

In accordance with the Board's regulations, Diane Finver of the FTZ staff is designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is May 19, 2009. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to June 3, 2009).

A copy of the request will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 2111, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230-0002, and in the "Reading Room" section of the Board's Web site, which is accessible via [www.trade.gov/ftz](http://www.trade.gov/ftz). For further information, contact Diane Finver at [Diane\\_Finver@ita.doc.gov](mailto:Diane_Finver@ita.doc.gov), or (202) 482-1367.

Dated: March 12, 2009.

**Andrew McGilvray**,  
Executive Secretary.

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## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

[Docket No. 090129078-9079-01]

#### Request for Public Comments on the Utilization Rate of Export Licenses Issued by the Bureau of Industry and Security

**AGENCY:** Bureau of Industry and Security, Commerce.

**ACTION:** Notice of inquiry.

**SUMMARY:** A significant percentage of the export licenses issued by the Bureau of Industry and Security (BIS) appear to be unused or used for less than the quantity or value limits authorized by the license. BIS seeks public comment to help it ascertain the reasons for such lack of use or under use. BIS is particularly interested in whether characteristics of the export license application review process induce applicants to apply for greater authorizations than they need and, if such is the case, any costs associated with such applications.

**DATES:** Comments must be received no later than May 4, 2009.

**ADDRESSES:** Comments may be submitted via e-mail to

[publiccomments@bis.doc.gov](mailto:publiccomments@bis.doc.gov). Please refer to "Utilization Rate of Export Licenses Issued" in the subject line. Comments may also be sent to Utilization Rate Study, Office of Technology Evaluation, Room 2705, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Watts, Office of Technology Evaluation, Bureau of Industry and Security, telephone: 202-482-8343; fax: 202-482-5361; e-mail [jwatts@bis.doc.gov](mailto:jwatts@bis.doc.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

BIS, among its other activities, issues licenses for export of items that are subject to the Export Administration Regulations. Most such licenses are valid for two years. A recent BIS review of export data from the Automated Export System (AES), which is used to record actual exports from the United States, indicated that by the end of calendar year 2007, forty-eight percent of the licenses issued in calendar year 2005 for the export of commodities had not been used at all. In addition, some licenses may have been used for less than the full quantity or value authorized. Finally, BIS has no basis for estimating whether similar lack of use or under utilization exists with respect to licenses for the export of software or technology because such exports are often intangible and, therefore, not reported in AES. BIS is seeking information that would help it determine:

- Whether software and technology export licenses also are not used or are underused;
- The reasons that export licenses sometimes are not used or are underused; and
- Whether characteristics of the export licensing process (*e.g.*, ease or difficulty of use, processing times, degree of communication between the government and the applicant, license conditions, etc.) contribute to the practice of not using or under-using export licenses.

The scope of this inquiry is limited to export licenses. It does not encompass reexports, deemed exports or deemed reexports.

*The following kinds of information would be useful to BIS's assessment:*

- Whether exporters seek an export license prior to receipt of a purchase order or letter of intent, and examples of typical business cases for seeking a license absent such documentation;
- Detailed information concerning instances when exporters have obtained

an export license from BIS but then did not use it or used it for less than the quantity or value authorized, including information on whether the export licensing process impacted the transaction, whether sales were lost due to the licensing process and the dollar amount of any such lost sales that are directly attributable to the licensing process;

- Specific information about whether licenses for the export of software or technology are not used or are under used;
- Whether an extension of the validity period of export licenses issued by BIS would increase the probability of the utilization of licenses; and
- Process improvements that BIS could make to enhance the utilization of export licenses (*e.g.*, expedited treatment for applications under specific circumstances).

In the future BIS may seek a more systematic approach (*e.g.*, surveys) to contact exporters and document the reasons impacting licensing utilization rates to further facilitate the utilization of export licenses.

#### How To Comment

All comments must be in writing and submitted to one of the addresses indicated above. Comments must be received by BIS no later than May 4, 2009. BIS may consider comments received after that date if feasible to do so, but such consideration can not be assured. All comments submitted in response to this notice will be made a matter of public record, and will be available for public inspection and copying. Anyone submitting business confidential information should clearly identify the business confidential portion of the submission and also provide a non-confidential submission that can be placed in the public record. BIS will seek to protect business confidential information from public disclosure to the extent permitted by law.

Dated: March 16, 2009.

**Matthew S. Borman**,

Acting Assistant Secretary for Export Administration.

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