

SUPPORTING STATEMENT
U.S. Department of Commerce Bureau of Industry and Security

**The Effect of Imports of Neodymium-Iron-Boron (NdFeB)
Permanent Magnets on U.S. National Security**

[Herein referred to as NdFeB magnets]

OMB Control No. 0694-0120

A. Justification

1. Explain the circumstances that make the collection of information necessary.

On September 21, 2021, the Secretary of Commerce self-initiated an investigation to determine the effect of imports of Neodymium-Iron-Boron (NdFeB) magnets on U.S. national security requirements. The investigation must be completed by June 18, 2022. In support of this investigation, the Bureau of Industry and Security (BIS), Office of Technology Evaluation (OTE) is conducting a survey and assessment focused on the imports, distribution, and production of NdFeB magnets and components used in the manufacture of NdFeB magnets, including rare earth ore and concentrate, rare earth carbonates, rare earth oxides, and constituent alloys (hereafter “NdFeB magnet components”) by U.S. companies and the corresponding impacts on the national defense.

The resulting data will be used to support this investigation conducted under Section 232 of the Trade Expansion Act of 1962, as amended. The principal goal of this survey effort is to assist BIS in determining whether NdFeB magnets are imported into the United States in such quantities or under such circumstances as would threaten or impair the national security of the United States. The survey will also assist in determining the health and competitiveness of the companies affiliated with the import, distribution, and production of NdFeB magnets and NdFeB magnet components to assess their capabilities to support the national defense. In the long term, U.S. Government stakeholders will be better informed to develop targeted strategies to ensure the

availability and security of the NdFeB magnet supply chain network that supports U.S. national defense systems and critical infrastructure.

The OTE survey is designed to provide detailed information on several categories related to NdFeB magnet industry health and competitiveness. Information collected will include organizational data, facility information, current and prospective production, purchases and suppliers, sales and customers, employment, capital expenditures, R&D, intellectual property, recycling, competition and challenges, and other topic areas. The resulting aggregate data will provide BIS detailed information that is otherwise not available and is needed to effectively conduct its analysis.

During the design and development of the survey instrument, OTE gathered input from the interagency, industry, and experts in academia. These engagements included contacts with the U.S. Department of Defense's Office of Industrial Policy and Defense Logistics Agency, the U.S. Department of Energy, Arnold Magnetics, MP Materials, Urban Mining Company, USA Rare Earths, and the University of Arizona.

OTE has authority under Section 705 of the Defense Production Act of 1950, as amended, and Section 232 of the Trade Expansion Act of 1962, as amended, to conduct assessments and collect information on the capabilities and capacity of the U.S. industrial base and domestic industries to meet national defense requirements. These industrial base assessments are normally undertaken in partnership with the U.S. Department of Defense and other agencies and typically focus on manufacturing, workforce, resiliency, and financial and economic issues affecting key industrial sectors or critical technologies.

The attached survey questionnaire, which covers historic 2017-2021 data and forecasted 2022-2026 data, is the primary source of information needed for a national security analysis of this type.

Pursuant to the abovementioned statutes and relevant delegations thereunder, OTE remains the focal point for national security investigations and assessments among civilian federal agencies. This includes mandatory data collection authority to carry out these responsibilities.

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.

OTE intends to survey 50 organizations with facilities in the United States. This figure is comprised of 40 organizations involved in the NdFeB magnet value chain, including rare earth mining, the production of rare earth carbonates and oxides, alloying, magnet production, and magnet distribution, and 10 organizations that are end-users of NdFeB magnets.

This survey is a one-time only request. Both quantitative and qualitative data obtained from the survey responses will be held in a database for analysis, with public releases consisting only of aggregate, nonproprietary results with no business confidential information.

This survey-based data is needed to assess the status of the organizations involved or considering involvement in the importation, distribution, and production of NdFeB magnets and NdFeB magnet components, and learn how U.S. national security, including the national defense, may be threatened by imports of said products. Expository, qualitative responses are also used to complement the statistical, quantitative information.

Through its analysis of the survey results, OTE will be better able to determine whether to recommend further actions be taken by the President to adjust imports of NdFeB magnets if they are found to threaten to impair the national security.

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.

To lessen the burden on respondents, OTE is asking organizations to submit Excel-based survey responses. Each respondent will receive a personalized distribution letter signed by BIS

management and a project overview fact sheet which outlines the scope of information required. The letter will contain directions to the BIS website, where the respondent can gain access to the instrument. This approach was used successfully for the 2020 Vanadium, 2020 Mobile Cranes, 2020 Electrical Steel, 2019 Titanium Sponge, 2019 Uranium, and 2018 Automotive 232 investigations. All six surveys were reviewed and approved by OMB.

The statistical information requested in the survey adheres closely with categories adopted in the NdFeB magnet and NdFeB magnet components industries. Almost all responding organizations will have the solicited information computerized and will be able to retrieve it in the format requested. Select questions will require thought and discussion internally for proper responses. These questions do not lend to computer automation but only require brief responses in the text boxes provided.

4. Describe efforts to identify duplication.

The information sought in the survey is unique and not available from any other source, either public or private. Some of the basic corporate data, such as address location, stock symbol and leadership profiles, are submitted by companies to the U.S. Census Bureau. However, the Census Bureau is precluded by law from releasing information on specific companies.

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

Participants in this collection are importers, distributors, and producers of NdFeB magnets and NdFeB magnet components. The survey is designed to minimize burden on all respondents. If for any reason the respondent cannot complete the survey in Excel format, OTE will work closely with the respondent to facilitate an alternate form of submission. Based on previous survey data collections, OTE expects the vast majority of companies to respond electronically.

6. Describe the consequences to the Federal program or policy activities if the collection is

not conducted or is conducted less frequently.

For the assessment of U.S. importers, distributors, and producers of NdFeB magnets and NdFeB magnet components, a mandatory survey is the only method available for OTE to carry out its responsibilities under the Defense Production Act of 1950, as amended. Without the survey instrument, OTE could not obtain company specific information necessary to perform a robust, accurate evaluation of the effect of imports of NdFeB magnets on the national security. Examples of such information include current and planned production, capital expenditures, R&D, customer and supplier data, and employment, among others.

The resulting dataset will allow OTE to benchmark industry performance, identify impacts of imports on the NdFeB magnet supply chain, as well as determine the resulting impact on the national security. If industry was not surveyed in such detail, the investigation would not determine the effects of NdFeB magnet imports on the national defense.

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

There are no special circumstances that will result in the collection of information in a manner inconsistent with the guidelines of 5 CFR 1320.6. Survey responses will of course contain business confidential information, all of which will be protected by the Bureau of Industry and Security (BIS).

8. Provide information 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.

The PRA Federal Register notice requirement is not applicable to this collection because this

collection falls within the scope of the BIS generic authority entitled, “Request for Investigation under Section 232 of the Trade Expansion Act,” as approved under OMB Control No. 0694-0120. This authority is renewed by OMB every three years (last renewed on September 20, 2021) to support ongoing BIS national security investigation needs.

OTE staff developed the survey in consultation with industry and multiple government experts. The following is a partial list of those individuals who provided input and advice:

U. S. Government

Brian Gabriel, Deputy Chief Technology Officer, Department of Defense Industrial Policy, (571) 372-8662, brian.m.gabriel.civ@mail.mil

David Pineault, Economist, Defense Logistics Agency – Strategic Stockpile, (571) 767-5498, david.pineault@dla.mil

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Industry

Peter Afiuny, Executive Vice President, Urban Mining Company, (714) 552-5454, pafiuny@urbanmining.com

Matt Sloustcher, Senior Vice President – Communications, MP Materials, (725) 233-0537, msloustcher@mpmaterials.com

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Aaron Williams, Director – Strategic Technologies and Business Development, Arnold Magnetics, (585) 385-9010 x 2227, awilliams@arnoldmagnetics.com

Academia

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9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.

This survey will not involve any payment or gifts to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.

The survey instrument, cover letter, and fact sheet all provide assurance to the respondents that the information collected through the survey will be deemed business confidential and will be treated in accordance with Section 705 of the DPA (50 U.S.C.A. app. Section 2061 et. seq.). This section prohibits the publication or disclosure of such information unless the President of the United States determines that its withholding is contrary to the national defense.

The survey will be administered and housed on a secure U.S. Department of Commerce server. Submitted surveys will not be shared with non-government entities, other than in aggregate form. The U.S. Department of Commerce will protect the confidentiality of such information pursuant to the appropriate disclosure exemptions under the Freedom of Information Act (FOIA), should it be the subject of a FOIA request. OTE has a long and successful track record of protecting business confidential information collected under the above statute.

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 survey instrument will not collect information that could be construed as being of a sensitive nature, such as information concerning sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered sensitive or private.

12. Provide an estimate in hours of the burden of the collection of information.

OTE estimates that the total burden on respondents by this survey of importers, distributors, and producers of NdFeB magnets and NdFeB magnet components will be approximately 600 hours. This estimate is based on the distribution of similar surveys in both scope and sample size in previous 232 collections, with an average of 12 hours needed for completion in this instance.

This burden estimate is subject to variations among respondents due to discrepancies in the level of participation in the sector, record keeping, company size and type, and other variables. The estimate is based on OTE's past Section 232 data collections, as well as feedback from industry participants in information collection. OTE has conducted surveys of various industries and sectors, including titanium sponge, vanadium, uranium, grain-oriented electrical steel, and others.

The estimated total cost to respondents of this particular information collection is \$21,000. This estimate was calculated by assuming an average hourly respondent work rate of \$35 multiplied by 600 total burden hours.

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).

Not applicable.

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

The estimated cost to the Federal Government for the survey is \$357,634.8 over the six-month period. A major portion of this cost is the survey itself, which includes preparation, collection, inspection, and verification of the responses, compilation of the information and analysis of the data. Other relevant costs will be incurred in field testing the survey, summarizing the analysis and findings, preparing the final report, and report printing and distribution.

The direct employee costs were calculated by multiplying estimated aggregate hours spent on the project (26 weeks) by the annual pay of one GS-15, Step 10 (\$176,300x.5= \$88,150); one GS-14, Step 10 (\$164,102x.5=\$82,051); one GS-13, Step 10 (\$138,868x.5=\$69,434); and one GS-12, Step 10 (\$116,788x.5=\$58,394). The direct employee costs are \$298,029 over the six month period.

Indirect or overhead costs associated with the project are calculated as 20 percent of the above mentioned direct employee costs, or .2x\$298,029=\$59,605.8 over the 6 month period. A review of OTE data collection budgets and ledgers from previous years indicates costs for maintenance, telephone, computers, and space rental charges represent 20 percent of total employee costs.

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

Because this collection of information falls within BIS's generic authority entitled, "Request for Investigation under Section 232 of the Trade Expansion Act," (OMB Control No. 0694-0120), there is no increase in burden hours being requested.

This is the first time OTE has used this authority since its renewal on September 20, 2021 (a total of 12,260 burden hours were authorized). The survey on NdFeB magnets is estimated to take 12 hours per survey with a sample of 50 respondents, meaning 600 hours are needed to conduct the collection. Therefore, an unused balance of 11,660 hours will remain if this survey is approved under the aforementioned authority.

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

The survey data collected by OTE will be aggregated before publishing to protect company confidentiality. The instrument will be distributed January 31, 2022. The analysis will begin in March 2022 and a draft report prepared in April 2022. The final Section 232 report is planned to go to the President by June 18, 2022. The public version of the report will be available after

completion of the President's review and final determination of the report's findings and conclusions.

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.

Not applicable. OTE will display the expiration date of this collection authority on all survey and instructional instruments the public receives.

18. Explain each exception to the certification statement.

Not applicable.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Not applicable.