

**DEPARTMENT OF COMMERCE****Bureau of Industry and Security****15 CFR Part 705**

[Docket No. 180227217–8217–01]

RIN 0694–AH55

**Requirements for Submissions Requesting Exclusions From the Remedies Instituted in Presidential Proclamations Adjusting Imports of Steel Into the United States and Adjusting Imports of Aluminum Into the United States; and the Filing of Objections to Submitted Exclusion Requests for Steel and Aluminum**

**AGENCY:** Bureau of Industry and Security, Office of Technology Evaluation, U.S. Department of Commerce.

**ACTION:** Interim final rule.

**SUMMARY:** This interim final rule amends the National Security Industrial Base Regulations to add two new supplements. The new supplements set forth the process for how parties in the United States may submit requests for exclusions from actions taken by the President (“exclusion requests”) to protect national security from threats resulting from imports of specified articles. The new supplements also set forth the requirements and process for how parties in the United States may submit objections to the granting of an exclusion request.

The supplements are being added to implement Presidential Proclamations 9704 and 9705 of March 8, 2018 (“Proclamations”), adjusting imports of steel articles identified in Proclamation 9705 (“steel”) and aluminum articles identified in Proclamation 9704 (“aluminum”) through the imposition of duties so that imports of steel articles and aluminum articles will no longer threaten to impair the national security. As set forth in the Proclamations, the President concurred with the findings of the Secretary of Commerce (“Secretary”) in two reports to the President on the investigations under section 232 of the Trade Expansion Act of 1962, as amended, of the effect of imports of steel and aluminum, respectively, on the national security of the United States. The Proclamations authorize the Secretary to grant exclusions from the duties upon request of affected parties if the steel or aluminum articles are determined not to be produced in the United States in a sufficient and reasonably available amount or of a satisfactory quality or based upon specific national security

considerations. The President directed the Secretary to promulgate regulations as may be necessary to set forth the procedures for an exclusion process.

**DATES:**

- *Effective date of interim final rule:* This interim final rule is effective March 19, 2018.

- *Comments on this interim final rule:* Comments on this interim final rule must be received by BIS no later than May 18, 2018.

See **SUPPLEMENTARY INFORMATION** section for information on submitting exclusion requests and objections thereto.

**ADDRESSES:** All comments on the interim final rule must be submitted by one of the following methods:

- *By the Federal eRulemaking Portal:* <http://www.regulations.gov>. Comments on the interim final rule may be submitted to [regulations.gov](http://www.regulations.gov) docket number BIS–2018–0006 or to BIS–2018–0002, or to both docket numbers.

- By email directly to [publiccomments@bis.doc.gov](mailto:publiccomments@bis.doc.gov). Include RIN 0694–AH55 in the subject line.

- By mail or delivery to Regulatory Policy Division, Bureau of Industry and Security, U.S. Department of Commerce, Room 2099B, 14th Street and Pennsylvania Avenue NW, Washington, DC 20230. Refer to RIN 0694–AH55.

All exclusion requests and objections to submitted exclusion requests must be in electronic form and submitted to the Federal rulemaking portal (<http://www.regulations.gov>).

*Steel:* This interim final rule can be found by searching for its [regulations.gov](http://www.regulations.gov) docket number, BIS–2018–0006, which is the document number being used for the steel exclusion requests and objection requests.

*Aluminum:* This interim final rule can also be found by searching for its [regulations.gov](http://www.regulations.gov) docket number, BIS–2018–0002, which is the document number being used for the aluminum exclusion requests and objection requests.

All exclusion requests, objections to submitted exclusion requests, and comments on the interim final rule will be made available for public inspection and copying. All exclusion requests, objections to submitted exclusion requests, and comments on the interim final rule will be made available for public inspection and copying. Information that is subject to government-imposed access and dissemination or other specific national security controls, e.g., classified information or information that has U.S. Government restrictions on

dissemination to non-U.S. citizens or other categories of persons that would prohibit public disclosure of the information, may not be included in exclusion requests or objections to submitted exclusion requests. Additionally, personally identifiable information, including social security numbers and employer identification numbers, should not be provided. Individuals and organizations submitting exclusion requests or an objection to submitted exclusion requests are responsible for ensuring such information is not included. Individuals and organizations that have proprietary or otherwise business confidential information that they believe relevant to the Secretary’s consideration of the submitted exclusion request or objections to submitted exclusion requests should so indicate in the appropriate field of the relevant form. Individuals and organization must otherwise fully complete the relevant forms.

Comments on the interim final rule may be submitted to [regulations.gov](http://www.regulations.gov) docket number BIS–2018–0006 or to BIS–2018–0002, or to both docket numbers.

Exclusion requests and objections to submitted exclusion requests must be submitted to the respective document number for steel or aluminum.

**FOR FURTHER INFORMATION CONTACT:** Brad Botwin, Director, Industrial Studies, Office of Technology Evaluation, Bureau of Industry and Security, U.S. Department of Commerce (202) 482–5642, [Steel232@bis.doc.gov](mailto:Steel232@bis.doc.gov) regarding steel exclusion requests and (202) 482–4757, [Aluminum232@bis.doc.gov](mailto:Aluminum232@bis.doc.gov) regarding aluminum exclusion requests.

**SUPPLEMENTARY INFORMATION:****Background**

On April 19, 2017, the Secretary initiated an investigation under section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862), to determine the effects on the national security of imports of steel. On April 20, 2017, the President signed a memorandum directing the Secretary to proceed expeditiously in conducting his investigation and submit a report on his findings to the President. The President further directed that if the Secretary finds that steel is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security, the Secretary shall recommend actions and steps that should be taken to adjust steel imports so that they will not threaten to impair the national security.

On April 26, 2017, the Secretary initiated an investigation under section

232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862), to determine the effects on the national security of imports of aluminum. On April 27, 2017, the President signed a memorandum directing the Secretary to proceed expeditiously in conducting his investigation and submit a report on his findings to the President. The President further directed that if the Secretary finds that aluminum is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security, the Secretary shall recommend actions and steps that should be taken to adjust aluminum imports so that they will not threaten to impair the national security.

On March 8, 2018, the President issued Proclamations 9704 and 9705 concurring with the findings of the two reports and determining that adjusting imports through the imposition of duties on steel articles and aluminum articles is necessary so that imports of steel and aluminum will no longer threaten to impair the national security. The Key Findings of the Steel and Aluminum Reports, Recommendations of the Steel and Aluminum Reports, and web links to the January 11, 2018 Steel Report, and the January 17, 2018 Aluminum Report are available on the Department of Commerce website: <https://www.commerce.gov/news/press-releases/2018/02/secretary-ross-releases-steel-and-aluminum-232-reports-coordination>.

The Proclamations also authorized the Secretary, in consultation with the Secretary of Defense, the Secretary of the Treasury, the Secretary of State, the United States Trade Representative, the Assistant to the President for Economic Policy, the Assistant to the President for National Security Affairs, and other senior executive branch officials as appropriate, to grant exclusions from the duties for domestic parties affected by the duties, if the Secretary determines the steel or aluminum article for which the exclusion is requested is not produced in the United States in a sufficient and reasonably available amount or of a satisfactory quality or should be excluded based upon specific national security considerations. The President directed the Secretary to promulgate regulations as may be necessary to implement an exclusion process.

This interim final rule amends the National Security Industrial Base Regulations (15 CFR parts 700–705) to add two new supplements to part 705 which set forth the requirements and process for how parties in the United States may submit requests for exclusions from the remedies instituted

by the President in the Proclamations (“exclusion requests”). The new supplements also set forth the requirements and process for how parties in the United States may submit objections to the granting of exclusion requests.

Only individuals or organizations using steel articles identified in Proclamation 9705 in business activities (e.g., construction, manufacturing, or supplying steel to users) in the United States may submit exclusion requests with respect to that Proclamation. This limitation recognizes the close relation of the economic welfare of the Nation to our national security by affording those who contribute to that economic welfare through business activities in the United States the opportunity to submit exclusion requests based on particular economic and national security considerations. Allowing individuals or organizations not engaged in business activities in the United States to seek exclusion requests could undermine the adjustment of imports that the President determined was necessary to address the threat to national security posed by the current import of steel articles. Any individual or organization in the United States may file objections to steel exclusion requests, but the Commerce Department will only consider information directly related to the submitted exclusion request that is the subject of the objection.

Only individuals or organizations using aluminum articles identified in Proclamation 9704 in business activities (e.g., construction, manufacturing, or supplying aluminum to users) in the United States may submit exclusion requests. This limitation recognizes the close relation of the economic welfare of the Nation to our national security by affording those who contribute to that economic welfare through business activities in the United States the opportunity to submit exclusion requests based on particular economic and national security considerations. Allowing individuals or organizations not engaged in business activities in the United States to seek exclusion requests could undermine the adjustment of imports that the President determined was necessary to address the threat to national security posed by the current import of aluminum articles. Any individual or organization in the United States may file objections to exclusion requests, but the Commerce Department will only consider information directly related to the submitted exclusion request that is the subject of the objection.

Approved exclusions will be made on a product basis and will be limited to

the individual or organization that submitted the specific exclusion request, unless Commerce approves a broader application of the product based exclusion request to apply to additional importers.

Other individuals or organizations that wish to submit an exclusion request for a steel or aluminum product already approved for exclusion may submit an exclusion request under the two new supplements. Such follow-on requesters of exclusion requests are not required to reference a previously approved exclusion, but Commerce may take that into account when reviewing a subsequent exclusion request.

In addition, individuals and organizations will not be precluded from submitting a request for exclusion of a product where a previous exclusion request for the same product had been denied or is no longer valid. For example, it might be that the first exclusion request was inadequate to demonstrate the criteria were met for approving that exclusion request. The later requester should, however, submit new or different information in an attempt to meet the criteria for approving an exclusion request for that product.

#### **Addition of New Supplements**

This interim final rule amends part 705 (Effects of Imported Articles on the National Security) by adding Supplement No. 1—Requirements for Submissions Requesting Exclusions from the Remedies Instituted in Presidential Proclamation 9705 of March 8, 2018 Adjusting Imports of Steel into the United States. This interim final rule also amends part 705 by adding Supplement No. 2—Requirements for Submissions Requesting Exclusions from the Remedies Instituted in Presidential Proclamation 9704 of March 8, 2018 Adjusting Imports of Aluminum into the United States. The two new supplements specify the requirements and process for how parties may submit exclusion requests. The new supplements also specify the requirements and process for how parties may submit objections to exclusion requests.

The two new supplements follow the same structure, but have different criteria based on the differences between the steel and aluminum industries.

These new supplements consist of introductory text that describe the Section 232 steel or aluminum Proclamation issued by the President imposing duties on the imports of steel articles and aluminum articles.

Paragraph (a)(*Scope*) defines the scope of the supplement.

Paragraph (b)(*Required forms*) identifies the forms that must be used to submit an exclusion request or an objection to an exclusion request pursuant to each new supplement. Paragraph (b) also describes the requirements to provide the requested information on the applicable form in order to submit an exclusion request or an objection to a submitted exclusion request. Paragraph (b)(3)(*Public disclosure*) specifies that information included in exclusion requests and objections to submitted exclusion requests will be subject to public disclosure. Paragraph (b)(3) also specifies that personally identifiable information, including social security numbers and employer identification numbers, should not be provided. Information that is subject to government-imposed access and dissemination or other specific national security controls, e.g., classified information or information that has U.S. Government restrictions on dissemination to non-U.S. citizens or other categories of persons that would prohibit public disclosure of the information, may not be included in exclusion requests or objections to submitted exclusion requests. Individuals and organizations that have proprietary or otherwise business confidential information that they believe relevant to the Secretary's consideration of the submitted exclusion request or objections to submitted exclusion requests should so indicate in the appropriate field of the relevant form. Individuals and organization must otherwise fully complete the relevant forms.

The criteria in paragraph (b) of each supplement are slightly different to make the paragraph specific to steel in Supplement No. 1 and specific to aluminum in Supplement No. 2; otherwise, paragraph (b) follows the same structure in the two new supplements. The *regulations.gov* docket number is different for Supplement No. 1 and Supplement No. 2, as is the BIS website address where copies of the respective forms may be located.

Paragraph (c)(*Exclusion requests*) describes additional requirements for submitting exclusion requests. Paragraphs (c)(1) to (4) specify which individuals or organizations may submit exclusion requests, how exclusion requests must be identified and submitted in *regulations.gov*, and the time limit for submitting exclusion requests. All exclusion requests must be in electronic form, but may be

submitted at any time. Paragraph (c)(5) specifies the substance that must be addressed in an exclusion request. The criteria in paragraph (c) of each supplement are slightly different to make the paragraphs specific to steel in Supplement No. 1 and specific to aluminum in Supplement No. 2, but otherwise follow the same structure in the two new supplements.

Paragraph (d)(*Objections to submitted exclusion requests*) describes additional requirements for submitting objections to submitted exclusion requests. Paragraphs (d)(1) to (3) specify how objections must be identified and submitted in *regulations.gov* and the time limit for submitting objections to submitted exclusion requests. All objections to the granting of an exclusion request must be in electronic form and submitted no later than 30 days after the related exclusion request is posted. Paragraph (d)(4) specifies the substance that must be addressed in an objection. The criteria in paragraph (d) of each supplement are slightly different to make the paragraphs specific to steel in Supplement No. 1 and specific to aluminum in Supplement No. 2, but otherwise follow the same structure in the two new supplements.

Paragraph (e)(*Limitations on the size of submissions*) applies to exclusion requests and objections to submitted exclusion requests. Paragraph (e) imposes a page limit on any exclusion request or objection to a submitted exclusion request. The respective forms are not counted for determining the page limitation.

Paragraph (f)(*Disposition of exclusion requests and objections to submitted exclusion requests*), includes a paragraph (f)(1) to specify what happens to exclusion requests and objections to submitted exclusion requests that do not satisfy all of the requirements in the supplement. Paragraph (f)(2) describes how BIS will respond to complete submissions for exclusion requests and objections to submitted exclusion requests. Paragraph (f)(2) also states that the BIS response to an exclusion request will also be responsive to any objection(s) for that submitted exclusion request. BIS will have a single response to each exclusion request that will be posted in *regulations.gov*. This single BIS response will also take into account any objection(s) to the submitted exclusion request.

Paragraph (g)(*For further information*) will identify the point of contact for further questions on the two new supplements.

### **Relationship Between Country-Based Exemptions Specified in the Presidential Proclamations, and the Product-Based Exclusion and Objection Process Included in This Rule**

The process described above for the two new supplements is separate and apart from the process by which countries may seek exemptions from the duties imposed by the President. The process established in this interim final rule is limited to the issuance of product-based exclusions as authorized by the President. Consistent with the President's instructions, the criteria in the forms and supplements are primarily focused on the availability of the product in the United States. The Secretary will consider information about supply in other countries to the extent relevant to determining whether specific national security considerations warrant an exclusion. Commenters on this interim final rule may submit comments regarding how and whether or not the country of origin of a proposed product should be considered by Commerce as part of the process for reviewing product-based exclusion requests.

### **Rulemaking Requirements**

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been determined to be a "significant regulatory action," although not economically significant, under section 3(f) of Executive Order 12866. However, as stated under Section 4 of Presidential Proclamation 9704 and Section 4 of Proclamation 9705 of March 8, 2018, this rule is exempt from Executive Order 13771 (82 FR 9339, February 3, 2017).

2. The Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA) provides that an agency generally cannot conduct or sponsor a collection of information, and no person is required to respond to nor be subject to a penalty for failure to comply with a collection of information, unless that collection has obtained Office of Management and Budget (OMB) approval and displays a currently valid OMB Control Number.

The Commerce Department requested and OMB authorized emergency processing of two information collections involved in this rule, consistent with 5 CFR 1320.13. The Presidential Proclamations authorized the Secretary of Commerce, in consultation with the Secretary of Defense, the Secretary of the Treasury, the Secretary of State, the United States Trade Representative, the Assistant to the President for Economic Policy, the Assistant to the President for National Security Affairs, and other senior Executive Branch officials as appropriate, to grant exclusions for the import of goods not currently available in the United States in a sufficient quantity or satisfactory quality, or for other specific national security reasons. He further directed the Secretary to establish the process for submitting and granting these requests for exclusions within 10 days, and this interim final rule fulfills that direction. The immediate implementation of an effective exclusion request process, consistent with the intent of the Presidential Proclamations, also requires creating a process to allow any individual or organization in the United States to submit objections to submitted exclusion requests. The Department has determined the following conditions have been met:

a. The collection of information is needed prior to the expiration of time periods normally associated with a routine submission for review under the provisions of the Paperwork Reduction Act in view of the President's proclamations issued on March 8, 2018, for the Presidential Proclamation on Adjusting Imports of Steel into the United States, <https://www.whitehouse.gov/presidential-actions/presidential-proclamation-adjusting-imports-steel-united-states/>, and for the Presidential Proclamation on Adjusting Imports of Aluminum into the United States, <https://www.whitehouse.gov/presidential-actions/presidential-proclamation-adjusting-imports-aluminum-united-states/>.

b. The collection of information is essential to the mission of the Department, in particular to the adjudication of exclusion requests and objections to exclusions requests.

c. The use of normal clearance procedures would prevent the collection of information of exclusion requests and objections to exclusion requests, for national security purposes, as discussed under section 232 of the Trade Expansion Act of 1962 as amended and the Presidential Proclamations issued on March 8, 2018.

Commerce Department intends to provide separate 60-day notice in the **Federal Register** requesting public comment on the information collections contained within this rule.

*Agency:* Commerce Department.

*Type of Information Collection:* New Collection.

*Title of the Collection:* Procedures for Submitting Requests for Exclusions from the Remedies Instituted by the President in the Presidential Proclamations 9705 and 9704 of March 8, 2018 Adjusting Imports of Steel into the United States and Adjusting Imports of Aluminum into the United States.

*Affected Public:* Private Sector—Businesses.

*Total Estimated Number of*

*Respondents:* [4,500].

*Average Responses per Year:* [1].

*Total Estimated Number of*

*Responses:* [4,500].

*Average Time per Response:* 4 hours.

*Total Annual Time Burden:* [18,000].

*Type of Information Collection:* [New

Collection].

*OMB Control Number:* [0694–0139].

*Title of the Collection:* Objection Filing to Posted Section 232 Exclusion Request: Steel; and Objection Filing to Posted Section 232 Exclusion Request: Aluminum, respectively.

*Affected Public:* Private Sector—Businesses.

*Total Estimated Number of*

*Respondents:* [1,500].

*Average Responses per Year:* [1].

*Total Estimated Number of*

*Responses:* [1,500].

*Average Time per Response:* [4].

*Total Annual Time Burden:* [6,000].

*Type of Information Collection:* [New

Collection].

*OMB Control Number:* [0694–0138].

3. This rule does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public comment, and a delay in effective date are inapplicable because this regulation involves a military or foreign affairs function of the United States. (See 5 U.S.C. 553(a)(1)). As explained in the reports submitted by the Secretary to the President, steel and aluminum are being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security of the United States and therefore the President is implementing these remedial actions (as described Proclamations 9704 and 9705 of March 8, 2018) to protect U.S. national security interests. That implementation includes

the creation of a process by which affected domestic parties can obtain exclusion requests “based upon specific national security considerations.”

In addition, the Department finds that there is good cause under 5 U.S.C. 553(b)(B) to waive the provisions of the Administrative Procedure Act requiring prior notice and the opportunity for public comment and under 5 U.S.C. 553(d)(3) to waive the delay in effective date because such delays would be either impracticable or contrary to the public interest. In order to ensure that the actions taken to adjust imports do not undermine users of steel or aluminum that are subject to the remedial actions instituted by the Proclamations and are critical to protecting the national security of the United States, the Presidential Proclamations authorized the Secretary of Commerce, in consultation with the Secretary of Defense, the Secretary of the Treasury, the Secretary of State, the United States Trade Representative, the Assistant to the President for Economic Policy, the Assistant to the President for National Security Affairs, and other senior Executive Branch officials as appropriate, to grant exclusions for the import of goods not currently available in the United States in a sufficient quantity or satisfactory quality, or for other specific national security reasons. He further directed the Secretary to, within 10 days, issue procedures for submitting and granting these requests for exclusions and this interim final rule fulfills that direction. The immediate implementation of an effective exclusion request process, consistent with the intent of the Presidential Proclamations, also requires creating a process to allow any individual or organization in the United States to submit objections to submitted exclusion requests.

If this interim final rule was delayed to allow for public comment or for thirty days before companies in the U.S. were allowed to request exclusions from the remedies instituted by the President, those entities could face significant economic hardship that could potentially create a detrimental effect on the general U.S. economy. Likewise, our national security could be harmed if particular national security considerations justify an exclusion, but the process for obtaining such exclusion were delayed.

Because a notice of proposed rulemaking and an opportunity for prior public comment are not required for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are not applicable. Accordingly,

no regulatory flexibility analysis is required and none has been prepared.

Pursuant to Proclamations 9704 and 9705 of March 8, 2018, the establishment of procedures for an exclusion process under each Proclamation shall be published in the **Federal Register** and are exempt from Executive Order 13771.

#### List of Subjects in 15 CFR Part 705

Administrative practice and procedure, Business and industry, Classified information, Confidential business information, Imports, Investigations, National Security.

For the reasons set forth in the preamble, part 705 of Subchapter A, National Security Industrial Base Regulations, of 15 CFR chapter VII, is amended as follows:

#### PART 705—[AMENDED]

■ 1. The authority citation for part 705 is revised to read as follows:

**Authority:** Section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862) and Reorg. Plan No. 3 of 1979 (44 FR 69273, December 3, 1979).

■ 2. Part 705 is amended by adding Supplement No. 1 and Supplement No. 2 to read as follows:

#### Supplement No. 1 to Part 705— Requirements for Submissions Requesting Exclusions From the Remedies Instituted in Presidential Proclamation 9705 of March 8, 2018 Adjusting Imports of Steel Articles Into the United States

On March 8, 2018, the President issued Proclamation 9705 concurring with the findings of the January 11, 2018 report of the Secretary of Commerce on the effects of imports of steel mill articles (steel articles) identified in Proclamation 9705 (“steel”) on the national security and determining that adjusting steel imports through the imposition of duties is necessary so that imports of steel will no longer threaten to impair the national security. The Proclamation also authorized the Secretary of Commerce, in consultation with the Secretary of Defense, the Secretary of the Treasury, the Secretary of State, the United States Trade Representative, the Assistant to the President for Economic Policy, the Assistant to the President for National Security Affairs, and other senior Executive Branch officials as appropriate, to grant exclusions from the duties for parties in the United States affected by the duties if the steel articles are determined not to be produced in the United States in a sufficient and reasonably available amount or of a satisfactory quality or based upon specific national security considerations.

(a) *Scope.* This supplement specifies the requirements and process for how parties in the United States may submit requests for exclusions from the remedies instituted by

the President. This supplement also specifies the requirements and process for how parties in the United States may submit objections to submitted exclusion requests. This supplement identifies the time periods for which such exclusion requests and objections to submitted exclusion requests may be submitted, the method for submitting such requests, and the information that must be included in exclusion requests and objections to submitted exclusion requests.

(b) *Required forms.* BIS has posted two separate fillable forms on the BIS website at <https://www.bis.doc.gov/index.php/232-steel> and on the Federal rulemaking portal (<http://www.regulations.gov>) that are to be used by organizations for submitting exclusion requests, and objections to exclusion requests described in this supplement. On [regulations.gov](http://www.regulations.gov), you can find these two forms by searching for its *regulations.gov* docket number, which is BIS–2018–0006. The U.S. Department of Commerce requires requesters and objectors to use the appropriate form as specified under paragraphs (b)(1) and (b)(2) of this supplement for submitting exclusion requests and objections to submitted exclusion requests.

(1) *Form required for submitting exclusion requests.* The name of the form used for submitting exclusion requests is *Request for Exclusion from Remedies Resulting from the Section 232 National Security Investigation of Imports of Steel*.

(2) *Form required for submitting objections to submitted exclusion requests.* The name of the form used for submitting objections to submitted exclusion requests is *Response Form for Objections to Posted Section 232 Exclusion Requests—Steel*.

(3) *Public disclosure.* Information submitted in exclusion requests and objections to submitted exclusion requests will be subject to public review and made available for public inspection and copying. Personally identifiable information, including social security numbers and employer identification numbers, should not be provided. Information that is subject to government-imposed access and dissemination or other specific national security controls, e.g., classified information or information that has U.S. Government restrictions on dissemination to non-U.S. citizens or other categories of persons that would prohibit public disclosure of the information, may not be included in exclusion requests or objections to submitted exclusion requests. Individuals and organizations that have proprietary or otherwise business confidential information that they believe relevant to the Secretary’s consideration of the submitted exclusion request or objections to submitted exclusion requests should so indicate in the appropriate field of the relevant form. Individuals and organization must otherwise fully complete the relevant forms.

**Note to Paragraph (b) for Submission of Supporting Documents (Attachments):** *Supporting attachments must be submitted to regulations.gov as PDF documents.*

(c) *Exclusion requests.*

(1) *Who may submit an exclusion request?* Only individuals or organizations using steel in business activities (e.g., construction,

manufacturing, or supplying steel product to users) in the United States may submit exclusion requests.

(2) *Identification of exclusion requests.* The file name of the submission must include the submitter’s name, date of submission, and the 10-digit Harmonized Tariff Schedule of the United States (HTSUS) statistical reporting number. For example, if Company A is submitting an exclusion request on June 1, 2018, the file should be named as follows: “Company A exclusion request of 6–1–18 for 7207200045 HTSUS.” Separate exclusion requests must be submitted for steel products with chemistry by percentage breakdown by weight, metallurgical properties, surface quality (e.g., galvanized, coated, etc.), and distinct critical dimensions (e.g., 0.25-inch rebar, 0.5-inch rebar; 0.5-inch sheet, or 0.75 sheet) covered by a common HTSUS subheading. Separate exclusion requests must also be submitted for products falling in more than one 10-digit HTSUS statistical reporting number. The Commerce Department will approve exclusions on a product basis and the approvals will be limited to the individual or organization that submitted the specific exclusion request, unless Commerce approves a broader application of the product-based exclusion request to apply to additional importers. Other individuals or organizations that wish to submit an exclusion request for a steel or aluminum product that has already been the subject of an approved exclusion request may submit an exclusion under this supplement. These additional exclusion requests by other individuals or organizations in the United States are not required to reference the previously approved exclusion, but Commerce may take that into account when reviewing a subsequent exclusion request. Individuals and organizations in the United States will not be precluded from submitting a request for exclusion of a product even though an exclusion request submitted for that product by another requester or that requester was denied or is no longer valid.

(3) *Where to submit exclusion requests?* All exclusion requests must be in electronic form and submitted to the Federal rulemaking portal (<http://www.regulations.gov>). You can find the interim final rule that added this supplement by searching for the *regulations.gov* docket number, which is BIS–2018–0006.

(4) *No time limit for submitting exclusion requests.* All exclusion requests must be in electronic form and submitted to the Federal rulemaking portal (<http://www.regulations.gov>), but may be submitted at any time.

(5) *Substance of exclusion requests.* An exclusion request must specify the business activities in the United States within which the requester is engaged that authorize the individual or organization to submit an exclusion request. The request should clearly identify, and provide support for, the basis upon which the exclusion is sought. An exclusion will only be granted if an article is not produced in the United States in a sufficient and reasonably available amount, is not produced in the United States in a satisfactory quality, or for a specific national security consideration.

(d) *Objections to submitted exclusion requests.*

(1) *Who may submit an objection to a submitted exclusion request?* Any individual or organization in the United States may file objections to steel exclusion requests, but the Commerce Department will only consider information directly related to the submitted exclusion request that is the subject of the objection.

(2) *Identification of objections to submitted exclusion requests.* When submitting an objection to a submitted exclusion request, the objector must locate the exclusion request and submit a comment on the submitted exclusion request in *regulations.gov*. The file name of the objection submission should include the objector's name, date of submission of the objection, name of the organization that submitted the exclusion request, and date the exclusion request was posted. For example, if Company B is submitting on April 1, 2018, an objection to an exclusion request submitted on March 15, 2018 by Company A, the file should be named: "Company B objection\_4-1-18 for Company A exclusion request\_3-15-18." In *regulations.gov* once an objection to a submitted exclusion request is posted, the objection will appear as a document under the related exclusion request.

(3) *Time limit for submitting objections to submitted exclusions requests.* All objections to submitted exclusion requests must be in electronic form and submitted to the Federal rulemaking portal (<http://www.regulations.gov>) no later than 30 days after the related exclusion request is posted.

(4) *Substance of objections to submitted exclusion requests.* The objection should clearly identify, and provide support for, its opposition to the proposed exclusion, with reference to the specific basis identified in, and the support provided for, the submitted exclusion request.

(e) *Limitations on the size of submissions.* Each exclusion request and each objection to a submitted exclusion request is to be limited to a maximum of 25 pages, respectively, inclusive of all exhibits and attachments, but exclusive of the respective forms. Any further information required will be determined and requested solely by the U.S. Department of Commerce.

(f) *Disposition of exclusion requests and objections to submitted exclusion requests.*

(1) *Disposition of incomplete submission.*

(A) Exclusion requests that do not satisfy the reporting requirements specified in paragraph (b) of this supplement will be denied.

(B) Objection filings that do not satisfy the specified reporting requirements will not be considered.

(2) *Disposition of complete submissions.* The U.S. Department of Commerce will post responses in *regulations.gov* to each exclusion request submitted under docket number BIS-2018-0006. The BIS response to an exclusion request will also be responsive to any of the objection request(s) for that submitted exclusion request submitted under docket number BIS-2018-0006. Approved exclusions will be effective five business days after publication of the responses in *regulations.gov*. Starting on that date, the

requester will be able to rely upon the approved exclusion request in calculating the duties owed on the product imported in accordance with the terms listed in the approved exclusion request. Exclusions will generally be approved for one year.

(3) *Review period and implementation of any needed conforming changes.* The review period normally will not exceed 90 days, including adjudication of objections submitted on exclusion requests. Other agencies of the U.S. Government, such as the United States International Trade Commission (USITC) and U.S. Customs and Border Protection (CBP), will take any additional steps needed to implement an approved exclusion request. The U.S. Department of Commerce will provide CBP with information that will identify each approved exclusion request pursuant to this supplement. Individuals or organizations whose exclusion requests are approved must report information concerning any applicable exclusion in such form as CBP may require. These exclusion identifiers will be used by importers in the data collected by CBP in order for CBP to determine whether an import is within the scope of an approved exclusion request.

(g) *For further information.* If you have questions on this supplement, you may contact Director, Industrial Studies, Office of Technology Evaluation, Bureau of Industry and Security, U.S. Department of Commerce, (202) 482-5642, [Steel232@bis.doc.gov](mailto:Steel232@bis.doc.gov) regarding steel exclusion requests and (202) 482-4757, [Aluminum232@bis.doc.gov](mailto:Aluminum232@bis.doc.gov) regarding aluminum exclusion requests.

#### **Supplement No. 2 to Part 705— Requirements for Submissions Requesting Exclusions From the Remedies Instituted in Presidential Proclamation 9704 of March 8, 2018 to Adjusting Imports of Aluminum Into the United States**

On March 8, 2018, the President issued Proclamation 9704 concurring with the findings of the January 17, 2018 report of the Secretary of Commerce on the investigation into the effects of imports of aluminum identified in Proclamation 9704 ("aluminum") on the national security and determining that adjusting aluminum imports through the imposition of duties is necessary so that imports of aluminum will no longer threaten to impair the national security. The Proclamation also authorized the Secretary of Commerce, in consultation with the Secretary of Defense, the Secretary of the Treasury, the Secretary of State, the United States Trade Representative, the Assistant to the President for Economic Policy, the Assistant to the President for National Security Affairs, and other senior Executive Branch officials as appropriate, to grant exclusions from the duties for parties in the United States affected by the duties if the aluminum articles are determined not to be produced in the United States in a sufficient and reasonably available amount or of a satisfactory quality or based upon specific national security considerations.

(a) *Scope.* This supplement specifies the requirements and process for how parties in

the United States may submit requests for exclusions from the remedies instituted by the President. This supplement also specifies the requirements and process for how parties in the United States may submit objections to submitted exclusion requests. This supplement identifies the time periods for which such exclusion requests and objections to submitted exclusion requests may be submitted, the method for submitting such requests, and the information that must be included in exclusion requests and objections to submitted exclusion requests.

(b) *Required forms.* BIS has posted two separate fillable forms on the BIS website at <https://www.bis.doc.gov/index.php/232-aluminum> and on the Federal rulemaking portal (<http://www.regulations.gov>) that are to be used by organizations for submitting exclusion requests, and objections to exclusion requests described in this supplement. On *regulations.gov*, you can find these two forms by searching for its *regulations.gov* docket number, which is BIS-2018-0002. The U.S. Department of Commerce requires requesters and objectors to use the appropriate form as specified under paragraphs (b)(1) and (b)(2) for submitting exclusion requests and objections to submitted exclusion requests.

(1) *Form required for submitting exclusion requests.* The name of the form used for submitting exclusion requests is *Request for Exclusion from Remedies Resulting from the Section 232 National Security Investigation of Imports of Aluminum*.

(2) *Form required for submitting objections to submitted exclusion requests.* The name of the form used for submitting objections to submitted exclusion requests is *Response Form for Objections to Posted Section 232 Exclusion Requests—Aluminum*.

(3) *Public disclosure.* Information submitted in exclusion requests and objections to submitted exclusion requests will be subject to public review and made available for public inspection and copying. Personally identifiable information, including social security numbers and employer identification numbers, should not be provided. Information that is subject to government-imposed access and dissemination or other specific national security controls, e.g., classified information or information that has U.S. Government restrictions on dissemination to non-U.S. citizens or other categories of persons that would prohibit public disclosure of the information, may not be included in exclusion requests or objections to submitted exclusion requests. Individuals and organizations that have proprietary or otherwise business confidential information that they believe relevant to the Secretary's consideration of the submitted exclusion request or objections to submitted exclusion requests should so indicate in the appropriate field of the relevant form. Individuals and organization must otherwise fully complete the relevant forms.

**Note to Paragraph (b) for Submission of Supporting Documents (Attachments):** *Supporting attachments must be submitted to regulations.gov as PDF documents.*

(c) *Exclusion requests.*

(1) *Who may submit an exclusion request?* Only individuals or organizations using

aluminum in business activities (e.g., construction, manufacturing, or supplying aluminum product to users) in the United States may submit exclusion requests.

(2) *Identification of exclusion requests.* The file name of the submission must include the submitter's name, date of submission, and the 10-digit Harmonized Tariff Schedule of the United States (HTSUS) statistical reporting number. For example, if Company A is submitting an exclusion request on June 1, 2018, the file should be named as follows: "Company A exclusion request of 6-1-18 for 7604293050 HTSUS." Separate exclusion requests must be submitted for aluminum products with distinct critical dimensions (e.g., 10 mm diameter bar, 15 mm bar, or 20 mm bar) covered by a common HTSUS statistical reporting number. Separate exclusion requests must also be submitted for products falling in more than one 10-digit HTSUS statistical reporting number. The Commerce Department will approve exclusions on a product basis and the approvals will be limited to the individual or organization that submitted the specific exclusion request, unless Commerce approves a broader application of the product-based exclusion request to apply to additional importers. Other individuals or organizations that wish to submit an exclusion request for a steel or aluminum product that has already been the subject of an approved exclusion request may submit an exclusion under this supplement. These additional exclusion requests by other individuals or organizations in the United States are not required to reference the previously approved exclusion, but Commerce may take that into account when reviewing a subsequent exclusion request. Individuals and organizations in the United States will not be precluded from submitting a request for exclusion of a product even though an exclusion request submitted for that product by another requester or that requester was denied or is no longer valid.

(3) *Where to submit exclusion requests?* All exclusion requests must be in electronic form and submitted to the Federal rulemaking portal (<http://www.regulations.gov>). You can find the interim final rule that added this supplement by searching for the *regulations.gov* docket number, which is BIS-2018-0002.

(4) *No time limit for submitting exclusion requests.* All exclusion requests must be in electronic form and submitted to the Federal rulemaking portal (<http://www.regulations.gov>), but may be submitted at any time.

(5) *Substance of exclusion requests.* An exclusion request must specify the business activities in the United States within which

the requester is engaged that authorize the individual or organization to submit an exclusion request. The request should clearly identify, and provide support for, the basis upon which the exclusion is sought. An exclusion will only be granted if an article is not produced in the United States in a sufficient and reasonably available amount, is not produced in the United States in a satisfactory quality, or for a specific national security consideration.

(d) *Objections to submitted exclusion requests.*

(1) *Who may submit an objection to a submitted exclusion request?* Any individual or organization in the United States may file objections to steel exclusion requests, but the Commerce Department will only consider information directly related to the submitted exclusion request that is the subject of the objection.

(2) *Identification of objections to submitted exclusion requests.* When submitting an objection to a submitted exclusion request, the objector must locate the exclusion request and submit a comment on the submitted exclusion request in *regulations.gov*. The file name of the objection submission should include the objector's name, date of submission of the objection, name of the organization that submitted the exclusion request, and date the exclusion request was posted. For example, if Company X is submitting on April 1, 2018, an objection to an exclusion request submitted on March 15, 2018 by Company A, the file should be named: "Company X objection\_4-1-18 for Company A exclusion request\_3-15-18." In *regulations.gov* once an objection to a submitted exclusion request is posted, the objection will appear as a document under the related exclusion request.

(3) *Time limit for submitting objections to submitted exclusions requests.* All objections to submitted exclusion requests must be in electronic form and submitted to the Federal rulemaking portal (<http://www.regulations.gov>) no later than 30 days after the related exclusion request is posted.

(4) *Substance of objections to submitted exclusion requests.* The objection should clearly identify, and provide support for, its opposition to the proposed exclusion, with reference to the specific basis identified in, and the support provided for, the submitted exclusion request.

(e) *Limitations on the size of submissions.* Each exclusion request and each objection to a submitted exclusion request is to be limited to a maximum of 25 pages, respectively, inclusive of all exhibits and attachments, but exclusive of the respective forms. Any further information required will be determined and

requested solely by the U.S. Department of Commerce.

(f) *Disposition of exclusion requests and objections to submitted exclusion requests.*

(1) *Disposition of incomplete submission.*  
(A) Exclusion requests that do not satisfy the reporting requirements specified in paragraph (b) of this supplement will be denied.

(B) Objection filings that do not satisfy the reporting requirements specified in paragraph (b) will not be considered.

(2) *Disposition of complete submissions.* The U.S. Department of Commerce will post responses in *regulations.gov* to each exclusion request submitted under docket number BIS-2018-0002. The BIS response to an exclusion request will also be responsive to any of the objection request(s) for that submitted exclusion request submitted under docket number BIS-2018-0002. Approved exclusions will be effective five business days after publication of the responses in *regulations.gov*. Starting on that date, importers will be considered to be excluded. Exclusions will generally be approved for one year.

(3) *Review period and implementation of any needed conforming changes.* The review period normally will not exceed 90 days, including adjudication of objections submitted on exclusion requests. Other agencies of the U.S. Government, such as the United States International Trade Commission (USITC) and U.S. Customs and Border Protection, will take any additional steps needed to implement an approved exclusion request. The U.S. Department of Commerce will provide CBP with information that will identify each approved exclusion request pursuant to this supplement. Importers are directed to report information concerning any applicable exclusion granted by Commerce in such form as CBP may require. These exclusion identifiers will be used by importers in the data collected by CBP in order for CBP to determine whether an import is within the scope of an approved exclusion request.

(g) *For further information.* If you have questions on this supplement, you may contact Director, Industrial Studies, Office of Technology Evaluation, Bureau of Industry and Security, U.S. Department of Commerce, (202) 482-5642, [Steel232@bis.doc.gov](mailto:Steel232@bis.doc.gov) regarding steel exclusion requests and (202) 482-4757, [Aluminum232@bis.doc.gov](mailto:Aluminum232@bis.doc.gov) regarding aluminum exclusion requests.

**Wilbur L. Ross,**

*Secretary of Commerce.*

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