hours) because data elements provided during the EAPA portal account creation process are automatically filled into EAPA allegations by the portal, which reduces the time burden of EAPA allegations.

EAPA portal account creation was added to the table and 101 EAPA portal accounts were created beyond those that were needed to submit an EAPA allegation. This results in a net increase in the estimated annual burden hours previously reported for this information collection.

- 16. For collection of information whose results will be published, outline plans for tabulation, and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.**

This information collection will not be published.

- 17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.**

CBP will display the expiration date for OMB approval of this information collection on the EAPA and e-Allegations websites.

The EAPA APO collection cannot display the expiration date or OMB control number because it is not a form/letter/sign—respondents provide CBP with a letter providing the information addressed by this collection.

- 18. Explain each exception to the certification statement identified in Item 19, “Certification for Paperwork Reduction Act Submissions”.**

CBP does not request an exception to the certification of this information collection.

- 19. Collection of Information Employing Statistical Methods**

No statistical methods were employed.