

Supporting Statement
U.S. Department of Commerce Bureau of Industry and Security
for Emergency Submission: Directive Allocation Orders under the Defense Priorities and
Allocations System in Response to Presidential Determination Pursuant to Section 101 of
the Defense Production Act of 1950, as Amended, on Recoverable Critical Minerals and
Materials

OMB Control No. 0694-XXXX

A. Justification

This is a request for creation of a new collection for approval by the Office of Management and Budget (OMB).

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

Background on Defense Priorities and Allocations System

The Department of Commerce (DOC), Bureau of Industry and Security's (BIS) Office of Strategic Industries and Economic Security (SIES) administers the Defense Priorities and Allocations System (DPAS) regulation which implements the priorities and allocations authority under Title I of the Defense Production Act of 1950, as amended (DPA) (50 U.S.C. § 4501, *et. seq.*), delegated to the Secretary of Commerce (Secretary) under Executive Order (E.O.) 13603 with respect to all materials, services, and facilities, including construction materials, not delegated to other Secretaries. These materials, services, and facilities are referred to as "industrial resources."

The DPAS regulation may only be used in support of an "approved program," which means a program determined in writing as necessary or appropriate for priorities and allocations support to promote the national defense by the Secretary of War, the Secretary of Energy, or the Secretary of Homeland Security, under the authority of the DPA and E.O.13603.

Section 704 of the DPA authorizes the President to make such regulations and issue such orders as the President determines to be appropriate to carry out the provisions of the DPA. Section 705 of the DPA authorizes the President to obtain information by regulation, subpoena or otherwise as may be necessary or appropriate to the enforcement or the administration of the Act and implementing regulations. The DPA provides for criminal and civil penalties for willful violation of the DPA, and any regulations, rule, or order issued under the authority of the DPA.

The DPAS regulation has two principal authorities: (1) priorities authority, which implements the DPA Title I priorities authorities; and (2) allocations authority, which implements the DPA Title I allocations authority. Under the priorities authorities, the DPAS regulation establishes procedures for the placement and preferential acceptance and performance of priority rated contracts and orders, other than contracts of employment, supporting approved programs (referred to as "rated orders"). Under the allocations authorities, certain materials, services, and facilities may be allocated to promote the national defense, as defined in the DPA.

Written authorization from BIS is required to utilize the authorities under the DPAS regulation. BIS has delegated certain priorities authority under the DPAS regulation to the Departments of War (DoW), Energy (DOE), Homeland Security (DHS), and Health and Human Services (HHS)'s Administration for Strategic Preparedness and Response (ASPR), as well as the General Services Administration (GSA). The delegations provide these departments and agency the authority to place DPAS rated orders for industrial resources in support of approved programs.

Background on Allocation Orders

In accordance with the DPAS regulation, BIS may take action under the DPAS regulation as necessary or appropriate to promote the national defense. Such actions are referred to as "official actions."

An official action under the allocations authorities of the DPAS regulation are referred to as allocation orders, and include the following actions: (1) *set-aside*, which requires a person to reserve materials, services, or facilities capacity in anticipation of the receipt of rated orders; (2) *directive*, which requires a person from taking or refrain from taking certain actions in accordance with its provisions; and (3) an *allotment*, which specifies the maximum quantity of a material, service, or facility authorized for a specific use to promote the national defense.

Lastly, as outlined in the DPAS regulation, BIS may conduct audits, investigations, or other inquiries to ensure compliance with the DPAS regulation, DPA, and related statutes, and allocation orders, which may result in the following official actions: (1) an administrative subpoena, (2) a demand for information, or (3) an inspection authorization.

Background on Recordkeeping Requirements

Consistent with section 705 of the DPA, under section 700.91 of the DPAS regulation, persons are required to make and preserve for at least three years, accurate and complete records of any transaction covered by the DPAS regulation or an official action. Per section 700.91(b) of the DPAS regulation, records must be maintained in sufficient detail to permit the determination, upon examination, of whether each transaction complies with the provisions of the DPAS regulation or any official action. Such records may include administrative, accounting, purchasing, scheduling, production, and shipping records, the receipt and acceptance or rejection of contractors' orders by suppliers, and any other relevant and material record to evidence the timely production and delivery of items. Per section 700.91(d), persons must also develop, maintain, and submit any other records and reports to the DOC that may be required for the administration of the DPA, related statutes, and the DPAS regulation.

Need for Information Collection

On July 30, 2026, the President issued a Presidential Determination titled, "Presidential Determination Pursuant to Section 101 of the Defense Production Act of 1950, as Amended, on Recoverable Critical Minerals and Materials" ("DPA Determination on Recoverable CMMs") Under DPA Determination on Recoverable CMMs, the President found that recoverable Critical Minerals and Materials (CMMs) are scarce and critical materials essential to the national

defense, meeting the criteria specified in section 101(b) of the DPA (50 U.S.C. 4501, et seq.). With these findings, the President authorized the Secretary to use the Secretary's delegated authority under E.O. 13603 of March 16, 2012 (National Defense Resources Preparedness) to take all appropriate action under section 101 of the DPA with respect to recoverable CMMs and to use this authority to determine the proper nationwide priorities and allocations of all materials, services, and facilities necessary to ensure a continued and adequate supply of recoverable CMMs.

DOC/BIS does not currently have an information collection in place to support Directive Allocation Orders issued in response to the Presidential findings under DPA Determination on Recoverable CMMs. Therefore, this emergency collection is needed for the effective enforcement and administration of Directive Allocation Orders issued by DOC/BIS in response to DPA Determination on Recoverable CMMs. Any delay in ensuring the effective administration and enforcement of a Directive Allocation Order issued by DOC/BIS in accordance with the DPAS regulation in response to DPA Determination on Recoverable CMMs would undermine the national defense and security of the United States.

In accordance with DPA Determination on Recoverable CMMs, Directive Allocation Orders issued under the DPAS regulation will collect certain critical information from companies as specified in rules issued to effectuate DPA Determination on Recoverable CMMs and ensure compliance with the DPAS regulation and the Directive Allocation Orders issued, as described in section 700.91 of the DPAS regulation. The details of the Directive Allocation Orders issued, including the records required to be submitted in accordance with section 700.91 of the DPAS regulation, will be provided in a temporary final rule issued to meet the objectives of DPA Determination on Recoverable CMMs. Therefore, the temporary final rule and compliance official actions will specify the information required. The information will be submitted via email to DOC/BIS DPAS Program Inbox at DPASAllocations@bis.doc.gov.

The Information Collection Number 0694-XXXX described in this supporting statement covers the information necessary to support the execution of Directive Allocation Orders issued by DOC/BIS under the DPAS regulation in accordance with DPA Determination on Recoverable CMMs.

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.

The emergency collection is for Directive Allocation Orders issued by DOC/BIS in response to DPA Determination on Recoverable CMMs.

In accordance with section 700.91 of the DPAS regulation, persons are required to make and preserve for at least three years, accurate and complete records of any transaction covered by the DPAS regulation or an official action, including a directive allocation order. Such records would include administrative, accounting, purchasing, scheduling, production, and shipping records, the

receipt and acceptance or rejection of contractors' orders by suppliers, and any other relevant and material record to evidence the timely production and delivery of items. Persons are required to provide these requests when required by BIS, in accordance with the DPAS regulation.

The recordkeeping and reporting requirements are necessary to support the administration and enforcement of the DPAS regulation. The requirement implements the section 705 authority of the DPA. The DPAS regulation does not specify a particular method or system to be used to maintain these records.

When issuing a Directive Allocation Order, BIS may require a person to furnish to BIS information necessary or appropriate to the enforcement or the administration of the Directive Allocation Order in accordance with compliance official actions issued under section 700.71(c) (2). The compliance official action will specify the information required and timeframe in which it must be submitted to BIS. This information can include items such as the contract or order number(s) covered by the Directive Allocation Order, the customer names, item descriptions, dates of sale, and other relevant information related to the DPAS priority rating and contracts. Copies of the contract(s) or order(s) covered by the Directive Allocation Order may also be asked to be furnished to BIS. Persons would be required to submit this information in electronic form via email to BIS DPAS Program Inbox at DPASAllocations@bis.doc.gov.

The information submitted will be evaluated and used by BIS's SIES to ensure the enforcement, compliance, and administration of the DPA, the DPAS regulation, or a Directive Allocation Order issued in accordance with the DPAS regulation. This is consistent with section 705 of the DPA and subpart J of the DPAS regulation. Willful violation of the provisions of Title I or sections 705 or 707 of the DPA and the DPAS regulation is a crime and upon conviction, a person may be punished by fine or imprisonment, or both as provided in sections 103 and 705 of the DPA.

Section 705(d) of the DPA provides that information obtained under section 700.91 of the DPAS regulation which the President deems confidential, or with reference to which a request for confidential treatment is made by the person furnishing such information, shall not be published or disclosed unless the President determines that the withholding of this information is contrary to the interest of the national defense. Information required to be submitted to the DOC in connection with the enforcement or administration of the DPA, the DPAS regulation, or a Directive Allocation Order, is deemed to be confidential under section 705(d) of the DPA and shall not be published or disclosed except as required by law.

The Section 515 Information Quality Guidelines apply to this information collection and comply with all applicable information quality guidelines, *i.e.*, OMB, DOC, and specific operating unit guidelines.

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.

Information required in accordance with the Directive Allocation Order will be submitted via email to the BIS DPAS Program Inbox (DPASAllocations@bis.doc.gov).

4. Describe efforts to identify duplication.

As administrators of the DPAS regulation, the requested information is unique to BIS. The information required to be submitted by U.S. persons is not duplicated anywhere else in the Federal Government for purposes of enforcing and administering a Directive Allocation Order issued by DOC as deemed necessary or appropriate to promote the national defense. Similar information is not available for any other source. Similar information is collected under OMB Control number 0694-0088 BIS for the Export Administration Regulations; however this separate Emergency PRA collection is necessary because the purpose of this program and the administration of the controls is unique and separate from the requirements of the EAR.

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

In accordance with section 700.91 of the DPAS regulation, all U.S. persons, regardless of size, are required to make and preserve for at least three years, accurate and complete records of any transaction covered by the DPAS regulation or an official action, including a Directive Allocation Order. This requirement is to ensure the enforcement, compliance, and administration of the DPA, the DPAS regulation, or an official action, including a Directive Allocation Order, issued in accordance with the DPAS regulation. These requirements cannot be minimized to lessen the paperwork burden on small businesses. However, any U.S. person may request an adjustment or exception to a provision of the DPAS regulation or an official action, including a Directive Allocation Order, if it results in an undue or exceptional hardship on that person not suffered generally by others in similar situations or circumstances, as outlined in section 700.80 of the DPAS regulation.

6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.

The DPAS regulation is designed to ensure that industrial resources are readily available as necessary or appropriate to promote the national defense. If the collection is not conducted, BIS would not be able to ensure compliance, enforcement, or administration of the DPA, the DPAS regulation, or the Directive Allocation Order

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 require the collection to be conducted in a manner inconsistent with OMB guidelines.

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.

This paperwork collection is published as an emergency collection. This collection of information is needed prior to the time periods required for the normal Paperwork Reduction Act public notice and comment process for activities essential to the mission of BIS and DOC to promote the national defense and to ensure the health of the U.S. economy and the competitiveness of U.S. industry (5 C.F.R. 1320.13(a)(1)(ii)). This emergency collection is necessary because a delay to allow for notice-and-comment and a delay in effective date would impair DOC's enforcement and administration of a Directive Allocation Order issued by DOC in accordance with the DPAS regulation and in response to DPA Determination on Recoverable CMMs. Public harm is reasonably likely to result if BIS were to follow the normal clearance procedures before issuing this information collection (5 C.F.R. 1320.13(a)(2)(i)). Per DPA Determination on Recoverable CMMs, the President found that America's inadequate supply of CMMs poses an increasing risk to our national defense and security and directed the Secretary of Commerce to take immediate action to secure the supply of recoverable CMMs. A delay in DOC/BIS's ability to implement a Directive Allocation Order and begin immediate information collection from companies engaged in the sale of recoverable CMMs will lead to increased scarcity of these materials through additional exports, posing an imminent threat to U.S. military readiness and critical infrastructure sectors.

Furthermore, this emergency collection is needed for the Directive Allocation Order issued by temporary final rule in response to DPA Determination on Recoverable CMMs. The immediate creation of a mechanism to issue this Directive Allocation Order, consistent with the intent of DPA Determination on Recoverable CMMs and the DPAS regulation, is needed to promote the national defense and the national security objectives set by the President.

If the Directive Allocation Order and this emergency collection were delayed for public comment, the U.S. national defense and security would be impacted. BIS intends to publish a notice in the Federal Register informing the public that Commerce submitted a request for an emergency collection and the request was approved by OMB.

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

There will be no payments or gifts to respondents.

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

Section 705(d) of the DPA provides that information obtained under section 700.91 of the DPAS regulation which the President deems confidential, or with reference to which a request for confidential treatment is made by the person furnishing such information, shall not be published or disclosed unless the President determines that the withholding of this information is contrary to the interest of the national defense. Information required to be submitted to the DOC in connection with the enforcement or administration of the DPA, the DPAS regulation, or an official action,

including a Directive Allocation Order, is deemed to be confidential under section 705(d) of the DPA and shall not be published or disclosed except as required by law. This section provides a criminal penalty for any person who willfully publishes or discloses information collected under the authority of the DPA which is deemed confidential or with reference to which a request for confidential treatment is made by the person furnishing the information.

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.

There are no questions of a sensitive nature.

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

The total annual burden to the public related to the information collection activities for official actions is expected to be approximately **3,126** burden hours.

BIS estimates that **Allocation Orders** will impact **600** U.S. entities. BIS estimates that the recordkeeping requirement is up to one hour for each entity to implement the Allocation Order official action; execution of the Allocation Order official action is up to four hours for each entity; and submitting requests to BIS for adjustments, exceptions, or other assistance related to the Allocation Order official action is up to two hours, with an estimated one submission per 15 entities (40 total entities).

BIS estimates **24 Compliance** official actions will be issued, which BIS estimates will impact **24** entities. BIS estimates that submitting required information to BIS in response to one Compliance official action is up to two hours per submission, with an estimated one submission per 25 entities (24 total entities).

These estimates are based on the number of entities potentially impacted by the official action and an estimate of the amount of time it would take to execute, record, and submit the information required by BIS to the DPAS Program Inbox at DPASAllocations@bis.doc.gov.

The total annual cost to the public related to these information collection activities is expected to be approximately **\$143,888**, with an estimated hourly cost of \$46. This estimate is based on the U.S. Bureau of Labor Statistics' Employment Situation Update for April 2026, which cited average hourly earnings of employees in professional and business services of \$45.47.

A summarized breakdown of the burden hour and cost estimates for each activity associated with this collection of information are listed in the chart below.

Estimated Annual Reporting				
Type of Collection	No. of Respondents	Annual Frequency per Response	Average Burden Hours per Response	Total Hours
Submission Instructions	600	1	5.21 hours	3,126
TOTALS	600	1	5.21 hours	3,126

Estimate Annual Respondent Costs		
Type of Activity	Burden Hours to Public For Directive Allocation Order	Costs to Public (\$46 per Hour)
Recordkeeping	600 (One hour per entity)	\$27,600
Execution	2,400 (Four hours per entity)	\$110,400
Submitting Requests for Adjustments, Exceptions, or Other Assistance	80 (Two hours for one submission; one submission per 15 entities (40 total entities))	\$3,680
Submitting Information Required Upon Request for Compliance	48 (Two hours for one submission; one submission per 25 entities (24 total entities))	\$2,208
TOTAL	3,126 hours	\$143,888

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).

Since no special equipment is required for this activity, there are no capitalized costs associated with this collection of information.

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

It is estimated that the total annual cost to the Federal Government will be approximately **\$48,000** annually. This figure is based on the estimated number of hours federal staff would be dedicated to handling the information collected and reviewing the submitted information.

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

This is a new collection.

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

For this collection, results will not be published.

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.

We are not seeking approval to not display the expiration date.

18. Explain each exception to the certification statement.

There are no exceptions to the certification statement.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not utilize statistical methods.