

OFFICE OF FOREIGN ASSETS CONTROL

REPORT OF LICENSING ACTIVITIES

PURSUANT TO

THE TRADE SANCTIONS REFORM AND EXPORT ENHANCEMENT ACT OF 2000

January - March 2002

I. Overview

This report covers activities undertaken by the Treasury Department's Office of Foreign Assets Control ("OFAC") under Section 906(a)(1) of the Trade Sanctions Reform and Export Enhancement Act of 2000 ("TSRA") from January through March 2002. On July 12, 2001, OFAC issued interim regulations with a request for public comment, implementing the TSRA. The regulations went into effect on July 26, 2001. Under these procedures, OFAC processes license applications requesting authorization to export agricultural commodities, medicine, and medical devices to Iran, Libya, and Sudan under the one-year specific licensing regime set forth in Section 906 of the TSRA.

In spite of the 24 percent increase in the number of license applications (138 for Oct.-Dec. 2001, 171 for Jan.-Mar. 2002) and a slightly slower pace in the processing of license applications, OFAC was able to process most license applications within the established time guidelines for license application review¹ during the program's third quarter of operation (second quarter of fiscal 2002). OFAC issued licensing determinations² on 50 percent of the license applications during the Jan.-Mar. 2002 period (compared to 95 percent for July-Sept. 2001, and 43 percent for Oct.-Dec. 2001).

The general disruption in the U.S. mail service, which continued to delay receipt of mail through this reporting quarter, the increased complexity of license applications, and the more protracted scrutiny on the part of other reviewing agencies continued to affect processing time of license applications in the program's third quarter of operation. The 30-day extension of the nine-business day review period by other agencies is now taken for virtually all cases. Interagency review exceeded the 30-day extension period in 41% of cases (compared to 40 percent for Oct.-

¹ *Federal Register/Vol. 66, No. 134/Thursday, July 12, 2001/Rules and Regulations, 36685, provides the following guidelines:* The expedited process will include, when appropriate, referral of the one-year license request to other government agencies for guidance in evaluating the request. If no government agency raises an objection to or concern with the application within nine business days from the date of any such referral, OFAC will issue the one-year license, provided that the request otherwise meets the requirements set forth in this rule. If any government agency raises an objection to the request within nine business days from the date of referral, OFAC will deny the request for the one-year license. If any government agency raises a concern short of an objection with the request within nine business days from the date of referral, OFAC will delay its response to the license request for no more than thirty additional days to allow for further review of the request.

² A licensing determination is defined as any action, either intermediate or final, that OFAC takes on a license application. It may take the form of a license, a "return-without-action" letter, a general information letter, an interpretation letter, a denial letter, or in rare instances, a telephone call, fax, or e-mail.

Dec. 2001). Of these cases, the review period exceeded the 30-day extended period by an average of 13 business days (compared to 7 business days for Oct.-Dec. 2001).

These cases are evaluated by other agencies both in terms of whether the foreign entities involved in the transaction “promote international terrorism” as required in section 906 of the TSRA and in terms of whether the commodities at issue implicate independent export control regimes involving chemical or biological weapons or weapons of mass destruction as provided in section 904(2)(C) of the TSRA. Scrutiny of these cases on these grounds often results in requests for additional information by the reviewing agency which neither the applicant nor OFAC can anticipate, at times causing additional delays in the review process.

II. Program Operation

From January 1 to March 31, 2002, OFAC’s Licensing Division received a total of 171 license applications pursuant to Section 906(a)(1) of the TSRA. During this period, OFAC issued licensing determinations on 86 of the 171 license applications. A total of 57 licenses and 24 license amendments³ were issued from January through March (**See Charts 1 and 2**). On average, licenses and license amendments were issued within 30.2 business days of receipt of the application. Upon completion, 96 percent (78 in total) (compare with 80 percent (40 in total) for Oct.-Dec. 2001) of the licenses and license amendments issued were sent via e-mail in Adobe Acrobat PDF format to licensees, a service which was greatly lauded by the licensees. In addition, OFAC issued 12 general information letters (average turnaround: 2.3 business days), 35 “return-without-action” letters (“RWA letters”) (average turnaround: 2.1 business days), and seven denial letters (average turnaround: 24 business days) (**See Graph 1**). The average number of business days for the Licensing Division to issue a licensing determination in response to submissions to OFAC on any license application under the TSRA regulations was 20.4 business days, an increase of 2.5 percent compared with last quarter’s average of 19.9 business days. The total of licenses issued, general information letters, “return-without-action” letters, and denial letters does not equal the number of license applications received because: 1) not all license applications received during the third quarter of the program’s operation were closed out in the third quarter of the program’s operation; 2) some license applications pending from the program’s first and second quarters of operation were closed out in the third quarter; 3) in some instances multiple applications from the same license applicant were combined into one license; and 4) a few license applications were handled via telephone, fax, or e-mail.

CHART 1
Number of License Applications and Licenses Issued by Product

	Agricultural Commodities	Medicine	Medical Devices	TOTAL
License Applications	92	17	62	171
Licenses Issued	28	4	25	57
License Amendments Issued	19	3	2	24
Applications Denied	2	1	4	7

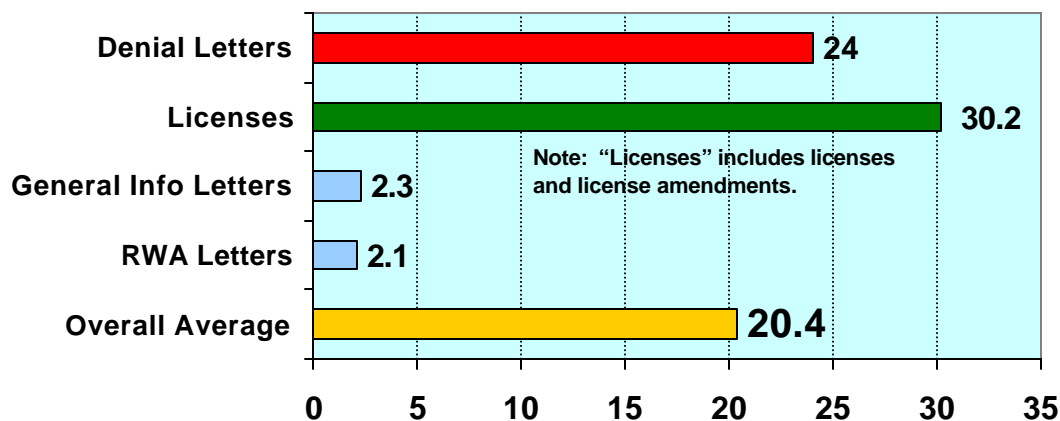
³ A “license amendment” is an amendment to an existing license previously issued by OFAC. Some license amendment applications require interagency review, such as adding an additional end-user or additional commodities to an existing license.

CHART 2
Number of License Applications and Licenses Issued by Country

	Iran	Libya	Sudan	TOTAL
License Applications	128	22	21	171
Licenses Issued	44	10	3	57
License Amendments Issued	18	2	4	24
Applications Denied	7	0	0	7

GRAPH 1

**Average Time for Issuing Licensing Determinations
 (business days)**



III. Conclusion

Despite the greater volume of license applications, OFAC continues to administer the TSRA successfully, due in large part to the efficient and innovative electronic processing procedures that were established by OFAC in order to process license applications and forward them when appropriate for interagency review.⁴ The average processing time for issuing licenses rose slightly (0.7 percent) to 30.2 business days in the program's third quarter of operation from 30 business days previously, and the average time for issuing licensing determinations rose by 2.5 percent to 20.4 business days versus 19.9 business days in the second quarter of operation.

⁴OFAC's Licensing Division only forwards complete and eligible applications for interagency review.