

September 11, 2024

Via Electronic Submission

Ms. Andrea Battista
Office of Defense Trade Controls Management
2401 E Street N.W., Suite 1200 (SA-1)
Washington, D.C. 20522-0112

Subject: Submission of Public Comments to Public Notice 12481 Regarding the DDTC Form DSP-73 (*OMB Control #*: 1405–0023)

Dear Ms. Battista:

Dearth Consulting LLC submits four (4) public comments in response to Public Notice 12481 regarding the Department of State (the “Department”) Directorate of Defense Trade Controls (“DDTC”) Form DSP-73 (*OMB Control #*: 1405–0023), as published in the *Federal Register* on August 13, 2024.

Dearth Consulting LLC is not registered with DDTC; however, it supports many clients who use the DSP-73 to temporarily export aircraft or vessels to perform DDTC authorized activities outside of the U.S.

Public Comments

Comment 1: Evaluate whether aircraft/vessel registration and the operator information collection is necessary for the proper function of the Department.

Dearth Consulting LLC believes the Aircraft or Vessel Information in Blocks 25 through 29 on the DSP-73 form are not necessary for the Department to determine exportability of the aircraft based on the requirements of the Arms Export Control Act (“AECA”) and International Traffic in Arms Regulation (“ITAR”). To support this claim, Dearth Consulting notes that this information is not required on DSP-5 (Permanent Export) or DSP-61 (Temporary Import) license applications for transactions involving complete aircraft or vessels. Dearth Consulting LLC requests DDTC to review these requirements and determine if this information is exclusively needed for DSP-73 (Temporary Exports) license requests, while considering the following Block by Block commentary.

- **Blocks 25 FAA Reg. # and 26 Date of FAA Reg. #** – The FAA. Reg. # and its associated registration date are under the jurisdiction of the Federal Aviation Administration (“FAA”) (14 C.F.R. Parts 47 and 48) and do not seem necessary for DDTC to make an exportability decision nor for Census to properly identify the aircraft upon exit or reentry. This calls into question the need for the Department to collect this data. From an applicant’s point of view, both fields are subject to change based on the configuration of the aircraft and FAA timing requirements for aircraft recertification. When acquiring aircraft, many require significant maintenance or upgrades prior to receiving FAA certification. The requirement to include FAA certification on the DSP-73 license form thus unduly burdens an exporter by delaying the ability of the exporter to apply for the Department’s approval to temporarily export. This delay often impacts mission execution,

flexibility, and timing without any apparent benefit to the Department.

- **Block 27 Make, Model, and Serial #** – On DSP-5 and DSP-61 license applications, the Make and Model information is typically provided in the Commodity Description Block rather than separately collected. Eliminating this data collection would reduce the number of Blocks on the application and allow for an already existing Block of the license form to capture all commodity information, thus reducing the draft and review time.

Additionally, Dearth Consulting LLC requests DDTC to review the necessity for the inclusion of a serial # as they are rarely provided on any other license form. This requirement on the DSP-73 reduces flexibility of the exporter. With large aircraft fleets, mission assignments can change at a moment's notice and for a variety of reasons, such as an aircraft on ground situation. Unless an exporter was to include their entire fleet of aircraft on each license, they can be left with no option but to submit a replacement license if an identical make and model aircraft is ready to deploy but a serial # was not included on the approved DSP-73. This review cycle taxes an already heavily worked Department, without any discernible benefit.

- **Block 28 Physical Location** – This is a point-in-time piece of information that may only be current at the time of license application. Where the aircraft or vessel may be physically located should have no bearing on the exportability review of that aircraft or vessel as it may likely change by license approval and actual export date. This location field is not required within DSP-5 nor DSP-61 applications. Dearth Consulting LLC requests DDTC to review if this information is necessary to collect or if another Block, such as Block 19 “Source of Commodity,” fulfills this need. Removal of this Block would reduce the applicant's preparation time and reduce the fields the Department must review prior to approval.
- **Block 29 Commander and Operator or Certification License # and all subblocks.** Dearth Consulting LLC does not understand how either the Commander or Operator or Certification license # impacts DDTC's determination of exportability of the aircraft or vessel and believes collection of this information is unduly burdensome. Pilot registration is enforced and monitored by the FAA and the data collection of this information in the DSP-73 is duplicative and overly time consuming.
 - **Subblock for Name and License #** – Under FAA regulations (14 C.F.R. Part 61), it is incumbent upon the owner of the aircraft to ensure the aircraft is operated in the U.S. by an FAA licensed operator. With the 4-year validity of the DSP-73, a roster of pilots can change dramatically. Dearth Consulting LLC believes the Department is placing a burden on an exporter to lock in a set of employees to execute a mission or include the full roster of pilots on each license application. This may include hundreds of entries and is a requirement that is extremely burdensome to the applicant without any apparent regulatory requirement. Further, this requirement reduces applicant mission flexibility and timing, and increasing the burden to both the Department and the license applicant without any discernable benefit to the Department.
 - **Subblock for Address and Phone** – Dearth Consulting LLC believes providing the home address and personal phone number of individual aircraft operators unnecessarily exposes individual Personally Identifiable Information (“PII”). In situations where the license applicant chooses to list the corporate address and phone

number for all aircraft operators (as there are currently no DSP-73 licensing instructions or guidelines directing the identification of individual aircraft operator PII), listing this same corporate information multiple times increases the initial time burden on the applicant while yielding no additional information that benefits the Department. Since all aircraft/vessel operators are employed by the aircraft/vessel owner (either permanently or via contract), there should be no need to have personal contact information for individual aircraft/vessel operators as part of the license.

Comment 2: Evaluate the accuracy of the estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.

Dearth Consulting LLC believes the current time estimate of 1 hour per DSP-73 application is grossly underestimated, particularly when the application involves multiple aircraft or vessels and multiple operators. Due to the inflexibility of the form requirements, and little ability for DSP-74 amendment, an exporter of aircraft may spend at least 4x that estimate entering the information required for multiple aircraft or vessels with multiple operators.

The current implementation of the DSP-73 requires identification of aircraft/vessel registration # and registration date, as well as Block 29 operators (and all associated information) for each aircraft/vessel listed on the license. For example, in situations where an applicant has 10 aircraft identified on the license and each of the aircraft can be operated by same 30 operators, the Block 29 information (30 separate operators with associated operator license and contact information information) needs to be duplicated nine (9) additional times for aircraft 2-10. This requires the applicant to enter 300 pilot names and associated information for the potential export of their 10 aircraft. In addition, in a situation where an individual operator requires updated information, such a change would require a DSP-74 with ten (10) separate changes since the information appears on the original license ten (10) times. This is a huge time burden during initial data entry which yields no additional data or benefit to the Department. Dearth Consulting LLC requests DDTC to consider if collection of this information is relevant at all, and if so, determine a more efficient collection methodology.

Comment 3: Enhance the quality, utility, and clarity of the information to be collected.

- If the Department determines there is a valid requirement to collect the Block 25 and 26 information, Dearth Consulting LLC recommends a change to the DSP-74 to make these two blocks available for amendment. This would allow for an expedited adjudication in the case of necessary amendments for identical aircraft/vessel swaps, rather than submission of a replacement license.
- If the Department determines there is a valid requirement to collect the Block 29 operator name and FAA license #, Dearth Consulting LLC recommends a change to the implementation of the DSP-73 in DECCS such that Block 29 is a standalone Block that only collects operator name and FAA license # once rather than a subblock to each aircraft or vessel entry on the license. In this way, any of the aircraft or vessels identified on the license could be operated by any of the operators identified in the separately maintained Block 29. Thus, there will be no duplicating the entries on a per aircraft basis. This will significantly reduce the time burden in situations where the license contains multiple

aircraft or vessels and multiple operators, without reducing the type of information collected.

Comment 4: Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

- If the Department determines there is a valid requirement to collect the Block 25 information, Dearth Consulting LLC recommends DDTC enter into a data sharing agreement with the FAA in order to obtain information regarding Block 26 aircraft FAA registration date and Block 27 Make, Model, and Serial # information for each identified aircraft. In this way, license applicants would not need to provide this information already maintained by the FAA.
- If the Department determines there is a valid requirement to collect the Block 29 aircraft/vessel operator address and phone number information, Dearth Consulting recommends DDTC enter into a data sharing agreement with the FAA in order to obtain this information for each Operator Certification # provided as operators are required to keep their contact information up to date with the FAA. In this way, license applicants would not need to provide this information already maintained by the FAA.

Sincerely,



Anthony M. Dearth
President
Dearth Consulting LLC