



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 investigation, the U.S. Trade Representative determined that the government of China's acts, policies, and practices related to technology transfer, intellectual property, and innovation were actionable under section 301(b) of the Trade Act of 1974 (19 U.S.C. 2411(b)). The U.S. Trade Representative determined that appropriate action to obtain the elimination of China's acts, policies, and practices related to technology transfer, intellectual property, and innovation included the imposition of additional *ad valorem* duties on products from China classified in certain enumerated subheadings of the Harmonized Tariff Schedule of the United States (HTSUS).

For background on the proceedings in this investigation, please see the prior notices issued in the investigation, including 82 FR 40213 (August 23, 2017), 83 FR 14906 (April 6, 2018), 83 FR 28710 (June 20, 2018), 83 FR 32181 (July 11, 2018), 83 FR 33608 (July 17, 2018), 83 FR 40823 (August 16, 2018), 83 FR 47236 (September 18, 2018), 83 FR 47974 (September 21, 2018), 83 FR 49153 (September 28, 2018), 83 FR 65198 (December 19, 2018), 83 FR 67463 (December 28, 2018), 84 FR 7966 (March 5, 2019), 84 FR 11152 (March 25, 2019), 84 FR 16310 (April 18, 2019), 84 FR 20459 (May 9, 2019), 84 FR 21389 (May 14, 2019), 84 FR 21892 (May 15, 2019), 84 FR 22564 (May 17, 2019), 84 FR 23145 (May 21, 2019), 84 FR 25895 (June 4, 2019), 84 FR 26930 (June 10, 2019), 84 FR 29576 (June 24, 2019), 84 FR 32821 (July 9, 2019), 84 FR 37381 (July 31, 2019), 84 FR 38717 (August 7, 2019), 84 FR 43304 (August 20, 2019), 84 FR 43853 (August 22, 2019), 84 FR 45821 (August 30, 2019), 84 FR 46212 (September 3, 2019), 84 FR 49591 (September 20, 2019), 84 FR 49564 (September 20, 2019), 84 FR 49600 (September 20, 2019), 84 FR 52567 (October 2, 2019), 84 FR 52553 (October 2, 2019), and 84 FR 57144 (October 24, 2019).

On May 15, 2019, USTR submitted a request to the Office of Management and Budget (OMB) for emergency review and clearance of this information collection request (ICR) titled *301 Exclusion Requests*. OMB approved the emergency processing request on June 20, 2019, and assigned Control Number 0350-0015, which expires on December 31, 2019.

On June 24, 2019 (84 FR 29576), the U.S. Trade Representative established a process by which U.S. stakeholders could request the exclusion of particular products classified within a covered tariff subheading from the additional duties that went into effect as a result of this Section 301 investigation.

On June 30, 2019, USTR opened an electronic portal for submission of exclusion requests - <http://exclusions.ustr.gov> - using the approved ICR. Requests for exclusion have to identify a particular product and provide supporting data and the rationale for the requested exclusion. Within 14 days after USTR posts a request for exclusion, interested persons can provide a response with the reasons they support or oppose the request. Interested persons can reply to the response within 7 days after it is posted.

On August 22, 2019, USTR requested comments regarding its intent to seek a three-year renewal of the OMB control number for this ICR. *See* 84 FR 43853. As discussed further below, USTR received three submissions in response to the notice.

USTR also anticipates using the ICR to establish a process by which U.S. stakeholders can request and comment on the extension of particular exclusions granted under the December 2018 product exclusion 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 invites U.S. stakeholders to submit requests for exclusion for a particular product from the increased rate of additional duties that go into effect as a result of this Section 301 investigation. Each request must identify a particular product and provide supporting data and the rationale for the requested exclusion using the 301 Exclusion Request/Response/Reply Form, which is available through the electronic portal for submission of exclusion requests - <http://exclusions.ustr.gov>. Submissions are available for public inspection through the portal.

After USTR posts a request for exclusion of a particular product, interested persons have 14 days to respond to the request, indicating support or opposition and providing reasons for their view. After USTR posts a response, interested persons may post a reply within 7 days after the close of the response period.

USTR evaluates each request on a case-by-case basis, taking into account whether the exclusion would undermine the objective of the Section 301 investigation.

USTR also has created a condensed version of the ICR - the Exclusion Extension Comment Form – that interested parties will use to comment on whether to extend particular exclusions granted under the December 2018 product exclusion notice. The condensed ICR reduces the number of data points in the 301 Exclusion Request/Response/Reply Form. Each comment must identify a particular product exclusion granted under the December 2018 product exclusion notice, whether the commenter supports extension of the exclusion, and the rationale for the extension. USTR will collect comments through [regulations.gov](https://www.regulations.gov) and post comments for inspection.

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, other than business

confidential information (BCI) that a commenter emails directly to USTR, are available for public inspection through the electronic portal.

4. Describe efforts to identify duplication.

There is no duplication. There must be a separate request for exclusion for each product.

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 or comment on requests, for exclusion for a particular product from the increased rate of additional duties. The submission requirements are the same for all respondents. USTR consulted with the Small Business Administration (SBA) regarding the exclusions process to help the SBA advise small businesses.

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

Without the information collection, USTR will be unable to administer an effective, timely process for consideration of requests to exclude particular products from the additional duties or to extend product exclusions granted under the December 2018 product exclusion notice. This likely would cause harm to interested U.S. stakeholders, and negatively affect trade and investment.

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 August 22, 2019, USTR requested comments regarding its intent to seek a three-year renewal of the OMB control number for this ICR. *See* 84 FR 43853. USTR received three comments in response to the notice. USTR also consulted with and incorporated the advice of the interagency Section 301 committee, a subcommittee of the Trade Policy Staff Committee.

Two comments requested that USTR add additional questions to the ICR; two comments requested the addition of clarifying language to certain questions; one comment identified a question as burdensome; one comment suggested improvements to the user experience for submitting the ICR through the online 301 exclusions portal; and one comment concerned the burden estimate.

USTR is revising the ICR after considering these comments, the advice of the Section 301 Committee, and USTR's experience to date in administering the exclusion process. USTR added

a new question (question 3) that asks if the product is subject to an antidumping or countervailing duty order issued by the U.S. Department of Commerce. USTR also added additional clarifying language to question 4, indicating that requestors, if necessary, may provide a range of unit values when describing the product at issue. In addition, USTR updates the 301 portal to reduce the burden on submitters and currently is working to improve the user experience by increasing the character limit for certain fields to allow requestors additional space for their comments.

USTR also has created a condensed version of the ICR - the Exclusion Extension Comment Form – that interested parties will use to comment on whether to extend particular exclusions granted under the December 2018 product exclusion notice. The condensed ICR reduces the number of data points in the 301 Exclusion Request/Response/Reply Form. Each comment must identify a particular product exclusion granted under the December 2018 product exclusion notice, whether the commenter supports extension of the exclusion, and the rationale for the extension.

The condensed ICR is comprised of Part A, which collects information that USTR will post for public inspection via regulations.gov, and Part B, which collects BCI via email and will not be publicly available. The condensed ICR updates the collecting period for specific data to the most recent relevant period (*i.e.*, 2018, the first half of 2018, and the first half of 2019 or since 2018).

Part A includes language clarifying that for questions 4 and 5 commenters should “include information concerning any changes in the global supply chain since July 2018 with respect to the particular product.” It also adds three new questions specific to the exclusion extension process. Question 2 asks commenters to provide information necessary to identify the exclusion at issue, including the date of the Federal Register notice containing the exclusion, the 10-digit subheading of the HTSUS applicable to the exclusion, and the full article description for the exclusion. Question 3 asks commenters whether they support extending the exclusion and asks that they provide a public version their rationale. Question 6 asks commenters whether they will submit Part B of the questionnaire.

Part B adds two new questions, asking commenters to discuss whether Chinese suppliers have lowered prices for products covered by the exclusion following the imposition of the duties and to provide any additional information in support of their comments taking into account the instructions provided in the Federal Register notice.

On November 1, 2019 (84 FR 58802), USTR notified the public that they could submit comments on a three-year extension of the ICR to OMB. The comment period closes on December 2, 2019. <https://www.federalregister.gov/documents/2019/11/01/2019-23938/agency-information-collection-activities-request-for-the-office-of-management-and-budget-to-approve>

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.

Requestors submitting the ICR through the online 301 portal may designate information as business confidential. Such information will not be available for public inspection through the exclusions portal. The condensed ICR is comprised of Part A, which collects information that

USTR will post for public inspection via regulations.gov, and Part B, which collects BCI via email and will not be publicly available.

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.

Exclusion/ Extension Request	Processing Time	Number of Requests	Total Hours	Total Cost
prepare and submit an exclusion request or a comment to extend a December 2018 product exclusion	120 minutes	45,000	90,000	\$200 per request x 45,000 = \$9M

Response to a Request	Processing Time	Number of Responses	Total Hours	Total Cost
prepare and submit a response to an exclusion request	60 minutes	5,250	5,250	\$100 per response x 5,250 = \$525,000

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	30 minutes	2,250	1,125	\$50 x 1,125 = \$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/ Extension Request	Processing Time	Number of Requests	Total Hours	Total Cost
evaluate each exclusion request, and response or reply, if any, and each extension request, on a case-by-case basis	2.5	45,000	112,500	\$6.2M

The \$6.2 million 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.

USTR has transitioned its collection of exclusion requests from the public docket on regulations.gov to a purpose built electronic portal available through USTR's website. Among other improvements to the exclusions process, the electronic portal facilitates the collection of requests, enhances USTR's ability to view/organize data, and allows the public to more easily search/view public submissions.

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

USTR's website provides a link to an electronic portal for the exclusion process. The site allows users to file exclusion requests, comments in response to exclusion requests, and replies. These submissions are publicly available and searchable through the portal. USTR updates and posts the status of exclusion requests through the portal. USTR notifies requesters of final determinations and posts the determinations for public examination.

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.