



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE
WASHINGTON DC 20508

**Supporting Statement: 301 Exclusion Requests
OMB Control Number 0350-0015**

A. JUSTIFICATION

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

Following a comprehensive review of the July 6, 2018, and August 23, 2018 actions, as modified, in the Section 301 Investigation of China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation, the President directed the U.S. Trade Representative to establish a process by which interested persons may request that particular machinery used in domestic manufacturing classified within a subheading under Chapters 84 and 85 of the of the Harmonized Tariff Schedule of the United States (HTSUS) be temporarily excluded from Section 301 tariffs (machinery exclusion process). Consistent with the President's direction, on May 28, 2024, the Office of the United States Trade Representative (USTR) published a *Federal Register* notice announcing that the U.S. Trade Representative was establishing an exclusion process and requested comments on whether certain subheadings under Chapters 84 and 85 of the HTSUS should or should not be eligible for consideration of temporary exclusion. *See* 89 FR 46252.

To facilitate the machinery exclusion process, on May 31, 2024, USTR requested comments regarding its intent to seek a three-year renewal of the OMB control number for this ICR, which was used for previous exclusion processes. *See* 89 FR 47198. USTR received eight comments, five of which were unresponsive to the notice.

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.

USTR plans to invite U.S. stakeholders to submit requests for the temporary exclusion from Section 301 tariffs, certain machinery used in domestic manufacturing under Chapters 84 and 85 of the HTSUS. Each request must identify the particular machine the submitter is seeking an exclusion for, provide certain information about the machine that is the subject of the request, and discuss the availability of the machine outside of China. Requesters must use the 301 Exclusion Request/Response/Reply Form, which will be available through an electronic portal for submission of exclusion requests - <http://comments.ustr.gov>. Submissions will be available for public inspection through the portal.

After USTR posts a request for exclusion of a particular machine, interested persons will have an opportunity to respond, indicating opposition or support, and providing reasons for their view.

After USTR posts a response, interested persons (typically the original requester) will have an opportunity to post a rebuttal to the response.

USTR will evaluate each request, and any responses and rebuttals, on a case-by-case basis, taking into account the availability of the product outside of China, whether granting the exclusion would support domestic manufacturing, and whether the exclusion would undermine the objective of the Section 301 investigation.

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.

Respondents make all submissions via an electronic portal. Submissions will be available for public inspection through the electronic portal.

4. Describe efforts to identify duplication.

There is no duplication. Requests are specific to certain products and the exclusion of those products from Section 301 duties.

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

All interested U.S. stakeholders can submit requests for exclusions or comment on requests for exclusions. The submission requirements are the same for all respondents. USTR previously has, and will continue to consult with the Small Business Administration (SBA) and provide SBA with information regarding the exclusions process to help assist small businesses.

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

The machinery exclusion process was directed by the President with the purpose of supporting domestic manufacturing.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

The collection of information is consistent with OMB guidelines.

8. Provide information on 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 recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

On May 31, 2024, USTR requested comments regarding its intent to seek a three-year renewal of the OMB control number for this ICR. *See* 89 FR 47198. USTR received eight comments. In addition to these comments, USTR consulted with and incorporated the advice of the interagency Section 301 committee, a subcommittee of the Trade Policy Staff Committee.

Of the eight comments USTR received, five comments are unresponsive. Specifically, one comment was submitted in response to another USTR Section 301 docket (USTR-2024-0008-0002) and three comments are requests for exclusion of particular products and do not address the ICR itself (USTR-2024-0008-0003, USTR-2024-0008-0007, USTR-2024-0008-0008, and USTR-2024-0008-0009). The three remaining comments are discussed below.

A comment from the Retail Industry Leaders Association (RILA) (USTR-2024-0008-0004) raises several issues, including the scope of the exclusion process, the burden associated with the ICR, the transparency, predictability, and efficiency of USTR's exclusion processes, and requests that USTR create a searchable repository for exclusions and exclusion requests.

A comment from the National Association of Manufacturers (NAM) (USTR-2024-0008-0006) reviews comments NAM submitted in another USTR docket and suggests certain questions be added to the ICR to allow USTR to make any granted exclusions retroactive to May 2022.

A comment from American Floorings (USTR-2024-0008-0005) requests that USTR make the exclusion process retroactive and suggests certain questions for that purpose.

In response to RILA's request that USTR revise the burden estimates, USTR increased the burden associated with submitting an exclusion request from 60 to 90 minutes and revised the burden associated with submitting a response from 30 to 45 minutes. RILA's request is based on its experience with the previous ICR. We note that USTR significantly condensed the current ICR compared to the previous version. Specifically, USTR has removed requests for financial data and data on purchases and imports, greatly reducing the burden to the stakeholder.

In response to RILA's request that USTR broaden the ICR to accommodate a broader exclusion process, USTR has decided not to revise the ICR. As noted above, the scope of the exclusion process was directed by the President. USTR believes the current ICR is consistent with the President's direction.

With respect to requests from American Flooring and NAM to add questions to the ICR to make the exclusion process retroactive, USTR has decided not to revise the ICR. The policy decision of whether exclusions will be retroactive, and for how long, is still being considered. USTR does not think any of the suggested questions would be necessary to implement a retroactive process.

The remaining issues raised in the comments do not suggest modifications to the ICR, but rather to the implementation of the exclusion process itself. USTR will continue to consider these comments in implementing the exclusion process.

On August 15, 2024, USTR published a notice with a 30-day comment period in the *Federal Register* requesting comments on the ICR be sent to OMB. *See* 89 FR 66484.

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

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

Respondents may designate information they submit through the electronic portal as business confidential information (BCI). BCI will not be available for public inspection.

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. N/A.

12. Provide an estimate in hours of the burden of the collection of information.

USTR has revised the burden estimates because it expects to receive fewer exclusion requests because the process now covers a smaller group of products. As directed by the President, the scope of this exclusion process is limited to machinery used in domestic manufacturing under Chapters 84 and 85 of the HTSUS.

Exclusion Request	Processing Time	Number of Requests	Total Hours	Total Cost
prepare and submit an exclusion request	90 minutes	5,000	7,500	\$175 per request x 7,500 = \$875,000

Response to a Request	Processing Time	Number of Responses	Total Hours	Total Cost
prepare and submit a response to an exclusion request	45 minutes	1,000	750	\$100 per response x 750 = \$75,000

Reply to a Response	Processing Time	Number of Replies	Total Hours	Total Cost
prepare and submit a reply to a response to an exclusion request	45 minutes	750	563	\$100 x 563 = \$56,250

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 Question 12 above).

The estimated annual cost burden to respondents excluding the value of the burden hours in Question 12 is \$0.

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

Exclusion Request	Processing Time	Number of Requests	Total Hours	Total Cost
evaluate each submission on a case-by-case basis	75minutes	5,000	8,438	\$813,000

The total cost estimate includes the average annual salary plus benefits, for the federal employees and contractors expected to work on the exclusion process. USTR estimates that it will take approximately one year to complete the process.

15. Explain the reasons for any program changes or adjustments.

As directed by the President, USTR is establishing an exclusion process for machinery used in domestic manufacturing under Chapters 84 and 85 of the HTSUS. Previous exclusion processes covered broader groups of products and were established for different purposes.

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

The exclusion request dockets that are hosted on comments.ustr.gov allow individuals to search for their own requests by using their submission ID, organization name, or HTS code. This allows stakeholders can see where their request is in the decision-making process. All requests received and their current status also are displayed for the public to view. Members of the public can use the search bar functionality to search for requests submitted by a company or under a specific HTSUS code, and can sort the requests by stage, HTSUS code, date posted, or the date the responses close for that request.

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. N/A.

18. Explain each exception to the certification statement. N/A.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not employ statistical methods.