

SUPPORTING STATEMENT
OMB 1505-0168
Persons Providing Travel and Carrier Services

This filing contains the information required by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. 3501-3521, and 5 CFR part 1320.

A. Justification.

1. Circumstances Making the Collection Necessary.

This application is submitted to revise the information collection authority pertaining to the Cuban Assets Control Regulations set forth in 31 CFR part 515 (the “Regulations”). The Regulations are implemented pursuant to the Trading with the Enemy Act (50 U.S.C. §§ 4301-4341) and other applicable statutes. This information is required by the Office of Foreign Assets Control (OFAC) to implement its compliance and enforcement programs with respect to regulatory requirements regarding persons providing authorized travel and carrier services with respect to Cuba. OFAC has amended the Regulations on numerous occasions.

Currently, persons subject to U.S. jurisdiction are authorized by general license to engage in travel-related transactions involving Cuba within the 12 existing travel categories in the Regulations. OFAC may authorize by specific license travel-related transactions that do not fall within the scope of an existing general license. In addition, persons subject to U.S. jurisdiction, including travel agents, airlines and vessel operators, are generally authorized to provide travel and carrier services in connection with travel-related transactions authorized by the Regulations. See 31 CFR § 515.572.

As to information collection requirements, since January 2015, OFAC has required that persons subject to U.S. jurisdiction providing services authorized pursuant to 31 CFR § 515.572 obtain and retain for at least five years from the date of the transaction a certification from each customer indicating the section of the Regulations that authorizes the person to travel to Cuba. In the case of a customer traveling under a specific license, the specific license number or a copy of the license must be maintained on file with the person subject to U.S. jurisdiction providing services authorized pursuant to 31 CFR § 515.572. The names and addresses of individual travelers must be retained on file with all other information required by §501.601. These records must be furnished to OFAC on demand.

On June 16, 2017, the President signed National Security Presidential Memorandum-5, “Strengthening the Policy of the United States Toward Cuba” (NSPM-5). On November 9, 2017, OFAC, the Department of Commerce’s Bureau of Industry and Security, and the Department of State took coordinated actions to implement NSPM-5. Among other things, in accordance with section 3(b)(ii) of NSPM-5, OFAC amended § 515.565(b) to require that people-to-people educational travel be conducted under the auspices of an organization that is subject to U.S. jurisdiction and that sponsors such exchanges to promote people-to-people contact (“group people-to-people educational travel”) (82 FR 51998).

On April 17, 2019, National Security Advisor Ambassador John Bolton delivered a foreign policy address (April 2019 Address) announcing regulatory changes to further implement

NSPM-5 and the President's foreign policy toward Cuba. Among other changes, the April 2019 Address announced that the Department of the Treasury would further restrict non-family travel to Cuba.

OFAC currently is taking action to implement portions of the President's foreign policy toward Cuba. In accordance with the April 2019 Address, OFAC is amending § 515.565 to remove the authorization for group people-to-people educational travel that appeared in § 515.565(b). OFAC is adding a "grandfathering" provision in § 515.565(b) to authorize certain group people-to-people educational travel that previously was authorized where the traveler has already completed at least one travel-related transaction (such as purchasing a flight or reserving accommodation) prior to publication of the new regulation in the Federal Register.

2. Purpose and Use of the Information Collected.

The information collected is used by OFAC to implement its compliance and enforcement programs pursuant to the Regulations, including whether travel-related transactions involving Cuba are authorized pursuant to the Regulations. Specifically, the information may be requested by OFAC to verify that travelers to Cuba are authorized under the Regulations to engage in such travel-related transactions and facilitate OFAC's ability to address potential violations of the Regulations.

3. Consideration Given to Information Technology.

The use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology is not applicable to this collection. Persons providing travel and air carrier services determine how to gather and retain the certification showing compliance with the relevant travel provisions of the Regulations from travelers.

4. Duplication of Information.

Generally, the information that OFAC requires pertains to individual travelers with individual travel itineraries and is not available other than if obtained from each traveler. Each individual certification is separate and unique. Further, requiring each person providing travel or carrier services to an authorized traveler to obtain the certification serves a distinct compliance and enforcement purpose, as discussed further in Section 8 below. Thus, there is no duplication of records.

5. Reducing the Burden on Small Entities.

The storage of the required certifications showing compliance with the relevant travel provisions of the Regulations for five years will affect small businesses or other small entities that provide authorized travel and carrier services, but this requirement is not expected to be onerous.

6. Consequences of not Conducting Collection.

The information collected is used primarily by the Department of the Treasury for compliance and enforcement purposes. This information is used to assess whether transactions

are conducted consistent with the Regulations. The lack of such information may hinder investigations.

Generally, the information could not be collected less frequently unless it was not collected at all. A certification is only collected from a traveler to Cuba when a person is providing authorized travel or carrier services. To collect the information less frequently would result in incomplete records regarding travel to Cuba, may hinder OFAC's ability to assess whether such travel complied with the Regulations, and may impact potential civil penalty or other enforcement actions.

7. Special Circumstances.

- *Requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;*

The Reporting, Procedures and Penalties Regulations, 31 CFR Part 501, require the retention of records for five years from the date of a restricted transaction subject to the provisions of 31 CFR chapter V or from the date that blocked property is unblocked. Under § 501.601, the requirement for five years of record retention beyond a transaction corresponds to the five-year statute of limitations set forth in 28 U.S.C. 2462.

- *Requiring respondents to submit proprietary trade secret, or other confidential information unless the bureau can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.*

OFAC will ensure that this information will only be released in accordance with the criteria for disclosure set forth in the Privacy Act, the Freedom of Information Act, and, as applicable, the Trade Secrets Act. Information about OFAC's privacy practices has been issued under OFAC's Privacy Act system of records notice: Treasury/DO .120 – Records Related to Office of Foreign Assets Control Economic Sanctions (75 FR 61853).

There are no other special circumstances. The collection of information is conducted in a manner consistent with the guidelines in 5 CFR 1320.5.

8. Consultation with Persons Outside the Agency.

A *Federal Register* notice soliciting comments on the existing requirements was published on April 30, 2019 (84 FR 18341). However, OFAC is now issuing this supporting statement concurrently with a new rule amending § 515.565, as described above. OFAC received no public comments as of the date of publication of this rule; however, OFAC will continue to receive comments on the federal register notice through the original notice comment period ending on June 30, 2019.

9. Payment or Gift.

Respondents receive no payment or gifts for completing or retaining the certifications.

10. Confidentiality.

OFAC will ensure that this information will only be released in accordance with the criteria for disclosure set forth in the Privacy Act, the Freedom of Information Act, and, as applicable, the Trade Secrets Act. For further information about OFAC's privacy practices, please see OFAC's system of records notice: Treasury/DO .120 – Records Related to Office of Foreign Assets Control Economic Sanctions (76 FR 4995).

11. Questions of a Sensitive Nature.

The information requested makes no request for sensitive information of this type.

12. Burden of Information Collection.

The estimated number of entries is 400,000 annually. It is estimated that the time required to complete the certification is approximately one minute. At one minute each, the certifications to be completed by individuals traveling to Cuba under a general authorization in the Regulations will take approximately 400,000 minutes (6,667 hours) annually in the aggregate.

Additionally, for persons providing authorized travel or carrier services, there may be some burden associated with developing or modifying systems in order to collect the required certification, although this is not a new requirement and has not been changed. This record keeping burden associated with maintaining the certifications for five years is addressed in OMB 1505-0164.

13. Annual Cost to Respondents.

The burden imposed on persons providing authorized travel and carrier services by this information collection requirement is minimal as the certification that is collected and stored for each relevant transaction may be in any form, as determined by such persons. At one minute per certification, there is no practical cost to individual travelers associated with this burden.

14. Cost to the Federal Government.

There is no cost to the U.S. Government attributable to this information collection effort that would not have been incurred without the paperwork burden. The customer certifications are collected and stored by the travel service providers.

15. Reason for Change.

Based on public media reports, OFAC assesses that its prior estimate of 1,750,000 certification entries was overstated and that a more accurate estimate of travelers is now 400,000. Following recent foreign policy developments, including the President's issuance of NSPM-5 and corresponding regulatory changes, public media reports have observed a decrease in U.S. travelers visiting Cuba in 2018. In the April 2019 Address, National Security Advisor Ambassador John Bolton announced regulatory changes to further implement NSPM-5 and the President's foreign policy toward Cuba. In accordance with the April 2019 Address, OFAC is issuing a final rule amending 31 CFR § 515.565 to remove the authorization for group people-to-

people educational travel that appeared in § 515.565(b). OFAC is adding a “grandfathering” provision in § 515.565(b) to authorize certain group people-to-people educational travel that previously was authorized where the traveler has already completed at least one travel-related transaction (such as purchasing a flight or reserving accommodation) prior to publication of the new regulation in the Federal Register. OFAC assesses that the net effect of these regulatory changes will decrease the number of individuals traveling to Cuba and completing the requisite certification. In addition, the Department of Commerce, Bureau of Industry and Security, is issuing a complementary regulatory action that will limit exports of certain vessels and aircraft to Cuba, which OFAC understands is likely to decrease further the number of individual travelers to Cuba completing a certification.

Accordingly, OFAC assesses that a more accurate estimate of the burden is approximately 400,000 certifications annually. The significant decrease of 1,350,000 respondents is attributed to both adjustments in agency estimates and program changes. Given the limited data, OFAC’s rough estimate is that 70% of this reduction (or 945,000 respondents) is attributable to changes in methodology for estimated calculations and 30% of this reduction (or 405,000 respondents) is attributable to regulatory changes. In future renewals, we will update the data based on additional observations as feasible. A total of 6,667 burden hours is requested.

16. Tabulation of Results, Schedule, and Analysis Plans.

Results will not be published.

17. Display of OMB Approval Date.

Not applicable.

18. Exceptions to Certification For Paperwork Reduction Act Submission.

There are no exceptions to the certification statement.

B. Collections of Information Employing Statistical Methods.

Not applicable.