

SUPPORTING STATEMENT PART A
U.S. Department of Commerce
Office of the Under Secretary of Economic Affairs
Registration and Ballot Form for Concrete Referendum
OMB Control Number 0605-XNEW

A. JUSTIFICATION

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the information collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.**

The Department of Commerce (Department) seeks to establish an orderly program for developing, financing, and carrying out an effective, continuous, and coordinated program of research, education and promotion, to support the concrete masonry products industry. The Department has published a proposed Order in the Federal Register to establish the program. The purpose of the proposed Order is to strengthen the position of the concrete masonry products industry in the domestic marketplace; maintain, develop, and expand markets and uses of concrete masonry products in the domestic marketplace; and promote the use of concrete masonry products in construction and building. The proposed Order allows a Concrete Masonry Products Board (Board) made up of industry members appointed by the Secretary of Commerce (Secretary) to develop and implement programs of research, education, and promotion. The funding of the Board's activities and programs will be through assessments paid by manufacturers of concrete masonry units. The initial assessment will be \$.01 per concrete masonry unit sold.

The Secretary will hold a referendum among eligible manufacturers to determine whether they favor the implementation of the proposed Order. The Order only will go into effect if the referendum results in the affirmative vote of a majority of those voting and also a majority of the block machine cavities in operation by those voting.

There are two forms in this Information Collection Request (ICR) relating to the referendum. The first is the registration form for the concrete referendum. The registration form may be submitted by eligible concrete masonry unit manufacturers and is necessary to ensure that the referendum is accurate and complete. Manufacturers only may participate in the referendum if they register. The second form for this ICR relates to the ballot form for the concrete referendum. Eligible concrete masonry unit manufacturers may complete and submit the ballot to reflect their desire for or against implementing the order. Authorizing Statute: 15 USC Chapter 13 (sections 8701-8717).

- 2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new information collection, indicate the actual use the agency has made of the information received from the current information collection.**

Registration Form: The Department will use the information collected in the registration form to establish eligibility for a manufacturer to participate in the referendum as well as the verification of eligible voters. The Department will use a referendum process to implement, suspend, terminate, or continue an Order.

The registration form will include company name, name of individual, mailing and email address, phone number, Employer Identification Number (EIN), number of machine cavities in operation, attestation that the manufacturer produces concrete masonry units and has done so within the last 180 days, signature of proposed participant. Agents of the Secretary of Commerce will collate registration forms for use in sending ballots to eligible participants. The agents are officials of the Department charged with promulgating and administering the proposed programs.

Ballot Form: The Department will use a referendum process to implement, suspend, terminate, or continue an Order. The Department will use the information collected (ballot form) during the referendum period to tally the number of manufacturers and the number of machine cavities of those manufacturers that are for and against the order going into effect.

The ballot form will include company name, name of individual, mailing and email address, phone number, Employer Identification Number (EIN), number of machine cavities in operation, attestation that the manufacturer produces concrete masonry units and has done so within the last 180 days, and signature of the participant. Agents of the Secretary of Commerce will collect and tally ballot forms to determine the outcome of the referendum. The agents are officials of the Department charged with promulgating and administering the proposed program.

The Department will collect and tally ballot forms to determine the outcome of the concrete masonry products order referendum. The Department will make the results, in the aggregate, of the referendum public. The Department will not release any ballots, list of voting participants, the identity of any individual manufacturer, and whether or not manufacturers participate in the referendum.

The Department would use this ballot form to conduct future referendums if needed. If the referendum results in approval of the Order, the industry can call for subsequent referendums. If the referendum is not approved, the industry could submit a different Order. Additional proposed Orders would require additional referendum in the future.

Some specific uses of the data to be collected include:

- (a) The Department will compile a list of manufacturers eligible to vote in the Concrete Masonry Products order referendum.
- (b) The Department will use this list to assign a serialized ballot to a manufacturer.
- (c) The Department will use the list to send ballots to manufacturers to participate in the referendum.

- (d) The Department will then use the list to verify ballots received and participation in the actual referendum.
- (e) The Department will maintain the list to remain aware of manufacturers that produce concrete masonry products and those that will be affected by an Order.

The Department will make the results, in the aggregate, of the referendum public. The Department will not release the list of manufacturers, the identity of any individual manufacturer, and whether or not manufacturers participate in the referendum.

The registration process will be conducted once before the referendum. If the referendum results in approval of the Order, the Board or industry can call for subsequent referenda. If the referendum is not approved, the industry could submit a different Order. Each additional proposed Orders would require a referendum.

Other Government uses:

The Department will use the information to keep informed those with an interest in the Concrete masonry checkoff program, to continue to communicate with parties regarding the Order, the referendum, establishing the board, and keeping those manufacturers informed of ongoing education, research, and promotion programs affecting that industry.

Other Government uses:

Ballots are a one-time use for each referendum, the Department will not use the information on ballots for any purpose other than to determine outcome of the referendum.

Non-Government uses:

The Department does not foresee any non-governmental use of the information on either ICR.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, and the basis for the decision for adopting this means of information collection. Also describe any consideration of using information technology to reduce burden.

Registration Form: The Department will provide a link to the registration form and reporting instructions on its website (www.doc.gov). Registrants may download, complete, print, and submit via fax or mail.

Ballot Form: The Department plans to mail ballots to registered participants. Also, the Department may provide a link to a ballot form and reporting instructions on its website

(www.doc.gov). Registrants may download ballot, input their unique serial number, complete, print, and submit via the fax or mail.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

The Department seeks to make aware of the referendum all eligible manufacturers. The legislation contemplates an affirmative action by those manufacturers interested in participating in the referendum. Participation is voluntary and therefore requires an interested manufacturer to register their desire to be included in the Government-run referendum

Registration Form: The registration form is the only mechanism for signaling intent to participate in the referendum. Only information required to validate the eligibility of manufacturers to participate in the referendum and contact information will be collected.

Information generated by State, Federal, and private sources would not generate the information in enough detail to determine voter eligibility (including production and production capacity) relative to manufacturers who are subject to the provision of the Order. Therefore, there is no practical method for collecting the required information without the use of this form.

The information to be included on this form is not available from other sources because such information relates specifically to individual producers who would be subject to the proposed Order. The primary sources of information would be books and records pertaining to the manufacture of concrete masonry products.

Ballot Form: The ballot form is the only mechanism for determining whether or not manufacturers have a desire to enact an order. The Department will only collect information required to validate the eligibility of manufacturers to participate in the referendum, contact information, name and signature, and their vote.

As this is a ballot that will reflect individual preference for a current order to go into effect, existing State, Federal, and private sources would not generate the information to determine whether an individual voter desires to be subject to the provisions of the Order. Therefore, there is no practical method for collecting the required information without the use of this form.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

The Small Business Administration standard to qualify as a small business in this industry is 500 or fewer employees. Under this definition, the Department estimates that seventy-five percent of respondents are considered small entities.

The Department will limit the information collection to the minimum that will allow the Department to identify each unique voter, ascertain their desire to enact an order, prevent duplication in voting, receive a ballot, and verify a complete ballot received. The form requires only a minimal amount of information, which can be supplied without data processing equipment. This information collection and reporting burden is relatively small.

Voting in the referendum is optional. However, if manufacturers choose to vote in the referendum, the burden of voting would be offset by benefits of having the opportunity to vote whether they want to the program to be established.

6. Describe the consequence to Federal program or policy activities if the information collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

By law, the Department must conduct a referendum to determine whether a proposed implementing order will go into effect. That same law requires manufacturers that are interested in participating in the referendum to register to participate in the referendum and then complete a ballot to participate in the referendum. Registration and the conduct of the referendum is not possible without the collection of the registration information and collection of completed ballot forms.

The registration and referendum must occur with each proposed order. Only one order can be in effect at any given time. The legislation allows for subsequent or replacement orders which also would be subject to another registration and referendum. The legislation allows for subsequent referenda, the criteria for which suggests the occurrence of which will not be frequent. However, since the possibility does exist, the Department believes the collection has the potential to continue to have relevance for the foreseeable future.

If the Department cannot collect this registration and ballot information, the Department could not conduct a referendum and could not implement the proposed Order (and appoint a Board to carry out the research, education, and promotion program). Collecting data less frequently also would limit the Secretary's ability to conduct future referenda.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

No aspects of the data collection require a special justification.

8. Provide a copy of 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.

A 30-day notice for comments is embedded in a proposed referendum procedures rule submitted to the Federal Register on October 15, 2020.

The Department will maintain a continuing dialogue with registered applicants to ensure that, as much as possible, the required information serves its intended purposes, that instructions are clear, and that unreasonable burdens are not imposed.

In reaching decisions on what information is necessary for the ballot form, the Department considered the government's need for the information and resources for processing the information, the burden imposed on registrants, the quality of the likely responses (e.g., whether the information is readily available to the registrant), and discussed with the Department of Agriculture their experience in similar circumstances of conducting a referendum.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

The Department makes no payments or gifts to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy. If the information collection requires a systems of records notice (SORN) or privacy impact assessment (PIA), those should be cited and described here.

The Department provides respondents with the assurance that it will keep the reported data confidential. Although the legislation makes no specific statement as to the confidentiality of information provided, the following statement is taken directly from the instructions for completing the registration.

Trade secrets and commercial or financial information that is privileged or confidential reported to, or otherwise obtained by, the Board or the Secretary (or any representative of the Board or the Secretary) under the Concrete Masonry Products Research, Education, and Promotion Act of 2018 shall not be disclosed by any officer, employee, and agent of the Department or the Board.

All information collected will be treated as confidential, as indicated on the forms and in conformance with the Privacy Act and Freedom of Information Act. The Department's staff is required to maintain confidentiality. Other confidential information will be withheld from public review under the Freedom of Information Act and the Privacy Act, 5 USC 552.

- 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. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.**

The Department does not ask questions of a sensitive nature.

- 12. Provide estimates of the hour burden of the collection of information. The statement should:**

- **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**
- **If this request for approval covers more than one form, provide separate hour burden estimates for each form, and aggregate the hour burdens.**
- **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included under 'Annual Cost to Federal Government'.**
- **Provide an estimate for the total annual cost burden to respondents or record keepers resulting from the collection of information.**

Registration Form: The respondent burden for this collection of information is estimated to average 0.5 hour per application. Respondents are concrete masonry products manufacturers and others associated with the concrete masonry products industry. The estimated number of respondents is 690. The estimated total annual burden on respondents is 345 hours.

Ballot Form: The respondent burden for this collection of information is estimated to average 0.25 hour per ballot. Respondents are concrete masonry products manufacturers and others associated with the concrete masonry products industry. The estimated number of respondents is 690. The estimated total annual burden on respondents is 172.5 hours.

13. Provide an estimate for the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden already reflected in question 12).

Total capital and start-up costs are insignificant because new technology or capital equipment would not be needed by respondents to complete the ballot form. Consequently, there are no capital/start-up or ongoing operation/maintenance costs associated with this information collection.

14. Provide estimates of annualized cost to the Federal government.

The cost to the Federal government for conducting the referendum (registration and voting) is estimated at \$340,000, which consists of \$325,000 for salaries, related overhead, and operational expenses, and \$15,000 for notice, mailing, receiving, printing, and computer processing. Because of the integrated nature of the registration and referendum process, these costs could not be estimated separately.

15. Explain the reasons for any program changes or adjustments reported.

This is the first Research, Education, and Promotion program under the Department of Commerce. As such this is the first request for such information. This request does not reflect any program changes or adjustments. The hours burden estimate is based on the experience of the U.S. Department of Agriculture.

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

The Department does not plan to publish results of the registration process. The information collected will be used to conduct the referendum. The information collected on the Ballot form will be used verify eligibility and to conduct the referendum. The Department will publish aggregate results of the referendum. The Department will use information collected to determine the outcome of the referendum.

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.

The OMB expiration date will be displayed on the forms.

18. Explain each exception to the certification statement.

Both these forms (Board member application and Evaluation and Compliance) are consistent with the certification in all aspects.