



UNITED STATES DEPARTMENT OF COMMERCE
Under Secretary for Industry and Security
Washington, D.C. 20230

August 03, 2026

MEMORANDUM FOR: Mark Paoletta
Acting Administrator, Office of Information and Regulatory Affairs
Office of Management and Budget

FROM: Jessica Curyto
Deputy Assistant Secretary
for Technology Security
Bureau of Industry and Security

SUBJECT: Request for OMB Emergency Review and Approval of Information Collections for Directive Allocation Orders under the Defense Priorities and Allocations System Regulation in Response to Presidential Determination Pursuant to Section 101 of the Defense Production Act of 1950, as Amended, on Recoverable Critical Minerals and Materials

The Bureau of Industry and Security (BIS) is seeking approval to send the attached request to the Office of Management and Budget (OMB) for emergency clearance under the Paperwork Reduction Act (PRA) to allow the Department of Commerce (DOC), as represented by BIS, to collect information related to certain Directive Allocation Orders issued under the Defense Priorities and Allocations System (DPAS) regulation (15 CFR. part 700).

BACKGROUND

Under Title I of the Defense Production Act of 1950, as amended (DPA) (50 U.S.C. 4501, et seq.), the President is authorized to require preferential acceptance and performance of contracts or orders (other than contracts of employment) deemed by the President as necessary or appropriate to promote the national defense; and to allocate materials, services, and facilities in such a manner, upon such conditions, and to such extent as the President shall deem necessary or appropriate to promote the national defense, as defined in the DPA. 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 also 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.

In Executive Order (E.O.) 13603 of March 16, 2012 (*National Defense Resources Preparedness*), the President delegated DPA Title I authority to six Secretaries, including the Secretary of Commerce who is delegated this authority with respect to all other materials,

services, and facilities, including construction materials, not delegated to the other Secretaries (referred to as “industrial resources”). However, the DOC has had this authority under DPA Title I since 1950.

DOC’s Bureau of Industry and Security (BIS), Office of Strategic Industries and Economic Security (SIES) implements the Secretary of Commerce’s delegated DPA Title I authorities through the administration of the DPAS regulation. The DPAS regulation establishes procedures for the placement, acceptance, and performance of priority rated contracts and orders (other than contracts of employment) and for the allocation of materials, services, and facilities for approved national defense programs.

DOC may take action under the authority of the DPA and the DPAS regulation as necessary or appropriate to promote the national defense. Such actions are referred to as “official actions,” and may include the issuance of rating authorizations, directives, letters of understanding, demands for information, inspection authorizations, administrative subpoenas, and allocation orders. The DPAS regulation set forth recordkeeping and reporting requirements necessary for the administration and enforcement of official actions issued by DOC under the DPAS regulation, and as required under section 705 of the DPA.

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.

Under Emergency processing (5 C.F.R. 1320.13) controlling paperwork burdens on the public, BIS requests OMB to authorize emergency processing of submission of collections of information pursuant to paragraphs 1320.13(a)(1) and (2), (b), and (c). 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. In accordance with 5 CFR 1320.13(b), BIS is requesting approval from OMB by August 03, 2026. In accordance with 5 CFR 1320.13(c), this collection of information has been reviewed by the interested agencies through OMB interagency review processes of the related temporary final rule, and further public engagement before approval is not practicable for the same reasons explained above.

In accordance with DPA Determination on Recoverable CMMs, DOC will be required to issue allocation orders pursuant to the DPAS regulations and collect certain critical information from companies engaged in the sale of recoverable CMMs to effectuate DPA Determination on Recoverable CMMs and ensure compliance with the DPAS regulation and the official actions issued, as described in sections 700.80, 700.81, and 700.91 of the DPAS regulation. These collection requirements may include buyer information, the applicable material and Schedule B code, quantity of material, and value of the sale. Further details of the official actions issued, including the records that may be required to be submitted in accordance with sections 700.80, 700.81, and 700.91 of the DPAS regulation, will be provided in each official action issued to meet the objectives of DPA Determination on Recoverable CMMs. Therefore, the official action will specify the information required. This information will be submitted via email to DOC. Additionally, DOC will invite comments from the public on any additional action required to meet the objectives of DPA Determination on Recoverable CMMs.

JUSTIFICATION

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 Commerce's ability to 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.

OMB's emergency clearance will allow BIS to publish a notice in the *Federal Register* to begin collecting the information required for U.S. persons to comply with DOC's official actions pursuant to DPA Determination on Recoverable CMMs. This will allow BIS to ensure the enforcement, compliance, and administration of the DPA, the DPAS regulation, or an official action issued in accordance with the DPAS regulation. This is consistent with section 705 of the DPA and subpart J of the DPAS regulation.

Sincerely,

Jessica Curyto