



Billing Code: 4710-25

DEPARTMENT OF STATE

Public Notice: 10002

30-Day Notice of Proposed Information Collection: Request for Advisory Opinion

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. We are requesting comments on this collection from all interested individuals and organizations in accordance with the Paperwork Reduction Act of 1995. The purpose of this Notice is to allow 30 days for public comment.

DATES: Submit comments directly to the Office of Management and Budget (OMB) up to **[the FR will insert date 30 days from date of publication in the *Federal Register*]**.

ADDRESSES: Send comments to the Department of State desk officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB).

You may submit comments by the following methods:

- **E-mail:** oira_submission@omb.eop.gov. You must include the DS form number (DS-7786), information collection title (Request for Advisory Opinion), and the OMB control number (1405-0174) in the subject line of your message.
- **Fax:** 202-395-5806. Attention: Desk Officer for Department of State.

FOR FURTHER INFORMATION CONTACT: Please visit DDTC's website (www.pmddtc.state.gov/FRN.html) to view a copy of the proposed form and instructions.

Contact Danielle Canfield at CanfieldDP@state.gov for further information regarding this notice or if you are unable to access the proposed form and instructions on the DDTC internet site.

SUPPLEMENTARY INFORMATION:

- Title of information collection: Request for Advisory Opinion.
- OMB control number: 1405-0174.
- Type of request: Revision of a Currently Approved Collection.
- Originating office: T/PM/DDTC.
- Form number: DS-7786.
- Respondents: Individuals and companies engaged in the business of manufacturing, brokering, exporting or temporarily importing defense articles or defense services.
- Estimated number of respondents: 250.
- Estimated number of responses: 250.
- Average time per response: 2 hours.
- Total estimated burden time: 500 hours.
- Frequency: On occasion.
- Obligation to respond: Voluntary.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.

- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of proposed collection:

The Directorate of Defense Trade Controls (DDTC), located in the Political-Military Affairs Bureau of the Department of State, has the principal mission of licensing the export, temporary import, and brokering of defense articles or defense services as enumerated in the United States Munitions List (USML), and to ensure that the sale, transfer, or brokering of such items are in the interest of United States national security and foreign policy.

Sections 126.9 (Advisory opinions and related authorizations) and 129.9 (Guidance) of the International Traffic in Arms Regulations (ITAR, 22 CFR parts 120-130) may be used by entities and individuals involved in the manufacture, export, temporary import, and brokering, of defense articles and defense services to request an advisory opinion as to whether DDTC would be likely to grant a license or other approval for the export of a particular defense article or defense service to a particular country (126.9(a)); for an interpretation of regulatory requirements (126.9(c)); whether certain

activity constitutes brokering under the ITAR (129.9(a)); or for other guidance pertaining to brokering (129.9(c)). DDTC has recently acquired an electronic case management system to update its business processes and how it receives and handles information from industry. This system, once deployed, will allow users to electronically submit requests for advisory opinions to DDTC; users will be able to retrieve responses using the same system. DDTC staff members have defined the data fields which are most relevant and necessary for requests for advisory opinions and developed the means to accept this information from the industry in a secure system. The revision of this information collection is meant to conform the current OMB-approved data collection to DDTC's new case management system. DDTC is, therefore, requesting industry comments on the new advisory opinion form, which will be mirrored in the case management system, once deployed. A copy of the draft form may be requested from DDTC using the contact information in the FOR FURTHER INFORMATION CONTACT section above. A copy of the draft form will also be placed for review on the DDTC website (www.pmddtc.state.gov).

Response to public comments:

The Department published a notice in the *Federal Register* on September 16, 2016 (81 FR 63840) soliciting public comment on this information collection. Two responses were received.

One commenter expressed concern that the drop down lists in blocks one, two, and three did not include a comprehensive selection of countries. Similarly, both commenters identified that there were only a few countries listed in the nationality field in block three of the form. When creating form DS-7786, DDTC included only a

representative sample of countries. This sample was meant to provide the form's "look and feel." Form DS-7786, which has since been finalized, now displays an exhaustive list of countries and territories.

One commenter suggested that DDTC include ITAR §126.9(c) in block three as an option for which advisory opinions may be requested. This comment came in response to a final rule published on August 17, 2016, (81 FR 54732) which added §126.9(c). This new section allows respondents to request an interpretation of the ITAR in the form of an advisory opinion. DDTC agrees with this suggestion; the form has been updated accordingly.

It was also identified that the sub-category field in block three did not allow for respondents to enter or select information. This field is now functional; however, what is shown is not an accurate or a complete list of what will populate in the final product. This proposed form is a static form that is meant to illustrate what information will be collected in the new case management system. Once deployed in the case management system, the sub-category field of the DS-7786 will include a comprehensive list of sub-categories.

In block four of the form, one commenter suggested including an option for "Letter of Explanation" to give respondents a means of providing descriptive information concerning their request. While this change has not been incorporated, DDTC notes that there are two unlimited text fields, describing details and end-use, which allow respondents to describe their request in detail. Respondents are encouraged to utilize both fields, as appropriate, to submit detailed, factual discussions regarding their request.

Respondents who submit requests without context risk requesting broad statements of agency policy, which may be outside the scope of this collection.

One commenter suggested amending the “Disclosures” portion of the Privacy Act Statement by adding the words “or approval” to the third sentence in order to be more consistent with ITAR § 120.1(c)(1). The proposed amendment would read: “The requested information may be used to make advisory opinions from the Directorate of Defense Trade Controls as to whether a license or other approval for the export **or approval** of a particular defense article or defense service to a particular country would be granted.” DDTC believes the current language is sufficient to satisfy the commenter’s concern; thus, the disclosure statement was not changed.

Lastly, DDTC received questions from the commenters regarding use of the form by foreign persons and for matters of general correspondence. DDTC would like to clarify that foreign persons are able to use this form to request advisory opinions. This form, however, is limited in scope and cannot be used for matters of general correspondence not covered under ITAR § 126.9(a), § 126.9(c), and §129.9. DDTC noted this in the form’s instructions, as requested.

Methodology:

This information will be collected by electronic submission to the Directorate of Defense Trade Controls.

Dated: May 22, 2017

Anthony M. Dearth
Managing Director, Acting
Directorate of Defense Trade Controls,
Department of State.

[FR Doc. 2017-10949 Filed: 5/25/2017 8:45 am; Publication Date: 5/26/2017]