

SUPPORTING STATEMENT PART A
U.S. Department of Commerce
Office of the Under Secretary of Economic Affairs
Concrete Masonry Products Research, Education, and Promotion Order
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 will only go into effect if the referendum results in the affirmative vote of a majority of those voting and a majority of the block machine cavities in operation by those voting. The Secretary will then appoint members of a Concrete Masonry Products Board (Board) to carry out the duties prescribed in the order. Among its duties, the Board will establish a compliance program to receive and validate assessments. After three years and five years, the Secretary will evaluate the appropriateness, effectiveness, impact of the program, and provide an accounting of assessments.

The Information Collection Request (ICR) includes the establishment of a Board if the referendum is successful and implements the concrete masonry products order. Eligible concrete masonry product manufacturers will complete and submit an application for Board membership and will be invited to provide any additional information to support their application.

In addition, the Information Collection Request (ICR) includes to the effectiveness evaluation and compliance program required if the referendum is successful and implements the concrete masonry products order. Eligible concrete masonry product manufacturers will complete and submit the evaluation and compliance form on a quarterly basis. The Authorizing Statute for this collection: 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.

Membership Application: The Department will use the Board application process to select members for appointment to the Board. The Board will be charged with implementing the order as well as making recommendations to the Secretary regarding suspension, termination, or continuance of an Order. The Act requires the Department to consider for Board membership, members that reflect a range of company size, geographic location, and range of products produced. The Department will use the information collected (application form) to review all candidates to be members or alternate members of the Board. After a thorough review, the Secretary will appoint 15-25 members of the Board and six alternates. The Department is seeking approval for the Board member application to be considered for appointment to the Board. Referendum registration and ballot for the referendum to determine whether the Order will go into effect and thus require institution of a Board by appointing members are under a separate ICR.

The application form will include company name, name of individual, mailing and email address, phone number, Employer Identification Number (EIN), size of company by employee, number of machine cavities in operation, range of products produced, an attestation that the manufacturer currently produces concrete masonry products, statement of interest, and signature of applicant. The Department will also consider any additional information applicants may want to provide. Agents of the Secretary of Commerce will collect applications to determine the best applicants to appoint as a member or alternate member of the Board. The agents are officials of the Department charged with promulgating and administering the proposed program.

The Department will use the application form to collect information on candidate interest, ability, and characteristics in order to appoint an effective and balanced Board that reflects range in size, geographic location, and range of products produced.

The Department will announce to the public the appointments of Board members and alternate Board members. The Department will not release individual applications or any list of those who applied for consideration of Board membership.

The Department would use this application form in the future to fill vacancies (by term expiration or however they may occur).

Evaluation and Compliance: The Department will use the evaluation and compliance form to establish a baseline from which to evaluate of the program's effectiveness. The ongoing, regular collection of information corresponds to the statutory requirement for manufacturers to pay their assessments to the Board each quarter. Quarterly collection of the information will allow the Department to monitor the progress of the program and provide adequate oversight of research, education, and promotion programs. The Act provides that manufacturers shall identify the total amount due in assessments on all sales receipts, invoices or other commercial documents of sale as a result of the sale of concrete masonry units in a manner as prescribed by the Board to ensure compliance with the order. The Department is seeking approval for the evaluation and compliance form that will form the basis of the Department's program evaluation and the Board's compliance program. Referendum registration and ballot for the referendum to determine whether the Order will go into effect and application for Board membership are under a separate ICRs.

The evaluation and compliance form will include company name, name of company's representative, signature of company representative, mailing and email address, phone number, Employer Identification Number (EIN), size of company by number of employees, number of machine cavities in operation, range and type of products produced, the number and type of concrete masonry units manufactured; the number and type of concrete masonry units on which an assessment is paid; the date and amount of assessment payment on each concrete masonry unit sold; and related assessment accounting information. Agents of the Secretary of Commerce or the Board will collect and collate the forms to assist in fulfilling the requirement to oversee assessment collection as well as the requirement to maintain adequate records. The Secretary will need this information to provide adequate oversight in these areas. The agents are officials of the Department charged with promulgating and administering the proposed program.

Some specific uses of the data to be collected include:

- a. The Department will use the initial evaluation and compliance forms to establish a baseline from which to measure effectiveness.
- b. The Department will use the regular recurring information to update and maintain its measure and to monitor progress.
- c. The Department will use this information to keep current its list of manufacturers that produce concrete masonry products and those that will be affected by an Order.
- d. The Department may use the list to send notices to those affected by an Order and the concrete masonry products industry.

The Department will publish the studies and reports generated from the evaluation and compliance forms. The Department will not release individual evaluation and compliance forms but may publish information tabulated in the aggregate that does not otherwise identify individual manufacturers.

Other Government uses:

Applications are specific to Board membership and status as active manufacturer of concrete masonry products. The Department will not use the information on application forms for any purpose other than for selection of Board members and status as an active manufacturer of concrete masonry products.

Evaluation and compliance forms are specific to those subject to assessments and status as an active manufacturer of concrete masonry products. The Department will not use the information on either of this form for any purpose other than to perform evaluation on the program and to oversee compliance with the program.

Non-Government uses:

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

- 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.**

The Department may provide the Board member application form and the Evaluation and Compliance forms by mail, email, or fax to those that request them. Also, the Department may provide a link to these forms and reporting instructions on its website (www.doc.gov). Registrants may download the forms, complete, print, and submit via 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.**

Membership Application: The Department seeks to make aware all eligible manufacturers aware of the Board membership opportunity. The legislation contemplates an affirmative action by those manufacturers interested in being a Board member. Application to be a Board member is voluntary and therefore requires an interested manufacturer to apply for Government consideration as a Board member. The application form is the only mechanism for determining whether a manufacturer desires to sit as a Board member. The Department will only collect information required to validate the eligibility of manufacturers and to allow the Secretary to make an informed decision as to appointments to the Board.

As this is an application that will reflect individual desire to be a Board member, existing State, Federal, and private sources would not generate the information to determine an individual desire to become a member of the Board. 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 individuals who would be appointed as Board members or alternate Board members.

Evaluation and Compliance: The legislation contemplates all manufacturers subject to assessment will remit to the Board assessments required. As a part of remittance, the legislation requires manufacturers to identify the total amount due in assessments on all sales receipts, invoices, or other commercial documents of sale as a result of the sale of concrete masonry units. Manufacturers subject to assessment will use the evaluation and compliance form to report the required information. It will also inform the Department as to the universe of those subject to assessment, as well as the amount due. The evaluation and compliance form is the only mechanism with enough specificity and conciseness to provide information needed to evaluate the program and to oversee compliance to the program and with the Order.

As this is an evaluation and compliance form that will reflect individual manufacturer production of assessed units, existing State, Federal, and private sources would not generate the information with enough specificity to adequately inform a program evaluation and validate compliance. 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 manufacturers subject to assessment.

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.

Membership Application: The Department will limit the information collection to the minimum that will allow the Department to identify individuals interested in becoming Board members, ascertain the reasons for their desire, and determine their eligibility for consideration. 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.

Applying for Board membership is optional. However, if manufacturers choose to apply the burden of applying would be offset by benefits of being considered for membership on the Board.

Evaluation and Compliance: The Department will limit the information collection to the minimum that will allow the Department to identify manufacturers subject to assessment for purposes of assessment compliance and program evaluation. 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. Completing the evaluation and compliance form will be mandatory.

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 if a referendum succeeds, the Department will publish an Order and then establish a Board by appointment, to carry out the duties of the Order. The Board will continue to carry out the duties of the Order until such time as the order is terminated or rescinded.

Membership Application: Members may sit the Board for a period of up to three years. Therefore, the Act contemplates the Board membership application to be at least an annual requirement (calling for applications to fill vacancies). Informed selection of Board members would not be possible without the collection of completed application forms.

The Board will sit for as long as the Order is in effect. Board members are limited to 3-years terms. Members may be selected up to twice consecutively or after following a three-year period between terms. Additionally, the Act contemplates the possibility that members could lose their eligibility during their term. Situations that would require the Secretary to call for applications and conduct a screening to select a substitute member. Since subsequent appointments are required, the Department believes the collection has the potential to continue to have relevance for the foreseeable future.

If the Department cannot collect the application information, the Department could not select and appoint members to a Board and therefore could not implement the proposed Order (appoint a Board to carry out the research, education, and promotion program). Collecting data less frequently also would limit the Secretary's ability to appoint members of future Boards.

Evaluation and Compliance: The mandatory quarterly payment by manufacturers subject to assessment requires an ability to identify those manufacturers and maintain records sufficient to ensure compliance with the Order. Further, the Act requires the Secretary to prepare a study and submit to Congress a report examining the effectiveness of the program and appropriateness and effectiveness of applying a commodity checkoff program model to a nonagricultural industry. A study and report of this nature would not be possible without the information provided on completed evaluation and compliance forms.

The Order will remain in effect if not suspended or terminated. Study and reports after the 3-year and 5-year period will require ongoing information collection. Further compliance with assessment remittance will be (and information from the evaluation and compliance form) required for the lifetime of the Board. The Department believes the collection has the potential to continue to have relevance for the foreseeable future.

If the Department cannot collect the evaluation and compliance information, the Department could not effectively evaluate the effectiveness of the program and would not be able to ensure compliance with the Order. Collecting data less frequently would be counter the Act's requirement to collect assessments quarterly and would limit the Departments ability to report on the effectiveness of the program.

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 for the proposed concrete masonry products Board evaluation and compliance form 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 45-day notice for comments is embedded in a proposed rule published in the Federal Register on page 52059 (Vol. 85, No. 164), August 24, 2020.

The Department will maintain a continuing dialogue with the Board and manufacturers subject to assessment 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 these forms, 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 ongoing program oversight and preparing studies and reports.

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 evaluation and compliance form:

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 be kept confidential by all persons, including all employees and former employees of the Board, all officers and employees and former officers and employees of contracting and subcontracting agencies or agreeing parties having access to such information. Such information shall not be available to Board members or manufacturers. Only those persons having a specific need for such information to effectively administer the provisions of this Order shall have access to such information.

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 will 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.

Membership Application: The respondent burden for this collection of information is estimated to average one hour per application. Respondents are concrete masonry products manufacturers and others associated with the concrete masonry products industry who are interested in serving as a member of the Board. The estimated number of respondents is 50. The estimated total annual burden on respondents is 50 hours.

Evaluation and Compliance: The respondent burden for this collection of information is estimated to average one hour per quarter for each manufacturer subject to assessment. Respondents are concrete masonry products manufacturers and others associated with the concrete masonry products industry who are subject to the Order's assessment. The estimated number of respondents is 690. The estimated total annual burden on respondents is 2,760 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.

Membership Application: The cost to the Federal government for an estimated two-month application and review process which includes; soliciting applications, providing applications, collecting applications, conducting a screening of applicants, recommending candidates, making appointments, and informing nominees is estimated at \$135,000, which consists of \$120,000 for salaries, related overhead, and operational expenses, and \$15,000 for publishing, mailing, receiving, printing, and computer processing. Subsequent years will require additional use of the nomination and appointment process to fill vacancies.

Evaluation and Compliance: The cost to the Federal government for the quarterly evaluation and compliance process which includes: sending the form, receiving the form, collating the form, tabulating results, comparing against assessments received, providing running totals to remain cognizant of program effectiveness is estimated at \$200,000, which consists of \$190,000 for

salaries, related overhead, and operational expenses, and \$10,000 for mailing, receiving, printing, and computer processing. The quarterly collection of this information is continuous and will occur in subsequent years.

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 Agriculture.

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

Membership Application: The Department will publish final appointments to the Board. The information collected will be used to select Board members.

Evaluation and Compliance: The Department will publish studies and final reports. The information collected will be used to inform studies and reports, as well as validate compliance with the Order.

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.