

Supporting Statement
U.S. Department of Commerce Bureau of Industry and Security
for Procedures for Submitting Rebuttals and Surrebuttals Requests for Exclusions
from and Objections to the Section 232 National Security Adjustments
of Imports of Steel and Aluminum

OMB Control No. 0694-0141

A. Justification

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 and objection process

On March 8, 2018, President Trump issued Proclamations 9704 and 9705, imposing duties on imports of aluminum and steel and authorized the Secretary of Commerce to grant exclusions from 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.”

On March 19, 2018, BIS published an interim final rule, *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* (83 FR 12106). The interim final rule published by BIS, on behalf of the Secretary, set forth the requirements U.S. businesses must satisfy when submitting exclusion requests and objections to exclusion requests. The March 19 rule added two new supplements, Supplement No. 1 (for steel exclusion requests) and No. 2 (for aluminum exclusion requests) to part 705 of the National Security Industrial Base Regulations

On August 29, 2018, the President issued Proclamations 9776 and 9777. Proclamations 9776 and 9777 authorized the Secretary of Commerce, in consultation with other senior Executive Branch officials, to provide relief from the applicable quantitative limitations set forth in Proclamation 9740 and Proclamation 9759 and their accompanying annexes, as amended, for any steel article determined not to be produced in the United States in a sufficient and reasonably available amount or of a satisfactory quality, and is also authorized to provide such relief based upon specific national security considerations. In addition, Proclamation 9777 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.

In Proclamations 9776 and 9777, President Trump directed that as soon as practicable, the Secretary of Commerce shall issue procedures for requests for exclusions described in clause 1 (for steel and aluminum) and clause 2 (for steel). The second interim final rule described below that BIS published on September 11 fulfilled the Presidential directives included in Proclamations 9776 and 9777.

Updates & Improvements to Section 232 Steel and Aluminum Exclusion Request and Objection Processes

On September 11, 2018, BIS published a second interim final rule, *Submissions of Exclusion Requests and Objections to Submitted Requests for Steel and Aluminum* (83 FR 46026). The second interim final rule published by BIS, on behalf of the Secretary, made changes to the two supplements added in the March 19 rule: 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; and to 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.

The September 11 rule made needed changes to the two supplements to address the directives included in the Presidential Proclamations 9776 and 9777 of August 29, 2018 and to make improvements to the exclusion process to ensure users of steel and aluminum in the United States would continue to have access to the needed steel and aluminum that they may need, as directed in the earlier Presidential Proclamations 9704 and 9705.

As of August 20, 2018, the Department of Commerce had received more than 37,398 exclusion requests and 15,222 objections. As an added improvement to the 232 exclusion process, the September 11 rule added an expedited review process to the two supplements to expedite the granting of properly filed exclusion requests which receive no objections and present no national security concerns. The Department has also worked to increase and organize its staff to efficiently process exclusion requests.

The Information Collection number, 0694-0141, described in this support statement covers the paper work needed to be submitted to DOC to submit these rebuttals to objections received on posted exclusion requests and to allow for surrebuttals for objections that receive rebuttals under the Section 232 exclusion process.

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.

All rebuttals must be in electronic form and may only be submitted during the 7 day rebuttal comment period. All surrebuttals must be in electronic form and may only be submitted during the 7 day surrebuttal comment period. All submissions for rebuttals and surrebuttals are entirely voluntary. The U.S. Department of Commerce has posted eight separate fillable forms on the BIS website at <https://www.bis.doc.gov/index.php/232-steel> (for the four forms used for the steel exclusion request process) and at <https://www.bis.doc.gov/index.php/232-aluminum> (for the four forms used for the aluminum exclusion request process) and on the Federal rulemaking portal (<http://www.regulations.gov>) that are to be used for submitting exclusion requests, objections to exclusion requests, rebuttals, and surrebuttals described in this supplement. On [regulations.gov](http://www.regulations.gov), you can find these eight forms for exclusion requests, objections to exclusion requests, rebuttals to objections, and surrebuttals by searching for its [regulations.gov](http://www.regulations.gov) docket number, which is BIS-2018-0006 (for the four forms used for the steel exclusion request process) and BIS-2018-0002 (for the four forms used for the aluminum exclusion request process).

The U.S. Department of Commerce requires the forms specified under paragraphs (b)(3) (*Rebuttal to Objection Received for Section 232 Exclusion Request: Steel (in Supplement No. 1)*, and *Rebuttal to Objection Received for Section 232 Exclusion Request: Aluminum (in Supplement No. 2)*), and (b)(4) (*Surrebuttal to Rebuttal Received on Section 232 Objection: Steel (in Supplement No. 1)*, and *Surrebuttal to Rebuttal Received on Section 232 Objection: Aluminum (in Supplement No. 2)*), for submitting rebuttals and surrebuttals.

The information submitted is evaluated and used by BIS's Office of Technology Evaluation (OTE) to make recommendations to the Secretary regarding which exclusion requests, taking into account any objections to submitted exclusion requests received, should receive favorable consideration, and any rebuttals and surrebuttals. 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, uses the information included in these exclusion requests, objections to submitted exclusion requests, rebuttals and surrebuttals, and OTE's recommendations to determine which exclusion requests to approve.

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 Federal rulemaking portal (an electronic submission portal) regulations.gov is used for parties in the United States submitting exclusion requests and objections to submitted exclusion requests, rebuttals, and surrebuttals. Regulations.gov is also used for managing and posting DOC's responses to each of the exclusion requests. Confidential business information submitted as part of a rebuttal or surrebuttal is submitted by email as described in the new procedures.

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 and Aluminum. Similar information is not available from any other source. As described above, allowing for rebuttals and surrebuttals will improve the exclusion review process. 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 or aluminum 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 submit rebuttals to objections received on posted exclusion requests. In addition, if the collection is not conducted, U.S. companies would not have the opportunity to submit surrebuttals for objections they submitted that receive rebuttals under the Section 232 exclusion process.

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.

The notice requesting public comment was published in the Federal Register on 10/5/2018. 83 FR 50336. No public comments were received.

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, objections to submitted exclusion requests, rebuttals, surrebuttals, and comments on the interim final rule and second 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, an objection to submitted exclusion requests, rebuttals, or surrebuttals are responsible for ensuring such information is not included. Individuals and organizations that have confidential business information should so indicate in the appropriate field of the relevant form. Paragraph (b)(5) in Supplements No. 1 and No. 2 describe how to submit confidential

business information for rebuttals and surrebuttals by email. Individuals and organization must otherwise fully complete the relevant forms.

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 this information collection activities is expected to be approximately 41,128 burden hours for all respondents. It is estimated that BIS will receive 24,677 rebuttal, and 16,451 surrebuttal submissions annually. Each exclusion rebuttal is estimated to take 1 hour to prepare. Each surrebuttal is estimated to take 1 hour to prepare. These estimates are based on the number of different steel products and aluminum products in the U.S. market and an estimate of the amount of time it would take a claimant to acquire, assemble and submit in regulations.gov the approximately twenty-nine data elements for the form required to be included in a rebuttal or surrebuttal.

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

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)
Rebuttals	24,677	24,677 (1 hour per submission)	\$913,049	49,354 (at 2 hours per submission)	\$1,924,806
Surrebuttal	16,451	16,451 (1 hour per submission)	\$608,687	32,902 (at 2 hours per submission)	\$1,283,178
TOTAL	41,128	41,128 (1 hour per submission)	\$1,521,736	82,256 (at 2 hours per submission)	\$3,207,984

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

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

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

It is estimated that the total annual cost to the Federal Government will be approximately **\$3,207,984**. A detailed estimate is given in the burden hour chart in question 12 above.

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

Using current data (As of 4/1/2019), there has been a decreased in the number of respondents compared to what BIS expected initially resulting in a reduction in burden hours. As this collection continues, BIS will adjust these numbers to reflect continuing changes in data.

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 parties in the United States submitting exclusion requests, objections to submitted exclusion requests, rebuttals, and surrebuttals. Regulations.gov will also be used for managing and posting DOC's responses to each of the exclusion requests.

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.