



## **DEPARTMENT OF COMMERCE**

### **Office of the Under Secretary for Economic Affairs**

#### **15 CFR Part 1500**

**[Docket No.: 200901-0230]**

**RIN: 0605-AA56**

### **Concrete Masonry Products Research, Education and Promotion Order; Referendum Procedures**

**AGENCY:** Under Secretary for Economic Affairs, United States Department of Commerce.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** Pursuant to the Concrete Masonry Products Research, Education, and Promotion Act of 2018 (the Act), the Department of Commerce (Department) solicits comments on proposed procedures for conducting a referendum to determine whether manufacturers of concrete masonry units favor the issuance of a proposed Concrete Masonry Products Research, Education, and Promotion Order (proposed order). 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 for concrete masonry products in the domestic marketplace; and promote the use of concrete masonry products in construction and building. The Department published the proposed order in the *Federal Register* on August 24, 2020. The Act requires industry to approve the proposed order via a referendum. If industry approves the proposed order, the Secretary of Commerce (Secretary) will issue a final order and appoint a Board to carry out the duties prescribed by that order, which would include an industry-funded research, education, and promotion program. The Department also would follow

these procedures for any subsequent referendum under the Act. This proposal also announces the intent of the Department to request approval by the Office of Management and Budget (OMB) of two new information collection requests (ICRs) to support implementation of the referendum.

**DATES:** The Department must receive comments by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://beta.regulations.gov/docket/DOC-2020-0003> click the "Comment Now!" icon, complete the required fields, and enter or attach your comments. The supporting economic analysis is also available for comment on [regulations.gov](https://www.regulations.gov).

All submissions, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. The Department reserves the right to publish relevant comments, unedited and in their entirety. Do not include personal information, such as account numbers or Social Security numbers, or names of other individuals. Do not submit confidential business information, or otherwise proprietary, sensitive or protected information. We will not post or consider comments that contain profanity, vulgarity, threats, or other inappropriate language or like content.

Pursuant to the Paperwork Reduction Act (PRA), send to the above address comments regarding the accuracy of the burden estimate, ways to minimize the burden, including the use of automated collection techniques or other forms of information technology, or any other aspect of this collection of information. In addition, send comments concerning the information collection to [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov) or online at <https://www.reginfo.gov/public/do/PRAMain>.

**FOR FURTHER INFORMATION CONTACT:** Mr. Michael Thompson, Communications for the Commerce Checkoff Implementation Program, Office of the Under Secretary for Economic Affairs, telephone: (202) 482-0671 or via electronic mail: [mthompson1@doc.gov](mailto:mthompson1@doc.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Legal Background.**

Pursuant to the Concrete Masonry Products Research, Education, and Promotion Act of 2018 , 15 U.S.C. 8701 *et seq.*, the Department is enacting a research, education, and promotion program (commonly referred to as a checkoff program) for concrete masonry products. The Act specifically authorizes the Secretary to conduct the referendum, and states that “[referenda ... shall be conducted in a manner determined by the Secretary.” 15 U.S.C. 8706(c)(1). The Act also authorizes the Secretary to “issue such regulations as may be necessary to carry out [the Act] and the power vested in the Secretary under [the Act].” 15 US.C. 8713.

The Department’s actions to bring the program to fruition will include: (1) implementing an order that will effectuate the purpose of the Act; (2) conducting a referendum among the industry to determine whether the industry approves of being subject to the implementing order; and, upon an affirmative vote on the order, (3) issuing the order and establishing a Board that will carry out the provisions of the order; and (4) performing continuing oversight of the Board and program. An industry group, the *CMU Checkoff Initiative*, submitted a proposed order to the Secretary on April 15, 2020. The proposed order was made available for comment in a separate proposed rule published in the *Federal Register* on August 24, 2020, at 85 FR 52059<sup>1</sup>.

Under the Act, the Secretary must conduct the referendum among eligible manufacturers during the 60-day period before the proposed order becomes effective. 15 U.S.C. 8706(a)(1). The Department interprets this to mean that the referendum would be conducted entirely within the 60-day period preceding the effective date of the order, but specifically requests comments on this interpretation. The order shall become effective only if the Secretary determines that the order has been approved by a majority “yes” vote by both: (1) the total number of concrete masonry unit manufacturers voting; and

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<sup>1</sup> <https://www.federalregister.gov/documents/2020/08/24/2020-17515/concrete-masonry-products-research-education-and-promotion-order>

(2) manufacturers who operate a majority of the machine cavities operated by the manufacturers voting in the referendum. 15 U.S.C. 8706(a)(2).

A manufacturer will be considered eligible to vote if the manufacturer has manufactured concrete masonry products during a period of at least 180 days prior to the first day of the 30-day period during which voting in the referendum will occur. 15 U.S.C. 8706(b)(2). The Act directs the Secretary to conduct the referendum “among [eligible] manufacturers ... subject to assessments under section 8705 of this title.” As explained below, only manufacturers of concrete masonry units are subject to assessment under the Act.

The Act and the proposed order distinguish between concrete masonry products and concrete masonry units. The Act defines concrete masonry products to include a broader category of products, including concrete masonry units, as well as hardscape products such as concrete pavers and segmental retaining wall units, manufactured on a block machine using dry-cast concrete. Concrete masonry units are a type of concrete masonry product with an actual width of 3 inches or greater that are manufactured from dry-cast concrete using a block machine, including concrete block and related concrete units used in masonry applications. Under the Act and the proposed order, only manufacturers of concrete masonry units are required to pay an initial rate of assessment of \$0.01 per concrete masonry unit sold. 15 U.S.C. 8705(c)(1).

The Act does not define the phrase “subject to assessment” and therefore, the Secretary must interpret the statute to determine whether all manufacturers of concrete masonry products should participate in the referendum, or whether only manufacturers of concrete masonry units should participate. The phrase “subject to assessment” could mean: (1) meeting only the eligibility requirement described above (that is, having manufactured concrete masonry products during the 180-day period prior to voting), or (2) both meeting the eligibility requirement and being subject to the initial rate of assessment. Under interpretation (1), the referendum would be conducted among all manufacturers who had manufactured concrete masonry products during the 180-day period prior to voting. Under

interpretation (2), because the initial rate of assessment is applied only to concrete masonry units sold, the referendum would be conducted among all manufacturers who had manufactured concrete masonry units during the 180-day period prior to voting.

Where a statute leaves a gap or is ambiguous, courts will typically look to see whether the agency's interpretation was reasonable in light of the text, nature, and purpose of the statute. *See, e.g., Cuozzo Speed Techs., LLC v. Lee*, 136 S. Ct. 2131, 2134 (U.S. June 20, 2016). In the absence of a statutory definition, courts "construe a statutory term in accordance with its ordinary or natural meaning." *FDIC v. Meyer*, 510 U.S. 471, 476 (1994). The most relevant definition of "subject to" is "affected by or possibly affected by" something.<sup>2</sup> Only manufacturers of concrete masonry units will actually have to pay, or be affected by, the initial rate of assessment. The Department believes, therefore, that the most natural reading of the statute is that only concrete masonry unit manufacturers are "subject to" assessment and therefore eligible to participate in the referendum.

This reading is also consistent with the stated purpose of the Act as described in 15 U.S.C. 8701. Senate Report 115-218 includes the Congressional Budget Office's (CBO) estimate concerning the Act's impacts, and notes the following assumption:

The bill [S. 374] would apply to producers of both concrete block and concrete pavers, but CBO expects that only producers of concrete block would participate in the referendum. Because there is little differentiation among concrete blocks across manufacturers, all producers of concrete blocks would benefit from an industry-wide research and promotion program.

Manufacturers of concrete pavers, on the other hand, are able to distinguish their products in ways that allow consumers to recognize individual brands. Consequently, those producers have

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<sup>2</sup> "Subject to." *Merriam-Webster.com Dictionary*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/subject%20to>. Accessed 20 Jun. 2020.

little incentive to participate in an industry-wide marketing effort. Based on information from manufacturers of concrete pavers, CBO expects that those producers would not participate in the referendum.

Senate Report 115-218, at 4 (Mar. 22, 2018).

Based upon both the language and the overarching purpose of the statute, and because concrete masonry unit manufacturers are currently the only manufacturers who have an incentive to participate in this program, the Department interprets the Act to mean that only manufacturers subject to the initial rate of assessment are “subject to assessment,” in accordance with interpretation (2). Therefore, for the initial referendum, an eligible manufacturer would be a manufacturer of concrete masonry units that is subject to the initial rate of assessment, that is, \$0.01 per concrete masonry unit sold by a manufacturer. *See* 15 U.S.C. 8705(c)(1).

## **II. Summary of Proposed Rule**

The Department would conduct the referendum. Each manufacturer eligible to vote in the referendum would be entitled to one vote. *See* 15 U.S.C. 8706(b)(1). For the order to go into effect, there must be a majority “yes” vote by both: (1) the total number of concrete masonry unit manufacturers voting; and (2) manufacturers who operate a majority of the machine cavities operated by the manufacturers voting in the referendum. *See* 15 U.S.C. 8706(a)(2). Manufacturers would be required to register by midnight of the day prior to the start of the referendum period in order to vote. *See* 15 U.S.C. 8706(c)(2). The Department would use Employer Identification Numbers to identify unique manufacturers.

The referendum would be conducted by an agent, who would determine the referendum period and would provide notification to interested voters to allow them to register prior to the referendum period, as required by the Act. *See* 15 U.S.C. 8706(c)(2). The agent would provide registration forms and ballots to eligible voters and would provide reasonable public notice of the referendum. *See* 15 U.S.C. 8706(c)(4). The agent would also collect and review all ballots and determine whether any

ballots are invalid and should not be counted. Finally, the agent would prepare a report on the referendum and announce the results to the public. The Department would use these same procedures for any subsequent referendum under the Act. For any new proposed order, voter eligibility would be based on the scope of such proposed order.

### **III. Request for Comments**

The Department invites comments on these procedures for conducting the referendum to determine whether manufacturers of concrete masonry units favor issuance of the proposed order.

#### Classification

##### *Executive Order 12866*

This rulemaking is not a significant regulatory action under Executive Order 12866.

##### *Executive Order 13771*

This rule is not subject to the requirements of Executive Order 13771, because its likely impact is *de minimis*.

##### *Executive Order 13132*

This proposed rule does not contain policies with Federalism implications as defined in Executive Order 13132.

##### *Regulatory Flexibility Act: Initial Regulatory Flexibility Analysis*

The Regulatory Flexibility Act (RFA), first enacted in 1980 and codified at 5 U.S.C. 600-611, was intended to place the burden on the government to review all new regulations to ensure that, while accomplishing their intended purposes, they do not unduly inhibit the ability of small entities to compete. The RFA recognizes that the size of a business, unit of government, or nonprofit organization can have a bearing on its ability to comply with Federal regulations. Major goals of the RFA are: 1) to increase agency awareness and understanding of the impact of their regulations on small business; 2) to

require that agencies communicate and explain their findings to the public; and 3) to encourage agencies to use flexibility and to provide regulatory relief to small entities.

The RFA emphasizes predicting significant adverse impacts on small entities as a group distinct from other entities and on the consideration of alternatives that may minimize the impacts, while still achieving the stated objective of the action. When an agency publishes a proposed regulatory action, it must either: 1) certify that the action will not have a significant adverse impact on a substantial number of small entities, and support such a certification declaration with a factual basis, demonstrating this outcome, or, 2) if such a certification cannot be supported by a factual basis, prepare and make available for public review an Initial Regulatory Flexibility Analysis (IRFA) that describes the impact of the proposed rule on small entities.

The IRFA for the proposed referendum procedures follows below.

#### *Basis and Purpose of the Rule*

This action is taken under the authority of the Act, which authorizes a research, education, and promotion program for concrete masonry products, also known as a checkoff program. The checkoff program would be established by an order issued by the Secretary that is subject to approval by an industry referendum. The program would then be carried out by a Board, which would develop research and education programs as well as efforts to promote concrete masonry products in domestic markets. Board activities would be funded by assessments on manufacturers of concrete masonry products, based on the number of masonry units sold each quarter. A proposed order submitted by industry to the Department on April 15, 2020, triggered a referendum deadline of approximately 8 months from submission. The objectives of, and legal basis for, the proposed rule is discussed earlier in the preamble and are not repeated here.

#### *Number of Affected Entities*

The proposed order applies to products manufactured on concrete block machines and used for construction. As indicated by the data below and confirmed by industry experts, the industry is dominated by small entities.

The U.S. Small Business Administration size standard to qualify as a small business in this industry is 500 or fewer employees.<sup>3</sup> According to Census data, there were 430 firms and 686 establishments engaged in concrete block and brick manufacturing in 2017.<sup>4</sup> Of these, 401 firms, or 93 percent, employed fewer than 500 employees, and these small firms accounted for 514 establishments, or 75 percent of all establishments, and about 62 percent of industry employment.<sup>5</sup>

<b>Table 3: Block and Brick Manufacturers 2017 by Business Size</b>						
<b>Size of business by number of employees</b>	<b>Number of firms</b>	<b>Number of establishments</b>	<b>Employment</b>	<b>Estimated receipts (\$mils)</b>	<b>Annual payroll (\$mils)</b>	
<b>Total</b>	<b>430</b>	<b>686</b>	<b>16,575</b>	<b>4,682</b>	<b>814</b>	
0-4	92	92	173	56	9	
5-9	66	66	432	97	19	
10-19	83	87	1,168	277	56	
20-99	116	152	3,851	922	185	
100-499	44	117	4,607	1,506	251	
500+	29	172	6,344	1,823	293	

Source: U.S. Census Bureau 2017 County Business Patterns and 2017 Economic Census, Table US\_6digitnaics\_2017, released 03/06/2020

### *Costs to Affected Entities*

<sup>3</sup> See “Table of Small Business Size Standards Matched to North American Industry Classification System Codes” on the U.S. Small Business Administration website.

<sup>4</sup> A firm is a business organization consisting of one or more domestic establishments in the same state and industry that were specified under common ownership or control and an establishment is a single physical location at which business is conducted or services or industrial operations are performed. See “Statistics of U.S. Businesses Glossary” on the U.S. Census Bureau website.

<sup>5</sup> See “2017 SUSB Annual Data Tables by Establishment Industry” on the U.S. Census Bureau website. For more information, see the County Business Patterns methodology on the Census website.

This action would impose a reporting burden on eligible manufacturers of concrete masonry units. To participate in the referendum, eligible manufacturers would register with the Department in advance of the referendum period. Eligible manufacturers would have the opportunity to complete and submit a ballot to the Department indicating whether or not they favor implementation of the proposed order. The specific burdens for registration and the ballot are detailed later in this document in the section titled “Paperwork Reduction Act”.

The Department estimates that the respondent burden of the referendum is 0.5 hours for registration and 0.25 hours to complete the ballot and that approximately 690 small businesses will be affected. This results in a total estimated burden on small businesses of 517.5 hours. According to the Bureau of Labor Statistics, the median pay for industrial production managers is \$50.71 per hour.<sup>6</sup> Thus, the Department estimates that the cost to firms of participating in the referendum will average \$38.03.

#### *Paperwork Reduction Act*

The information collection requests (“ICRs”) in these proposed referendum procedures have been submitted for approval to OMB under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* This section describes the new ICRs and the estimated time to fulfill each requirement. There are two new ICRs associated with the proposed referendum procedures – one dealing with the voter registration process and a second with the ballot that voters will use during the referendum.

(1) Registration. The Act requires manufacturers who wish to participate in the referendum to register in advance of the referendum period. The Secretary will need adequate information from all interested voters to determine whether they are eligible to participate in the referendum. The Department will restrict the information request to that information needed to ensure eligibility of the

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<sup>6</sup> See the *Occupational Outlook Handbook* on the Bureau of Labor Statistics website, <https://www.bls.gov/ooh/>.

requester to participate in the referendum. Types of information will include name, contact information (address, phone number, email), status as a manufacturer of concrete masonry units, affirmation of having manufactured concrete masonry units within 180 days prior to the beginning of the referendum period, the number of cavities in operation, their Employer Identification Number, and similar identifying information.

Estimated burden: 0.5 hour per application.

Respondents: Manufacturers of concrete masonry units.

Estimated Number of Respondents: 690.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 345 hours.

(2) Ballot. To conduct a referendum the Department will issue ballots to allow eligible voters to participate. The ballot shall provide for recording essential information, including that needed for ascertaining whether the person voting, or on whose behalf the vote is cast, is an eligible voter. The Department will restrict the information request to that information needed to determine a voter's eligibility. Information will include the name and address of the manufacturer, status as a manufacturer of concrete masonry units, affirmation that they have manufactured concrete masonry units within 180 days of the beginning of the referendum period, manufacturer Employer Identification Number, the number of cavities the manufacturer has in operation, and similar verification information.

Estimated Burden: 0.25 hour per ballot.

Respondents: Manufacturers of concrete masonry units.

Estimated Number of Respondents: 690.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 172.5 hours.

As part of its continuing effort to reduce paperwork and respondent burden, the Department invites the general public and other Federal agencies to comment on proposed and/or continuing

information collections, as required by the Paperwork Reduction Act. The Department solicits comments concerning: Whether these ICRs are necessary for the proper performance of the functions of the Department, including whether the information has practical utility; the accuracy of the Department's estimates of the burden of the ICRs; the quality, utility, and clarity of the information to be collected; and whether the burden of collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology, may be minimized. The information collection request may be viewed on the [Reginfo.gov](http://Reginfo.gov) website. Organizations and individuals desiring to submit comments on the collection of information requirements should see the ADDRESSES section of this notice. The final rule will respond to any public comments on the ICRs contained in this proposal. Notwithstanding any other provision of the law, no person is required to respond to, and no person will be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

#### *National Environmental Policy Act*

This proposed rule will not significantly affect the quality of the human environment. Therefore, an environmental assessment or Environmental Impact Statement is not required to be prepared under the National Environmental Policy Act of 1969.

#### **List of Subjects in 15 CFR Part 1500**

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Concrete masonry promotion, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, the Under Secretary for Economic Affairs proposes to amend 15 CFR part 1500, proposed to be added August 24, 2020, at 85 FR 52059, as set forth below:

#### **PART 1500 – CONCRETE MASONRY RESEARCH, EDUCATION, AND PROMOTION**

1. The authority citation for part 1500 continues to read as follows:

Authority: 15 U.S.C. 8701-8717.

2. Add subpart B to read as follows:

### **Subpart B—Referendum Procedures**

Sec.

- 1500.100 General.
- 1500.101 Definitions.
- 1500.102 Voting.
- 1500.103 Instructions.
- 1500.104 Agents.
- 1500.105 Ballots.
- 1500.106 Referendum report.
- 1500.107 Confidential information.
- 1500.108 OMB control number.

### **Subpart B—Referendum Procedures**

#### **§ 1500.100 General.**

Agents will conduct a referendum in accordance with this subpart.

#### **§ 1500.101 Definitions.**

In addition to the definitions found in subpart A of this part, the following definitions apply:

*Agent* means the individual or individuals the Secretary designates to conduct the referendum.

*Eligible manufacturer* means any person who is currently a manufacturer of concrete masonry units and has manufactured a concrete masonry unit within 180 days of the referendum period.

*Employer Identification Number* means the number generally issued to businesses by the U.S. Department of Treasury. An Employer Identification Number (EIN) is also known as a Federal Tax Identification Number and is used to identify a business entity. For more information on EINs and how to apply go to <https://www.irs.gov/businesses>.

*Lead Executive* means the individual or individuals the Secretary designates to oversee the conduct of the referendum.

*Referendum period* means the period of time, not less than 30 days, that the Secretary or his agent determines appropriate for conducting the referendum.

*Registration* means the form and process eligible manufacturers who wish to vote must complete and follow in order to vote. Voters must register by midnight of the day prior to the beginning of the referendum period.

**§ 1500.102 Voting.**

(a) Each eligible manufacturer shall be entitled to cast one vote.

(b) The order shall become effective only if the Secretary determines that the order has been approved by a majority of manufacturers voting who also represent a majority of the machine cavities in operation of those manufacturers voting in the referendum.

(c) In order to vote, a manufacturer must register by midnight of the day prior to the start of the referendum period.

(d) For referendum purposes the Department will use Employer Identification Numbers (EIN) to identify unique manufacturers.

(e) The Secretary does not authorize proxy voting. However, an officer or employee of an eligible manufacturer, an administrator, executor, or trustee of an eligible entity may cast a ballot on behalf of such entity provided that any individual so voting shall certify that such individual is an officer or employee of the eligible entity, or an administrator, executor, or trustee of an eligible entity and that such individual has the authority to take such action. Upon request of an agent, the individual shall submit adequate evidence of such authority.

(f) Voters are to cast ballots by the means specified by the Secretary.

(g) If the Department requests, manufacturers shall provide proof of sales, proof of cavities in operation, or any other such proof the Department deems necessary to establish voting eligibility.

Failure to provide the requested proof to the Department will result in ineligibility to participate in the referendum.

### **§ 1500.103 Instructions.**

The agent(s) shall conduct the referendum, in the manner provided in this subpart, under the supervision of the Secretary. The Secretary may prescribe additional instructions, consistent with the provisions of this subpart, to govern the procedure to be followed by the agent(s). Such agent(s) shall:

(a) Determine the period during which voters may cast ballots;

(b) Provide notification to allow interested voters to register in advance of the referendum period.

The Department will restrict the information requested to that information needed to ensure eligibility of request or to participate in the referendum. Types of information will include name, contact information (address, phone number, email), status as a manufacturer of concrete masonry units, affirmation of having manufactured concrete masonry units within 180 days prior to the beginning of the referendum period, the number of cavities in operation, their Employer Identification Number, and similar identifying information;

(c) Provide ballots and related material to voters for use in the referendum. The ballot shall provide for recording essential information, including information needed for ascertaining whether the person voting, or on whose behalf the vote is cast, is an eligible voter. The Department will restrict the information requested to that information needed to determine a voter's eligibility. Information will include the name and address of the manufacturer, status as a manufacturer of concrete masonry units, affirmation that they have manufactured concrete masonry units within 180 days of the beginning of the referendum period, manufacturer Employer Identification Number, the number of cavities the manufacturer has in operation, and similar verification information;

(d) Give reasonable public notice of the referendum:

(1) By using available media or public information sources, without incurring advertising expense, to publicize the dates, method of voting, eligibility requirements, and other pertinent information. Such sources of publicity may include, but are not limited to webinars and other such media vehicles; and

(2) By such other means as the agent may deem advisable;

(e) Send to eligible manufacturers whose names and addresses are known to the agent, the instructions on voting, a ballot, and a summary of the terms and conditions of the proposed order.

Agents will not refuse a ballot to any person who claims to be eligible to vote;

(f) At the end of the referendum period, collect, open, number, and review the ballots and tabulate the results in the presence of the Lead Executive authorized to monitor the referendum process;

(g) Prepare a report on the referendum; and

(h) Announce the results to the public.

#### **§ 1500.104 Agents.**

The Secretary may appoint agent(s) to conduct the referendum. Agent(s) may appoint any individual or individuals necessary or desirable to assist the agent in performing such agent's functions under this subpart. The agent authorizes each individual so appointed to perform any or all of the functions which, in the absence of such appointment, shall be performed by the agent.

#### **§ 1500.105 Ballots.**

The agent(s) shall accept all ballots cast. However, if an agent determines a need for additional review for any reason, the agent shall endorse above the voter's signature on the ballot with a statement to the effect that the ballot needs additional scrutiny. The agent will attach to the ballot information regarding the reasons for additional review, the results of any investigations made with respect to the review, and the final disposition of the review. Agents will not count ballots found to be invalid on the basis that:

(a) The ballot is blank, missing a vote, has no signature;

(b) Both voting boxes are marked in the vote section;

(c) The ballot is in a state that agents cannot determine the vote; or

(d) The ballot has a name that is different on the ballot from that of the registered voter. (However, agents will accept power of attorney votes with proper documentation.)

#### **§ 1500.106 Referendum report.**

Unless otherwise directed, the Lead Executive shall prepare and submit to the Secretary a report on the results of the referendum, the manner in which the agent(s) conducted the referendum, the kind of public notice given, and other information the Lead Executive finds pertinent to the analysis of the referendum and its results.

**§ 1500.107 Confidential information.**

The ballots and other information or reports that reveal, or tend to reveal, the vote of any person covered under the order and the voter list shall be strictly confidential and shall not be disclosed.

**§ 1500.108 OMB control number.**

The control number assigned to the information collection requirement in this subpart by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 et seq., is OMB control number xxxx.

Dated: September 4, 2020.

Kenneth White

Senior Policy Analyst, Under Secretary for Economic Affairs.