

Supporting Statement
U.S. Department of Commerce Bureau of Industry and Security
for Procedures for Submitting Requests for Expedited Relief from Quantitative Limits –
Existing Contract: Section 232 National Security Investigations of Steel Imports

OMB Control No. 0694-[]

A. Justification

This is a request for creation of a new collection for Office of Management and Budget approval.

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

Background on Section 232

Section 232 of the Trade Expansion Act of 1962 (19 U.S.C. §1862) authorizes the Secretary of Commerce (Secretary) to conduct comprehensive investigations to determine the effects of imports of any article on the national security of the United States. Section 232 investigations include consideration of:

- Domestic production needed for projected national defense requirements;
- Domestic industry's capacity to meet those requirements;
- Related human and material resources;
- The importation of goods in terms of their quantities and use;
- The close relation of national economics welfare to U.S. national security;
- Loss of skills or investment, substantial unemployment and decrease in government revenue; and
- The impact of foreign competition on specific domestic industries and the impact of displacement of any domestic products by excessive imports.

Section 232 requires that the Secretary notify the Secretary of Defense that an investigation has been initiated. The Secretary also consults with the Secretary of Defense regarding methodological and policy questions raised in the investigation and can seek information and advice from other government agencies.

The Secretary's report to the President, prepared within 270 days of initiation, focuses on whether the importation of the article in question is in such quantities or under such circumstances as to threaten to impair the national security. The President can concur or not with the Secretary's recommendations, and, if necessary, take action to "adjust the imports of an article and its derivatives." In addition, pursuant to other sources of authority, the Secretary can recommend, and the President can take, other lawful non-trade related actions necessary to address the threat.

Background on exclusion request process

On August 29, 2018, the President issued the *Presidential Proclamation Adjusting Imports of Steel into the United States*. The Proclamation under clause 2 directed that the Secretary of Commerce, shall, on an expedited basis, grant relief from the applicable quantitative limitations set forth in Proclamation 9740 and Proclamation 9759 and their accompanying annexes, as amended, for any steel article when the requirements set forth in this clause are met. Per the Presidential Proclamation of August 29, in order to request an exclusion from quantitative limitations on the imports of steel on the basis of an existing contract: the requester must affirm that each of the five conditions specified on the form entitled “Expedited Relief from Quantitative Limits – Existing Contract: Section 232 National Security Investigations of Steel Imports” are true, provide the necessary information to allow the administration of an exclusion, and certify that the information provided is complete and correct to the best of your knowledge.

The five conditions specified on the form created by this new collection consist of the following:

- (1) the requesting party entered into a written contract for production and shipment of the below identified steel article(s) before March 8, 2018,
- (2) the written contract specifies the quantity of these steel article(s) that is to be produced and shipped to the United States consistent with a schedule contained in the written contract,
- (3) the steel article(s) is to be used to construct a facility in the United States and cannot be procured from a supplier in the United States to meet the delivery schedule and specifications contained in the written contract,
- (4) the payments made pursuant to the contract constitute 10 percent or less of the cost of the facility under construction, *and*
- (5) lack of relief from the quantitative limitations on the steel article(s) would significantly disrupt or delay completion of the facility being constructed in the United States with the steel article(s) specified in the written contract.

In order to ensure this relief can be administered, as part of the submission requester must attach the following information for the identified steel article(s): (1) HTS Classification; (2) Quota category HTS classification (Chapter 99); (3) Country of Origin; (4) quantity of relief requested.

Lastly, the requester must provide a certification that they hereby certify that the information herein on the form created by this new collection is complete and correct to the best of the requester’s knowledge, and that their organization will accurately report to U.S. Customs and Border Protection (CBP) in the manner prescribed, and that the quantity of steel articles entered pursuant to a grant of relief will not exceed the quantity specified in the written contract for delivery on or before March 31, 2019.

In the Proclamation of August 29, President Trump directed that as soon as practicable, the Secretary of Commerce shall issue procedures for requests for exclusions described in clause 2 to allow for exclusion requests for countries subject to quantitative limitations. The U.S. Department of Commerce will create an exclusion process for clause 2 by posting the newly

created form on the Commerce website. Requesters will complete this form and send the form, the required certification, and any needed attachments to the U.S. Department of Commerce at the email address steel232-exp@bis.doc.gov. The posting of this exclusion procedure on the Commerce website will fulfill the Presidential directive included in the most recent Proclamation, as well as the earlier Proclamations that directed the Secretary of Commerce to create an exclusion process to ensure users of steel in the United States would continue to have access to the steel that they may need.

The Information Collection number, 0694-[], described in this support statement covers the paper work needed to be submitted to DOC to submit these exclusion requests.

2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.

Exclusion requests described in the procedures posted on the Commerce website for clause 2 exclusion from the Proclamation of August 29 will be submitted to the U.S. Department of Commerce by email. All exclusion requests under clause 2 must be in electronic form, but may be submitted at any time. However, exclusion requests requested under clause 2 if granted will only be valid till March 31, 2019. All submissions for exclusion requests are entirely voluntary.

The information submitted will be evaluated and used by BIS's Office of Technology Evaluation (OTE) to make recommendations to the Secretary regarding which exclusion requests meets the criteria of the Proclamation of August 29 and therefore should be granted. 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, will use the information included in these exclusion requests, and OTE's recommendations to determine which exclusion requests to approve under clause 2.

Pursuant to the Proclamation of August 29, exclusions granted under this separate grandfathering process under clause 2 and specified in the guidance on the U.S. Department of Commerce website will not be posted on www.regulations.gov for a public review period prior to approval, but the U.S. Department of Commerce will post granted exclusions, as described in the Proclamation of August 29.

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

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.

The U.S. Department Commerce website will be used for posting the form created by this new collection and requesters will use the email address steel232-exp@bis.doc.gov to submit exclusion requests to the Department.

4. Describe efforts to identify duplication.

The information voluntarily submitted by U.S. parties is not duplicated anywhere else in the Federal Government for purposes of considering exclusions authorized by the President from his efforts to adjust imports in response to the determinations made by the Secretary based on the finding to the Section 232 National Security Investigation of Imports of Steel. Similar information is not available from any other source. The requested information is unique to BIS.

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

The information voluntarily submitted must be provided by U.S. parties, regardless of size, if they wish to request an exclusion from the remedies instituted by the President for a steel product. These requirements cannot be minimized to lessen the paperwork burden on small businesses.

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

This is a voluntary collection. If the collection is not conducted, U.S. companies would not have the opportunity to request exclusions from the remedies instituted by the President, with the possible result of economic hardship for U.S. companies, that in certain cases may not be needed in order for the larger national security objectives of the adjustment of imports instituted by the President to be achieved. These voluntary exclusion requests will allow the U.S. Government to evaluate whether an exclusion request should be granted based on the information provided in an exclusion request and whether the criteria in the Proclamation of August 29 was met.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

There are no special circumstances that require the collection to be conducted in a manner inconsistent with the guidelines in 5 CFR 1320.6.

8. Provide a copy of the PRA Federal Register notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

This information collection has been approved on an emergency basis for 180 days because the Department has determined the following conditions have been met;

1. The collection of information is needed prior to the expiration of the time period normally associated with a routine submission for review under the provisions of the Paperwork Reduction Act in view of the President's proclamation 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/>.
2. The collection of information is essential to the mission of the Department, in particular to the adjudication exclusion requests that need expedited relief from quantitative limits – existing contract: section 232 national security investigations of steel imports.
3. The use of normal clearance procedures would prevent the collection of information 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, and the Proclamation issued on August 29, 2018.
4. As the President has decided to adjust imports of steel and allow exclusion requests, BIS will need OMB's clearances to collect the information that would be required for parties to request exclusions. This will allow BIS to publish a *Federal Register* notice informing the public how to submit exclusion requests as soon as possible, allowing for earlier decisions on the requests giving parties certainty on the effect of the remedies on their business.

This paperwork collection is published as an emergency collection. The need for this emergency collection is that a delay to allow for notice and comment and a delay in effective date would impair the Secretary of Commerce's ability to follow the President's prescriptive instructions included in the Proclamation of August 29 to approve exclusions that meet the criteria of clause 2. As was stated in the Proclamation of August 29, the President stated that he has been informed that the quantitative limitations set forth in Proclamation 9740 and Proclamation 9759 have in some cases already filled for this year, and that projects in the United States employing thousands of workers may be significantly disrupted or delayed because imports of specific steel articles, which were contracted for purchase prior to my decision to adjust imports of these articles, cannot presently be entered into the United States because the quantitative limits have already been reached. In light of these circumstances, and after considering the impact on the economy and the national security objectives of section 232 of the Trade Expansion Act of 1962, as amended, the President has determined to direct the Secretary of Commerce to provide relief

from the quantitative limitations set forth in Proclamation 9740 and Proclamation 9759 in limited circumstances.

If this emergency collection were delayed to allow for public comment before becoming effective, U.S. companies would not have the opportunity to request exclusions during the comment period and while the emergency collection is being finalized, from the remedies instituted by the President, with the possible result of economic hardship for the U.S. companies, as well as their employees. BIS intends to publish a notice in the *Federal Register* informing the public that DOC submitted a request for an emergency collection and the request was approved by OMB.

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

Not applicable.

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

All exclusion requests 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. Additionally, personally identifiable information, including social security numbers and employer identification numbers, should not be provided. Individuals and organizations submitting exclusion requests are responsible for ensuring such information is not included. Individuals and organizations that have confidential business information should so indicate in the form.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

There are no questions of a sensitive nature.

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

The total annual burden related to the exclusion request information collection activities described in Proclamation of August 29 and on the U.S. Department of Commerce website is expected to be approximately 17,170 burden hours for all respondents. It is estimated that BIS will receive 1,717 exclusion request submissions annually. For each exclusion submission, the claimant is expected to file a report that would take approximately 10 hours to prepare. These estimates are based on the number of different steel products in the U.S.

market and an estimate of the amount of time it would take a claimant to acquire, assemble and submit by email the approximately ten data elements required to be included in an exclusion request.

A detailed breakdown of the burden hour and cost estimates are listed in the chart below.

OMB Collection No. 0694-0139					
Type of Submission	Submissions	Burden hours to the public	Costs to the public (at \$37 per hour)	Burden hours to the USG	Costs to the USG (at \$39 per hour)
Exclusion requests (certification process)	1,717	17,170 (10 hours per submission)	\$635,290	1,717 (at 1 hour per submission)	\$66,963

13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in Question 12 above).

Since no special equipment is required for this activity, there are no capitalized costs associated with this collection of information. Submitting exclusion requests by email is free. It does require access to the Internet but, if needed, free Internet access and computers to access regulations.gov are available at public libraries.

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

It is estimated that the total annual cost to the Federal Government will be approximately \$66,963. A detailed estimate is given in the burden hour chart in question 12 above.

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

This is a new collection.

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

There are no plans to publish this information for statistical purposes, except to the extent needed for importers, the United States Government, and other parties to identify approved exclusion requests. The Federal rulemaking portal (an electronic submission portal) regulations.gov will be used for posting responses to clause 2 exclusion requests submitted by email to the U.S. Department of Commerce.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

Not applicable.

18. Explain each exception to the certification statement.

Not applicable.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Not applicable.