

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

OMB Control No. 0694-[INSERT]

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.

Section 232 National Security Investigation of Imports of Steel, initiated April 19, 2017

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.

Section 232 National Security Investigation of Imports of Aluminum, initiated April 26, 2017

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.

Presidential Proclamations 9705 Adjusting Imports of Steel Mill Articles into the United States and 9704 Adjusting Imports of Aluminum into the United States, of March 8, 2018

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 and aluminum is necessary so that imports of steel and aluminum will no longer threaten to impair the national security. The Proclamations 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 domestic parties affected by the duties, if the Secretary determines the steel or aluminum 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.

The Department of Commerce is publishing an interim final rule to amend the National Security Industrial Base Regulations (15 CFR 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.

U.S. Department of Commerce, Bureau of Industry and Security (DOC/BIS) will publish the 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. This interim final rule will amend the National Security Industrial Base Regulations (15 CFR 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 will also set forth the requirements and process for how parties in the United States may submit objections to the granting of exclusion requests.

The paper collection, [OMB Control No. [INSERT] 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.

The exclusion requests will be submitted in electronic form using regulations.gov. All exclusion requests must be in electronic form, but may be submitted at any time. 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, taking into account any objections to submitted exclusion requests received, should receive favorable consideration. 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, objections to submitted exclusion requests, and OTE’s recommendations to determine which exclusion requests to approve.

The responses to the exclusion requests and objections to submitted exclusion requests will also be posted in regulations.gov and will be a matter of public record.

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

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. 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 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 taking into account any objections to a submitted exclusion request.

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.

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

a. The collection of information is needed prior to the expiration of time period 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 exclusion requests and objections to exclusions requests.

c. The use of normal clearance procedures would prevent the collection of information 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.

As was noted in the report 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 any delay in implementing these remedial actions (as described Proclamations 9704 and 9705 of March 8, 2018) would further undermine U.S. national security interests. In order to ensure that the remedial actions from the Presidential Proclamations do not undermine users of these articles in the United States that may need the foreign supply of these articles for manufacturing other articles in the United States that are critical to protecting the national security of the United States, or are otherwise important to protecting the U.S. economy because there is not currently a sufficient and reasonably available amount or of a satisfactory quality of these articles in the United States, the Presidential Proclamations authorized the Secretary of Commerce, in consultation with the Secretary of Defense, the Secretary of State, the United States Trade Representative, and other agency heads as appropriate to grant exclusions. This emergency collection is needed in order for the related interim final rule to establish the process for submitting and granting these requests for exclusions. The immediate creation of an effective

exclusion request process, consistent with the intent of the Presidential Proclamations also requires creating a process to allow manufacturers of these articles in the United States to submit objections to submitted exclusion requests. These actions are all immediately needed in order to protect national security interests of the United States.

If the related interim final rule and 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. Likewise, our national security could be harmed if particular national security considerations justify an exclusion, but the process for obtaining such exclusion were delayed. 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, 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 should so indicate in the appropriate field of the relevant form. 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 the exclusion request information collection activities described in Part 705 of Subchapter A, National Security Industrial Base Regulations is expected to be approximately **18,000 burden hours** for all respondents. It is estimated that BIS will receive 4,500 exclusion request submissions during the comment period. For each exclusion submission, the claimant is expected to file a report that would take approximately 4 hours to prepare. This estimate is 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-four data elements required to be included in an exclusion request. (4 hours per submission x 4,500 submissions = 18,000 hours).

The total annual cost to the public of this information collection burden is approximately \$666,000. This total is based on 4,500 exclusion request submissions, with each submission costing the respondents an average of \$37 an hour and involving an estimated 18,000 hours of work (18,000 x \$37/hour = 666,000).

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 in regulations.gov 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 of the exclusion collection activities described in Section 232 of the of the Trade Expansion Act of 1962 will be approximately \$1,053,000. This figure includes the salaries of those handling the information collected and reviewing the exception request submissions. The total annual burden hours for the Government are not expected to exceed 27,000 hours (6 hours per submission x 4,500 submissions = 27,000 hours), with an average hourly rate of \$39 per hour. (27,000 x \$39/hour = \$1,053,000).

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 parties in the United States submitting exclusion requests and objections to submitted exclusion requests. 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.