

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

[Docket No. 201203–0323]

RIN 0694–AH55

**Section 232 Steel and Aluminum Tariff Exclusions Process**

**AGENCY:** Bureau of Industry and Security, U.S. Department of Commerce.  
**ACTION:** Interim final rule.

**SUMMARY:** This interim final rule revises aspects of the process for requesting exclusions from the duties and quantitative limitations on imports of aluminum and steel discussed in three previous Department of Commerce (“Commerce”) interim final rules implementing the exclusion process authorized by the President under Section 232 of the Trade Expansion Act of 1962, as amended (“232”). These changes are also informed by a notice of inquiry with request for comments on the 232 exclusions process that was published by Commerce on May 26, 2020. Based on public comments on the current process for submissions to Commerce, Commerce is publishing this interim final rule to make additional revisions to the 232 exclusion process, including to the 232 Exclusions Portal.

**DATES:**

*Effective date:* This interim final rule is effective December 14, 2020, except for amendatory instructions 3 and 5 that are effective December 29, 2020.

*Comments:* Comments on this interim final rule must be received by BIS no later than February 12, 2021.

**ADDRESSES:** See **SUPPLEMENTARY INFORMATION** section for information on submitting exclusion requests, objections thereto, rebuttals, and surrebuttals. You may submit comments, identified by docket number BIS–2020–0022 or RIN 0694–AH55, through the *Federal eRulemaking website*: <http://www.regulations.gov>. No other submission methods are being used for submitting comments on this interim final rule. Follow the instructions for submitting comments.

All filers using the portal should use the name of the person or entity submitting comments as the name of their files, in accordance with the instructions below. Anyone submitting business confidential information should clearly identify the business confidential portion at the time of submission, file a statement justifying nondisclosure and referring to the specific legal authority claimed, and

provide a non-confidential version of the submission.

For comments submitted electronically containing business confidential information, the file name of the business confidential version should begin with the characters “BC.” Any page containing business confidential information must be clearly marked “BUSINESS CONFIDENTIAL” on the top of that page. The corresponding non-confidential version of those comments must be clearly marked “PUBLIC.” The file name of the non-confidential version should begin with the character “P.” The “BC” and “P” should be followed by the name of the person or entity submitting the comments or rebuttal comments. Any submissions with file names that do not begin with a “BC” or “P” will be assumed to be public and will be made publicly available through <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** For questions regarding this interim final rule, contact Erika Maynard at 202–482–5572 or via email [Erika.Maynard@bis.doc.gov](mailto:Erika.Maynard@bis.doc.gov), or email [Steel232@bis.doc.gov](mailto:Steel232@bis.doc.gov) regarding provisions in this rule specific to steel exclusion requests and [Aluminum232@bis.doc.gov](mailto:Aluminum232@bis.doc.gov) regarding provisions in this rule specific to aluminum exclusion requests.

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

On March 8, 2018, President Trump issued Proclamations 9704 and 9705, imposing duties on imports of aluminum and steel. The Proclamations also 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,” and provided authority for the Secretary to issue procedures for exclusion requests. On April 30, 2018, Proclamations 9739 and 9740, and on May 31, 2018, Proclamations 9758 and 9759, set quantitative limitations on the import of steel and aluminum from certain countries in lieu of the duties. On August 29, 2018, in Proclamations 9776 and 9777, President Trump also authorized the Secretary to grant exclusions from quantitative limitations based on the same standards applicable to exclusions from the tariffs.

*Implementing and Improving the 232 Exclusions Process*

On March 19, 2018, Commerce first issued 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 “March 19 rule”), laying out procedures for the 232 exclusions process, including one supplement for the procedures for steel and a second supplement for the procedures for aluminum.

On September 11, 2018, Commerce issued a second interim final rule, *Submissions of Exclusion Requests and Objections to Submitted Requests for Steel and Aluminum* (83 FR 46026) (the “September 11 rule”), that revised the two supplements added by the March 19 rule with improvements designed to ensure a transparent, fair, and efficient exclusion and objection process.

On June 10, 2019, Commerce issued a third interim final rule, *Implementation of New Commerce Section 232 Exclusions Portal* (84 FR 26751) (the “June 10 rule”), that revised the two supplements added by the March 19 and September 11 rules to grant the public the ability to submit new exclusion requests through the 232 Exclusions Portal while still allowing the opportunity for public comment on the portal.

On May 26, 2020, Commerce issued a notice of inquiry with request for comment, *Notice of Inquiry Regarding the Exclusion Process for Section 232 Steel and Aluminum Import Tariffs and Quotas* (85 FR 31441) (the “May 26 notice”), that sought public comment on the appropriateness of the information requested and considered in applying the exclusion criteria, and the efficiency and transparency of the process employed.

*Why is Commerce publishing this interim final rule?*

Commerce is publishing this interim final rule to implement additional changes the Department has determined will further improve the 232 exclusions process. Commerce believes these changes will make important improvements, but is also requesting public comments to evaluate how effective these changes will be in further improving the 232 exclusions process. This process is consistent with the Department’s approach since the

beginning of implementing the 232 exclusion process. The public has supported this approach.

*What are some of the key changes included in this interim final rule?*

This interim final rule is being published at this time, in particular, to make the following three key changes to the 232 exclusions process.

First, it addresses the need to create a more efficient method for approving exclusions where objections have not been received in the past for certain steel or aluminum articles. Commerce has determined creating general approved exclusions that may be used by any importing entity is warranted. This has been noted by commenters who submit exclusion requests, and by trade associations that represent those companies, as one of the most important changes that could be made to improve the efficiency of the 232 exclusion process. As described in much greater detail below, this interim final rule addresses this issue with the adoption of General Approved Exclusions (GAEs). This change will result in an estimated immediate decrease of 5,000 exclusion requests annually, resulting in a significant improvement in efficiency, with the possibility of more in the future. Unlike exclusion requests, GAEs do not include quantity limits.

Second, it addresses a trend identified by commenters and validated in data reviewed by Commerce—that certain exclusion requesters may have requested more volume than they may have needed for their own business purposes compared to past usage. Submitting large numbers of unneeded exclusion requests decreases the efficiency of the 232 exclusions process for potential objectors and Commerce. It also creates issues for potential objectors. As described in greater detail below, this issue is addressed by adding a new certification requirement for volumes requested. Along the same lines, the rule also adds a note to remind all parties submitting 232 submissions of the prohibition against making false statements to the U.S. Government and the consequences that may occur for such false statements.

Third, the rule addresses an objector concern they were being held to a higher standard than foreign suppliers because of the interpretation that “immediately” meant the objector needed to be able to provide the steel or aluminum articles within 8 weeks, even though a foreign supplier may not be able to provide the same steel or aluminum article until much longer than 8 weeks. With this rule the term “immediately,” is retained but language

has been modified to apply the same time standard to U.S. objectors and foreign suppliers for when the steel or aluminum articles need to be provided to the exclusion requester.

*What changes are not being addressed in this interim final rule?*

While this rule addresses the remaining comments from the September 11 rule, it also addresses some of the comments received on the 232 Exclusions Portal from the June 10 rule. However, comments requesting changes requiring software modification or involving additional cost and time to implement are still under consideration and not addressed here. Some examples of comments still under consideration include the following. There is a comment to allow confidential business information (CBI) submissions in the 232 Exclusions Portal which would require software changes and additional certifications. Another commenter requested two separate portals for the steel and aluminum exclusion processes. There are also several comments regarding the usability and search functionality of the 232 Exclusions Portal including adding a filter for steel and aluminum on the main portal page; adding product classes to the main portal screen with a filtering function; improving search functionality by adding a simple “find all” type of search capability; adding the capability to be able to download individual submissions and all data; making it easier to extract data for queried databases; adding the ability to cross search with multiple criteria; providing an easier way to identify exclusion requests by HTSUS classification and other criteria; including the actual due date for filing submissions, not just days remaining; adding a withdraw feature to the dashboard; adding a notification feature when objections are posted; and adding the ability to refresh without resetting the filters. Commerce is continuing to evaluate these comments and may implement additional changes to further improve the 232 Exclusions Portal at a later date.

This interim final rule does not summarize or respond to the comments included in the May 26 notice. Commerce will address these comments in the next rule. However, as noted below, there is significant overlap in the comments received on the September 11 and June 10 rules, so some of the comments received on the May 26 notice are also being addressed in this interim final rule. For example, the three key changes to the 232 exclusions process described above being made in

this interim final rule will also be responsive to comments received on the May 26 notice.

The following are some examples of comments from the May 26 notice that are still being reviewed. Additional changes to the 232 Exclusions Portal were requested by some commenters based on their additional experience, e.g., the portal being programmed to flag for special attention those exclusion requests that have been waiting a certain number of days/months for a determination. Some comments addressed the role of objections in the 232 exclusions process and whether objections have an outsized influence on the process, in particular on how long the Commerce decision-making process takes and whether an exclusion will be granted. Some comments requested creating a process to give preferential treatment for products further manufactured or substantially transformed in the United States, because such producers are an essential part of the U.S. steel and aluminum industry. Other commenters requested a 60-day window for submitting exclusion requests on a bi-annual basis and only product exclusion requests submitted during these bi-annual periods would be considered.

*Additional Improvements to the 232 Exclusions Process*

As noted above, the interim final rule being published today addresses the remaining comments from the September 11 rule and highlights what comments have been addressed from the June 10 rule. There is some significant overlap among those comments and comments received in response to the May 26 notice, so the revisions to the 232 exclusions process described below will also be responsive to some of the same comments received in response to the May 26 notice. Commerce intends to publish at least one subsequent interim final rule that will describe the unaddressed comments received on the May 26 notice and any additional revisions Commerce will make to the 232 exclusions process as a result of those comments. The comments on the May 26 notice also included various comments on the 232 Exclusions Portal, certain of which are addressed below. Other comments will be summarized and addressed with the remaining comments on the June 10 rule that are not included in today’s rule. Because of the programming cost and time involved with making changes to the 232 Exclusions Portal, Commerce requires more time to review and respond to those comments, in particular for comments where Commerce agrees that

changes to the 232 Exclusions Portal may be warranted.

Commerce is focused on improving the 232 exclusions process as quickly as possible. As additional revisions are ready to be made, such as those being made in this rule, Commerce will publish those changes as quickly as possible to improve the 232 exclusions process. This approach of publishing a series of interim final rules has allowed Commerce to improve the 232 exclusions process on an ongoing basis, allowing the public to submit additional comments on whether the most recently made changes have helped to improve the process.

This rule makes various edits to supplement no. 1 to part 705 to improve the 232 exclusions process. This rule also removes the provisions from supplement no. 2 to part 705 and consolidates those into supplement no. 1. This rule also adds new supplements no. 2 and no. 3 for identifying General Approved Exclusions (GAEs) for steel and aluminum articles under the 232 exclusions process and the first approved tranches of GAEs for steel and aluminum articles. GAEs address a long-standing request from public comments of exclusion requesters to create a more efficient process to approve certain exclusions for use by all importers where Commerce has determined that no objections will be received and where it is warranted to approve an exclusion for all importers to use. This rule also removes Annex 1 to supplements no. 1 and 2, since this guidance is no longer needed with this rule's removal of references to [www.regulations.gov](http://www.regulations.gov) from the 232 exclusions process. Finally, this rule makes some non-substantive edits to supplement no. 1 to part 705 to improve readability of the supplement.

#### Public Comments and BIS Responses

The public comment period on the May 26 notice closed on July 10, 2020. BIS received eighty-two public comments on the notice of inquiry. Many commenters referenced the imposition of duties and quantitative limitations, questioning whether or not such regulations were beneficial. Those comments are outside the scope of the May 26 notice that solicited comments on the 232 exclusions process; thus Commerce is generally not summarizing or providing responses to those general comments on the duties and quantitative limitations. Certain comments described and addressed below are those received in response to the September 11 and June 10 rules. However, some of the comments in responses below address issues that also

were raised in some of the comments received in response to the May 26 notice. As a result, the responses below are responsive in part to comments on the May 26 notice, and also are responsive to comments on the September 11 and June 10 rules.

#### Improving Tracking and Transparency

*Comment (a)(1): Develop an adequate tracking system that supplies relevant information (more than is available now) for 232 submissions.* Commenters requested that Commerce provide stakeholders a way to more easily review the Harmonized Tariff Schedule of the United States (HTSUS) code and product information, country of origin, volume, and alloys of posted exclusions—preferably, in a searchable database. Commenters indicated that having to open each file to identify this information places a burden on potential objectors, which the commenters suggested could be addressed with a searchable database.

*BIS response:* Commerce has made changes to allow for easier tracking and searching of information in the 232 Exclusions Portal, as described in greater detail below for the improvements that have been made to the 232 Exclusions Portal (see BIS response to Comment (g)(2) below).

*Comment (a)(2): Exclusion rejection for incomplete submissions should be more transparent.* A commenter noted that, while they do not expect Commerce to customize each individual response, the commenter believes that additional steps can be taken to help U.S. businesses understand the reason for a rejection. This commenter requested that Commerce should include on the rejection form that is posted online a list of common reasons for rejection. The commenter believes this would provide invaluable guidance to the countless small businesses attempting to navigate this difficult process. This commenter believes the current rejection form leaves manufacturers guessing as to why the government rejected their applications, especially when that business for years used the identical HTSUS code accepted by U.S. Customs and Border Protection (CBP) to import that product.

*BIS response:* Commerce agrees that greater transparency benefits all applicants to the 232 exclusions process. Commerce moved its HTSUS administrability review to the start of the process in early 2019, reducing sharply the number of exclusion denials due to incomplete submissions identified later in the review process. Incomplete submissions now receive a rejection notification that includes the

specific reasons for a rejection. Commerce does plan to update the rejection form used in the 232 Exclusions Portal to include a list of common reasons for rejection. Commerce agrees that providing this additional information will make the process more efficient, because those receiving rejections will more easily understand what was wrong with their exclusion request that resulted in a rejection. This may reduce the overall number of 232 exclusion submissions submitted.

#### Confidential Business Information (CBI)

*Comment (b)(1): Supportive of the new CBI provisions.* A commenter asserted that one of the most significant changes is the BIS decision to allow companies to submit CBI during the rebuttal and surrebuttal process. This same commenter also believes that further changes can improve the process beyond what BIS has already proposed.

*BIS response:* Commerce agrees that adding the CBI process has helped to improve the 232 exclusions process. As described below, Commerce is open to improving the CBI process, but that must be done in accordance with the larger purpose of allowing CBI in the 232 exclusion process, as well as the current technical limitations in the 232 Exclusions Portal.

*Comment (b)(2): Allow CBI to also be submitted for exclusions and objections.* Commenters urged Commerce to expand the CBI provision by allowing companies to submit CBI within their original exclusion request. These commenters asserted that, given the amount of detail required to complete the exclusion request form, companies may be hesitant to submit exclusion requests for fear of sharing CBI with their competitors.

*BIS response:* Commerce does not agree. The information required on the exclusion request form does not require revealing CBI in order to adequately complete the form, so allowing CBI in support of the initial exclusion request is not needed. Moreover, exclusion requesters can indicate they have CBI, allowing Commerce reviewers to request that CBI if needed for their review of the request and objections.

*Comment (b)(3): Allowing CBI in exclusions and objections would alleviate some concerns over short seven-day rebuttal and surrebuttal periods.* One commenter asserted that, given the short seven-day window of the rebuttal process, allowing companies to submit CBI at the time of the application would relieve the unnecessary burdens placed on filers by the short rebuttal window.

*BIS response:* Commerce acknowledges the shortness of the seven-day rebuttal and surrebuttal period, but does not agree with the commenter that allowing CBI in the exclusion request or in objections would alleviate the burden on exclusion requesters or objectors during the rebuttal and surrebuttal period. The most appropriate time in the 232 exclusion review process for CBI is during the rebuttal and surrebuttal phase when information that goes beyond what is included in the exclusion and objection forms may be needed to properly evaluate an exclusion request. Allowing CBI in exclusion requests and objections would slow the Commerce review process without adding any real benefit to the review process. As noted above, exclusion requesters and objectors can indicate they have CBI and Commerce reviewers can request that information if needed for review.

*Comment (b)(4): Process to submit CBI needs to be further clarified.* A commenter believes the current CBI process is confusing because parties must submit the exclusion request form with a vague, yet somewhat detailed summary of the CBI and then supplement the form by sending a separate email to BIS with the actual confidential information. This same commenter was also concerned that parties risk the possibility that Commerce will reject their exclusion request for being an incomplete submission before Commerce has even received their confidential information.

*BIS response:* Commerce understands the point being made by the commenter but does not agree that this requirement is unreasonable. Because the 232 Exclusion Process is a public process, there needs to be transparency to allow the other public parties involved in the process (objector(s) and exclusion requesters) to have an idea of the scope and type of CBI information that is being provided to supplement a rebuttal or a surrebuttal.

*Comment (b)(5): Section 301 exclusion request process uses a clear and simple method by which parties can submit CBI—Commerce should adopt same process to allow submission of public and private version.* A commenter encouraged Commerce to implement a method similar to that of the Section 301 exclusion process for the Section 232 exclusion request process, allowing parties to submit both public and confidential versions of the exclusion request form.

*BIS response:* Commerce sees the benefit of adopting the same type of approach as used under the Section 301

process. However, the security needed to protect such information in the 232 Exclusions Portal would require additional programming and certifications. Therefore, at the current time Commerce will not be making these changes. If the 232 Exclusions Portal can accommodate CBI at a future date, Commerce will revisit this issue.

#### *Exclusion Requests*

*Comment (c)(1): Standard Commerce applies to exclusion requests remains unclear—need to specify whether in aggregate or for a specific requester.* A commenter was concerned that it is unclear whether a specific requester's lack of availability and quality of material is the relevant consideration, or whether analysis of material quantities in the aggregate U.S. market provides a better metric. The commenter believes the proper standard should be the availability of material to the requesting company in the needed quality and quantity because this is largely in the control of the objecting supplier.

*BIS response:* Commerce confirms here that exclusion requests are being reviewed based on the availability of material to the requesting company in the needed quality and quantity by U.S. suppliers. This rule clarifies that the standard applied to the review of an exclusion request is a case-by-case review to determine whether the requester has shown that the article is not produced in the United States in a sufficiently and reasonably available amount or of a satisfactory quality, or that there are specific national security considerations to grant the exclusion. In general, if no U.S. supplier submits an objection, absent a national security concern, Commerce approves such exclusion requests because a determination can be made that a U.S. supplier is not available to supply to the exclusion requester the needed quality and quantity of steel or aluminum described in the exclusion request.

*Comment (c)(2): Inconsistencies in the posted exclusion requests make it difficult for objectors to adequately review and respond.* Commenters in this area are concerned whether exclusion requesters are consistently filling out the forms, and whether Commerce is adequately ensuring that the exclusion forms being posted meet the required standards of the form. For example, one commenter noted that hundreds of exclusion requests include no alloy designation (Question 4.b), but instead reference the HTSUS code or simply leave that field blank. This commenter asserted that an alloy designation is an important identifier for assessing the validity of an exclusion request, so its

omission in many exclusion requests makes it difficult for potential objectors. Another commenter noted that many exclusion requests—including those that have already been approved—fail to indicate a volume associated with the included countries of origin.

*BIS response:* Commerce acknowledges that, in certain cases, there has been some variability in how exclusion requesters or objectors have filled out the respective forms. Commerce has revised its standard operating procedures (SOPs) and conducted training for those reviewing 232 submissions at Commerce to emphasize the importance of ensuring that the exclusion and objection forms are being completed in accordance with the information required on the forms. As a result of this comment, Commerce has highlighted these issues to the Commerce reviewers of the 232 submissions to ensure consistency and warns that submissions that do not meet the standards of the information required on the forms will be rejected.

*Comment (c)(3): “Size ranges” clarification was helpful in the September 11 rule, but additional clarification needed.* A commenter noted that the September 11 rule offers some additional information on acceptable ranges but could be improved. The BIS response to Comment (g)(3) in the September 11 rule states that the exclusion request form allows for a product that may be within a specific range but not for products across a wide range. A permissible range must be within the minimum and maximum range that is specified in the tariff provision and applicable legal notes for the provision. This commenter believes that this suggests that products identical in all aspects, with the exception of a dimensional characteristic, and classified within the same HTSUS statistical reporting number, could be included within a single request. However, the commenter was concerned that the regulatory text under paragraph (c)(2) suggests that separate exclusion requests must be submitted for steel products with “distinct critical dimensions” covered by a common HTSUS statistical reporting number, and examples provided in the rule are for specific sizes of products, which does not appear inconsistent with Comment (g)(3) from the September 11 rule.

*BIS response:* Commerce agrees a clarification to paragraph (c)(2) is warranted. This interim final rule, as described below in the regulatory changes, removes the word “distinct” before “critical” in the example

provided under paragraph (c)(2). This change is made to avoid any potential confusion on the scope of ranges that are permissible under an exclusion request. Commerce clarifies that products identical in all aspects, with the exception of a dimensional characteristic, and that are classified within the same HTSUS statistical reporting number, may be included within a single request. However, objections that indicate the ability to produce one or more products within the range, even if not the entire range, will be considered to be valid objections to an exclusion request.

*Comment (c)(4): Concerned that Commerce is not adequately reviewing exclusion requests.* A commenter requested that Commerce fully evaluate all exclusion requests—including those for which no objections are filed—to ensure that the volumes requested are proportional to the U.S. market. This commenter was concerned that, generally, it seems Commerce is not evaluating whether there is actually demand in the market for these large volumes, and has granted requests based simply on the absence of any objections.

*BIS response:* Commerce recognizes that there are exclusion requests for volumes that exceed prior years' consumption but that often receive no objections. Commerce also recognizes that there are objections that, in total, exceed the objectors' total capacity. Commerce is reviewing this issue to determine whether there is an approach to factor volumes requested and objected to in an objective, transparent, and efficient way. As an initial step to address this issue, this interim final rule makes regulatory changes to the 232 exclusions process, as described below under the 232 exclusion request volume certification heading to require a certification from exclusion requesters for volume requested and, when applicable, a certification for volume requested but unfulfilled due to legitimate circumstances when submitting exclusion requests in the 232 Exclusions Portal.

*Comment (c)(5): Does not believe Commerce has implemented an expedited approval process for exclusions that receive no objections—contrary to what was stated in the September 11 rule and in statements by Commerce in other venues that Commerce would adopt such an expedited process.* One commenter noted that Commerce does not yet appear to be adjudicating requests faster as a result of the updated exclusion process with some exclusion requests.

*BIS response:* Commerce believes this comment was likely made as Commerce

was working to address the initial backlog of exclusion requests that did receive objections and does not reflect the current status. At this time, the expedited review process for exclusions that do not receive objections is functioning well, with an average response time, as of July 20, 2020, of approximately 60 days, less than half the average processing time for exclusions that receive objections and a significant decrease in overall response times compared to earlier in the process.

*Comment (c)(6): Product descriptions in exclusion requests and approval decisions need to be more specific to ensure CBP can determine what is approved.* A commenter noted that Commerce has granted a number of exclusion requests where the “product description” on both the request and Commerce’s decision document is only the name for a general category of products and any detail regarding the size, chemistry, and other characteristics that may indicate that particular product at issue is not available from domestic sources are not carried over from the application. This commenter noted that greater specificity was needed in the approved exclusions.

*BIS response:* Commerce works closely with CBP. Additional information is provided to CBP to ensure that CBP is able to effectively implement approved exclusions. CBP consults as needed with Commerce if any questions arise regarding the scope of a specific approved exclusion request.

*Comment (c)(7): Need to specify when the validity of an approved exclusion request begins.* A commenter noted that there has been a number of exclusions granted where shipments were entered after the posting of the request but before the decision. The commenter asked for clarification if the one-year timeframe begins once the decision is made or if some other point is used to start the one-year timeframe.

*BIS response:* Commerce clarifies that, as specified in paragraph (h)(2)(iii)(A) (*Effective date for approved exclusions*), an approved exclusion will be effective five business days after publication of the Commerce response granting an exclusion in the 232 Exclusions Portal. If granted, exclusions are generally effective for one year from the date of signature on the Decision Memo. Companies may also file Post-Summary Corrections with CBP on unliquidated entries to recoup any tariffs paid on products that made entry between the submission date and the date of signature. Companies are able to receive retroactive relief on granted requests dating back to the date of the request’s

submission on unliquidated entries. However, requesters should note that where retroactive relief is granted, the quantities granted retroactive relief are still counted against the total quantity granted in the exclusion. The exclusion request expires when either the quantity granted has been exhausted or the exclusion reaches the end of the effective period specified in the decision memo (generally one year from the date of the decision), whichever comes first, and no pro-rata additional quantity is provided for retroactive relief. Given that duties do not apply for countries with quotas, retroactive relief is not applicable for exclusions from quotas.

Once the exclusion becomes effective, the steel or aluminum articles specified in the approved decision memo in entries that have not been liquidated by CBP are those eligible for tariff refunds or tariff exclusions.

*Comment (c)(8): Product exclusions should be permanent not temporary (and on a universal basis).* A commenter noted that temporary exclusions inject significant uncertainty into the business planning of companies and therefore recommended permanent exclusions.

*BIS response:* Commerce does not agree that all product exclusions should be permanent and issued on a universal basis because that would defeat the purpose of the duties. Commerce does agree that for certain steel and aluminum articles, a more efficient approval mechanism is warranted and that the approval should be universal. Specifically, for certain steel and aluminum articles, Commerce has created General Approved Exclusions (GAEs) under the new supplements no. 2 and 3 to part 705 being added to this rule, which will be available to all importers.

*Comment (c)(9): Create streamlined process to allow one company seeking an exclusion for the same product already approved to a second company to quickly obtain an approved exclusion.* A commenter requested that Commerce provide a streamlined process whereby a second company seeking to use an exclusion already granted to a U.S. company can quickly obtain the right to use the same product exclusion.

*BIS response:* Commerce does not agree. The exclusion process is intended to be specific to each requester and each request must be reviewed on its own merits, allowing for potential objections and permitting rebuttal and surrebuttal process to play out as needed. As referenced in the previous comment, the GAEs are also responsive to some of what this commenter is requesting in

terms of creating a more efficient approval process where Commerce determines that relief is warranted in a particular circumstance for all importers.

*Comment (c)(10): Commerce should use its discretion to make exclusions available to all importers.* A commenter requested that if a product is not made in the United States or is not made in sufficient quantity or quality, Commerce must grant a broader product exclusion (not just on a company-by-company, product-by-product basis). Another commenter noted that the Secretary and others at Commerce have repeatedly denied associations the ability to submit exclusion requests on behalf of their industries for widely used goods, because Commerce sought to identify those products receiving the most requests. However, the Secretary has yet to exercise this authority to grant general exclusions despite the same HTSUS codes receiving multiple requests.

*BIS response:* As noted above, in this rule, Commerce is creating GAEs with the additions of supplement no. 2 and 3 to part 705. The creation of GAEs addresses this comment and will create a more efficient 232 exclusion process and reduce the burdens on exclusion requesters.

*Comment (c)(11): Explain circumstances under which BIS will approve broader product exclusions and how U.S. companies may request such an exclusion.* A commenter noted that Commerce continues to state that it is considering approving broader exclusion requests, which can apply to multiple importers. However, no additional guidance has been provided as to how groups of companies can ask for such a broader exclusion.

*BIS response:* This rule explains the circumstances when Commerce will approve broader product exclusions. These provisions are described in the new supplements no. 2 and 3 to part 705 with the addition of GAEs. The introductory text of the new supplements explain the process of how Commerce will approve these GAEs. As previously noted, these determinations for what steel or aluminum articles warrant being included in a GAE will be made by Commerce, in consultation with the other agencies referenced in the new supplements. The public will not be involved in requesting new or revised GAEs, but Commerce will use the information provided in exclusion requests to inform its review process for what additional GAE should be added or what revisions should be made to existing GAEs.

*Comment (c)(12): Process for making changes to an approved exclusion request.* A commenter requested guidance be provided for how to make a correction to an application for exclusion after the exclusion has been approved.

*BIS response:* This is a feature under consideration, but until that revision can be implemented, a new exclusion request will need to be submitted in the event of such circumstances. Commerce does clarify that BIS will make, when warranted in the 232 Exclusions Portal, technical corrections and a few other forms of “non-substantive changes” including: Importer of record (IOR) changes; supplier/manufacturer changes; corrections to match product descriptions with product specifications; and corrections to organization information (*i.e.*, accidental transposition of fields).

#### Objections

*Comment (d)(1): Concerned that Commerce has too much leeway to interpret the criteria “not produced in the United States in a sufficient and reasonably available amount” and “not produced in the United States in a satisfactory quality.”* A commenter was concerned that this broad interpretation by Commerce could lead to the negation of exclusion requests in situations where one company files an objection that claims that it in theory could make that product in sufficient quantity or quality. The commenter noted that rebuttals to these claims are difficult to make without more detailed information from objectors on how they could make products in sufficient quantity or quality.

*BIS response:* The criteria comes from the underlying Proclamations that authorize the creation of the 232 exclusions process. Therefore, Commerce does not have the discretion to change the criteria. Commerce added the rebuttal process, as well as the surrebuttal process, to allow requesters and objectors to further address the representations made in objections and rebuttals. Ultimately, if an exclusion request is not approved because of an objection, the exclusion requester will be able to determine definitively whether an objector is in fact able to provide the steel or aluminum article in question by attempting to obtain the product from the objector. Should all objectors be unable to produce a requested product as they represented in their objections, the requester may submit a new request with documentation evidencing this refusal. Commerce understands that time is vital to an exclusion requester and seeks to

ensure that objectors provide sufficient information for a thorough evaluation of the request and objection. Moreover, objectors must certify their ability to manufacture the products described within their objections.

*Comment (d)(2): Objections should be reviewed cumulatively.* A commenter is concerned that Commerce is not considering the cumulative impact of objections to exclusions. This commenter noted that U.S. producers that are filing objections to exclusion requests are routinely stating that the objector can and would fill the demand for the subject product. This commenter noted that while it may be true that the objector could reasonably expect to fill the needs of an individual company making an exclusion request, it is possible (or likely) that the objector could not fill the full demand for that product from all companies requesting an exclusion let alone all of the demand from other customers in the U.S.

*BIS response:* Commerce is aware of this concern and has evaluated statistics on the 232 exclusions process, determining that, although there may be some anecdotal examples of where this occurred, as a general trend, the statistics do not support that this is a significant issue with objections in the 232 exclusions process. In the past year, BIS has received objections to exclusion requests for approximately 19 million metric tons of steel products, or roughly 16% of total U.S. steel production capacity. None of the companies with publicly available capacity figures objected to more than their total capacity. When factoring in that multiple companies often object to the same exclusion request, volume objected to as a percentage of total capacity was significantly lower. Exclusion requesters are encouraged to provide documentation in their requests or rebuttal filings that objectors are unable to supply the products being requested because of insufficient capacity.

*Comment (d)(3): Exclusion process guidelines are unclear about the obligations that come with filing an objection.* A commenter asked for clarification from Commerce about whether producers should be submitting objections if they have the capability to make a product, but not the immediate capacity, or if they can only produce a fraction of the requested volume for a specific manufacturer. For example, the commenter noted that aluminum producers have expressed a concern that filing an objection will obligate that producer to offer for sale the full scope and volume of imports included in a request—which, if importers are

requesting massive volumes, might be impossible.

*BIS response:* Commerce agrees this should be clarified in the regulations and makes changes to paragraph (c)(6)(i), as described below, to address this issue. Commerce has the ability to deny a part of an exclusion request when an objector demonstrates sufficiently in the objection and any potential surrebuttal that they are able to produce a portion of the requested quantity of a steel or aluminum article within the required time needed by the importer. Therefore, objectors should not be deterred from submitting objections when they may not be able to fulfill 100% of the requested exclusion. Over time, as more of their domestic capacity comes back online or is added, these same objectors may be able to fulfill larger percentages of the exclusion requests, which would help to better achieve the stated purposes of the duties in helping to support the domestic production capabilities and capacity that are critical to protecting U.S. national security. Commerce is reviewing this issue to determine whether there is an objective, transparent, and efficient approach to take into consideration volumes requested and objected to under the 232 exclusions process.

*Comment (d)(4): Modify the objection form (and the rebuttal and surrebuttal form) to clarify whether companies can object on the ostensible grounds that they have the capability to make a product.* A commenter requested guidance on how Commerce will consider objections from producers that have the capability to make a product but do not have immediately available capacity to meet the importer's stated needs.

*BIS response:* Commerce does not agree that the objection form, or the rebuttal or surrebuttal form need to be updated to address this commenter's concern. The information required on rebuttal and surrebuttal forms, as well as the objection criteria specified in paragraph (d), provides a clear standard that Commerce may apply. After reviewing an objection, rebutters may also inform the Commerce review process by evaluating and commenting on whether an objector will be able to provide the needed steel or aluminum article in the quantity and quality and to make that "immediately available" from an exclusion requester's perspective. As described below, this rule makes additional changes for what constitutes being "immediately available," and these changes will further clarify the application of this criteria to make sure that U.S. producers

are being held to the same standard as potential foreign competitors in meeting the time required for delivery of the steel or aluminum article for which they are requesting an exclusion.

*Comment (d)(5): Objecting parties should be required to fill orders.* A commenter noted that this would prevent the objection process from becoming a lever for business competition with domestic parties objecting to an exclusion request and then refusing to fill orders or only filling orders at inflated prices. This commenter also asked that companies that were denied an exclusion requested on the basis of an objection be permitted to show evidence of an inability to secure material and gain an exception if the objecting party cannot fill orders.

*BIS response:* Commerce understands the reasoning behind this comment but is also mindful that it is not the role of Commerce to dictate whether an objector must sell the steel or aluminum article, or whether the exclusion requester must purchase the steel or aluminum article from the objector. For example, as the commenter noted, the objector may be able to provide the steel or aluminum but at a price that is not tenable for the exclusion requester or at a price that does not justify the exclusion requester switching suppliers of the steel or aluminum article.

Commerce believes that these types of business decisions should be left to the two companies involved so as to not unduly influence the functioning of the market. As for the request to allow an exclusion requester to subsequently reference in a new exclusion request that an objector was not able to provide the steel or aluminum in a previous exclusion request, the current process already addresses that sufficiently. First, the exclusion requester may submit a new exclusion request. The earlier objector may choose not to object to the new exclusion request based on their past experience of not being able to provide the steel or aluminum article. Assuming no other objector comes forward, the exclusion request will be reviewed under the expedited process. If the same objector objects to the new exclusion request, the rebuttal process allows the exclusion requester to document in the rebuttal the past activity with that objector.

*Comment (d)(6): Objections should also be rejected for incompleteness.* If Commerce is rejecting requests based on incompleteness, we believe it should extend the same scrutiny to objections.

*BIS response:* Commerce agrees and does reject objections for incompleteness when warranted. BIS does review objections (and rebuttals/

surrebuttals) for completeness, but a rejection is rare for these filings in the 232 Exclusions Portal. The Portal has mandatory fields that ensure most filings are complete. However, there is a different standard of what is necessary for a complete submission of an exclusion request versus an objection. The former generally must meet more specific review criteria. At this time, objectors may list capacity, utilization, manufacturing, or delivery time data as CBI on the objection form. Commerce's International Trade Administration (ITA), on behalf of BIS and Commerce, will then request this information if needed.

*Comment (d)(7): Delivery times are getting much longer because of the tariffs and U.S. producers are approaching maximum capacity utilization rates.* A commenter noted that prior to the imposition of tariffs for non-specialty metals, many steel users reported roughly six-week to eight-week lead times. Since the steel tariffs took effect, those same members report the doubling of delivery times, creating significant delays and interruptions in the manufacturing supply chain that could lead Original Equipment Manufacturers (OEMs) to source their inputs from non-U.S. sources that experience less volatility due to government interference.

*BIS response:* To the extent there has been an increase in delivery times related to the tariffs, importers seeking exclusions can always import the article and pay the tariffs while their exclusion requests are pending. In addition, an objector must have the article "immediately available" in the needed quantity and quality. As referenced below in the clarifications being made to "immediately available," the previous criteria were holding U.S. producers in many cases to shorter delivery times than foreign competitors, a discrepancy that is being addressed in this rule. Commerce believes that the "immediately available" criterion, which is being refined in this rule, provides a reasonable standard that should not result in a lengthening of the time period for delivery of steel and aluminum articles for U.S. users.

*Comment (d)(8): Producers should be held accountable.* A commenter requested that Commerce hold organizations that file objections to the highest of standards. Commerce should require specificity before considering the objection and should question and verify the assertions made by the objectors or claims made in surrebuttals.

*BIS response:* Commerce agrees that all parties, both objectors and requesters, should be held to the

standards set forth in the regulations. Accordingly, parties making submissions to Commerce with regard to an exclusion request are required to legally certify the veracity of the submission. These standards are specified on the objection and surrebuttal forms, in the criteria specified in paragraphs (d) and (g), on the exclusion request and rebuttal forms, and in the criteria specified in paragraphs (c) and (f) of supplement no. 1 to part 705.

*Comment (d)(9): U.S. steel producers are approaching maximum capacity utilization rates.* A commenter noted that one objector reported its facility is currently operating at an 89% capacity utilization rate, well above the 80% target set by Commerce and at levels not seen since prior to the Great Recession. This commenter also noted that the American Iron and Steel Institute reported that for the week ending November 10, 2018, domestic raw steel production saw a capacity utilization rate of 81.7%, also above the 80% threshold.

*BIS response:* As stated in the 232 report, the 80 percent figure is an “average” rate for financial viability of the industry which is “necessary to sustain adequate profitability and continued capital investment, research, and development, and workforce enhancement in the steel sector.” The U.S. steel industry’s capacity utilization rates have not been sustained. That said, making changes to the duties being imposed and/or quotas implemented are outside the scope of this rule.

#### *Criteria Defining What Is Meant by Available “Immediately”*

*Comment (e)(1): September 11 rule defining what was meant by available “immediately” was a positive step that improved the 232 process.* A commenter noted that setting a clear definition of “available immediately” at eight weeks is a reasonable timeline and helps provide stability to steel and aluminum-using manufacturers.

*BIS response:* Commerce agrees that providing a definition of “immediately available” was a positive step in providing greater transparency and consistency for the 232 exclusion process. However, defining “immediately available” as eight weeks meant that, in certain cases, U.S. producers could be held to a shorter delivery time than foreign competitors and was more restrictive than the timeframe needed by the importer for their business needs. As described below, to address this fairness issue and to create equal treatment, this interim final rule revises the criteria for

available “immediately” and specifies that if an objector is asserting that it is not currently producing the steel or aluminum identified in an exclusion request but can produce the steel or aluminum, the objector must be able to make it available in accordance with the commercial needs of the U.S. user of the steel or aluminum, as described in the exclusion request. Under this revised criteria in paragraph (d)(4), the objector must identify how it will be able to produce and deliver the quantity of steel or aluminum needed either within eight weeks, or if after eight weeks, by a date which is earlier than the date that a named foreign supplier can deliver the entire quantity of the requested product. It is incumbent on both the exclusion requester and the objecting producers to provide supplemental evidence supporting their claimed delivery times.

*Comment (e)(2): Objections that do not clearly meet the “immediately” standard should be rejected.* A commenter noted that objections to exclusion requests available on the 232 Exclusions Portal reveal numerous vague assertions that clearly do not meet the available “immediately” threshold set forth by Commerce. This commenter recommends that Commerce reject these objections outright.

*BIS response:* Commerce holds objectors to the standard specified in the regulations under paragraph (d) and requires objectors to complete the objection form, and the surrebuttal form as applicable, fully and accurately. If an objector is not able to meet the available “immediately” criteria, Commerce will not deny such an exclusion request. Requesters can provide additional information on the rebuttal form. In reviewing the exclusion request to make a final determination, Commerce takes into account information provided in the rebuttal to evaluate whether the objector can produce the article in sufficient quantity and quality, and within the time specified in the criteria in paragraph (d) of supplement no. 1 to part 705.

*Comment (e)(3): Defining eight weeks as “immediate delivery” is unrealistic and it would be better to make the standard based on the nature of the product.* A commenter noted that it is unrealistic to require domestic producers to supply a requested product in the volume requested within eight weeks as a prerequisite to filing a valid objection and that this requirement appears to reflect a misunderstanding of how both the steel industry and international shipping work. This commenter also noted that in determining that eight weeks is the appropriate timeframe, Commerce

regrettably rejected a suggestion that the time frame should depend on the nature of the product—with simpler products subject to a shorter timeframe than more sophisticated products—and in any case, should be no shorter than 12 to 16 weeks.

*BIS response:* As described above, Commerce agrees that clarification is warranted for use of eight weeks under the available “immediately” criteria. The changes this rule makes will also be responsive to this commenter’s concerns.

*Comment (e)(4): Allowing foreign suppliers one year to supply the steel or aluminum for approved exclusions, but only allowing eight weeks for domestic suppliers creates an unfair playing field.* A commenter noted that granted exclusions are valid for one year and will presumably be supplied by foreign producers over the course of that year, not all at once. This commenter noted that requiring a U.S. producer to supply the consumer within eight weeks makes little sense and runs counter to the rationale underlying the adjustments to imports ordered by the President.

*BIS response:* Commerce agrees and is making changes in the rule for how “immediately” is defined to create equal treatment for U.S. and foreign producers.

*Comment (e)(5): “Immediately” should mean being able to provide the steel or aluminum as quickly as a foreign supplier.* A commenter noted that the minimum standard that Commerce should establish for objections is 12 weeks (84 days), which they consider a reasonable and representative time for a foreign producer to make a simple steel item and ship it to the United States. This commenter recommended that Commerce should only determine that the domestic product is not “immediately” available when a domestic source cannot provide material before offshore suppliers.

*BIS response:* Commerce has retained eight weeks as part of the available “immediately” criteria under paragraph (d)(4) but, as described elsewhere in this rule, is also making changes to the criteria that are responsive to this commenter’s concerns.

*Comment (e)(6): Need to specify the quantity that needs to be supplied within the “immediate delivery” timeframe.* A commenter noted that there is no indication in the current version of the regulations of the quantity that must be supplied within the “immediate delivery” timeframe. The commenter noted that the current regulations specify that if an objector is not currently producing the product at



issue, then “the objector must identify how it will be able to produce the article within eight weeks,” detailing in writing the timeline to start production. This commenter recommends clarifying whether this means the production must merely start, shipments of commercial quantities must begin, or the total quantity must be delivered within the specified time.

*BIS response:* Commerce agrees this should be clarified. As described below, this rule revises paragraph (d)(4) of supplement no. 1 to specify the objector must identify how it will be able to produce and deliver the quantity of steel or aluminum needed either within eight weeks, or if after eight weeks, by a date which is earlier than the date that a named foreign supplier can deliver the entire quantity of the requested product. The addition of the phrase “and deliver” after the term “produce” will address the concern raised by this commenter.

*Comment (e)(7): Production capacity for steel and aluminum producers must be considered during objection and rebuttal process.* As Commerce considers objections filed by steel and aluminum companies, Commerce must ask the steel and aluminum producers several probing questions to truly determine the capabilities of suppliers to meet the consuming industries’ needs and consider these answers surrounding domestic capacity when making exclusion decisions. The commenter noted that these questions should include at a minimum: “Do the steel or aluminum companies currently manufacture and supply the product in the United States? If so, have their deliveries to their customers been timely, and is so, for how long? What is the steel or aluminum companies’ current manufacturing capacity and timeframe for ramping up if they currently do not have the capacity?”

*BIS response:* Commerce believes the information required on the objection form, surrebuttal form as applicable, and the criteria in paragraph (d) to supplement no. 1 that is used by Commerce, is sufficiently informative to determine the production capabilities of objectors. This information is also supplemented by the evidence provided through rebuttals and surrebuttals, and through CBI submitted in support of rebuttals and surrebuttals. Commerce does not believe additional questions are required to be added to the objection or surrebuttal forms in order to make determinations on the production capabilities of objectors.

#### *Rebuttals and Surrebuttals*

*Comment (f)(1): Seven days is not enough time for rebuttals and surrebuttals.* A commenter does not agree that allowing only seven days for such comments is appropriate. This commenter noted that considering the volumes of new information being submitted in some rebuttals, one week is not enough time for a domestic producer to analyze the information and offer a meaningful surrebuttal.

*BIS response:* Commerce does not agree. The length of time for decisions under the 232 exclusions process is a concern for many entities, including Commerce. The inclusion of the rebuttal and surrebuttal comment periods helps to better inform the 232 exclusion process for Commerce, but Commerce is also mindful not to allow these additional comment periods to add any more time to the review process than is needed. Commerce believes that those parties involved in a 232 submission that receives an objection or a rebuttal should place a priority on reviewing the objection or rebuttal in a timely fashion, submitting any warranted rebuttal or surrebuttal. Commerce believes a one-week period is sufficient for the review of an objection or rebuttal, and allows for the party to conduct any needed follow up conversations and to prepare and submit a rebuttal or surrebuttal as applicable.

*Comment (f)(2): Allowing unlimited number of refilings of exclusions undermines the usefulness of objections, and the rebuttal/surrebuttal process.* A commenter questioned whether rebuttals and surrebuttals are a worthwhile use of resources if requesters remain free to submit unlimited numbers of exemption requests. This commenter noted that a requester could, in lieu of a rebuttal, file a revised request addressing whatever deficiencies were identified in the objection. This commenter noted that this would alleviate some of the unfairness of requiring domestic producers to respond to untold volumes of new information in just a few days and would aid Commerce’s analysis by promoting thoughtful and complete original application requests instead of reviews of hurried rebuttal and surrebuttal comments.

*BIS response:* As a general matter, Commerce believes that it is important to allow an unlimited number of exclusion requests to be submitted. As described above, the ability to submit a successive exclusion request is a key way that the 232 exclusion process addresses cases where an objection may have resulted in the denial of an

exclusion request, but then subsequently no objector was able to deliver the steel or aluminum in the quantity and quality needed “immediately.” Therefore, Commerce does not agree that a restriction should be added to restrict the number of exclusion requests that may be submitted.

*Comment (f)(3): Allowing unlimited refilings of exclusions allows for the potential to overwhelm potential objectors.* A commenter noted that if Commerce continues the rebuttal and surrebuttal process, it should consider limiting a party’s ability to file multiple exclusion requests for the same product. This commenter noted that the current system provides an incentive for entities seeking exclusions to submit them over and over again with only minor modifications in an attempt to overwhelm domestic producers so that domestic interests fail to file objections because there are simply too many requests or they believe an objection to have already been filed.

*BIS response:* As noted above, Commerce is reviewing the issue of the volume of articles subject to exclusion requests and objections and will address this issue in a subsequent IFR.

#### *232 Exclusions Portal*

Since the launch of the 232 Exclusions Portal, Commerce has implemented a number of enhancements that address some of the key comments received in response to the June 10 and May 26 rule. Commerce has highlighted the changes made to the 232 Exclusions Portal, which are responsive to these comments received in response to the June 10 rule, as well as some of the comments received on the May 26 notice. There are additional requested changes to the 232 Exclusions Portal in response to the June 10 rule and the May 26 notice that Commerce is still reviewing. Commerce will summarize and address those comments in at least one subsequent rule, although enhancements in the functionality of the 232 Exclusions Portal, similar to the enhancements described below, will likely be implemented on an ongoing basis as they are ready to be implemented.

*Comment (g)(1): Ability to import previously-filed submissions.* A commenter noted that allowing the ability to import previously-filed submissions would be extremely beneficial for exclusion requesters and objectors, reducing the time burdens on repeat users of the 232 Exclusions Portal. Another commenter noted that the nature of manual entry in the new 232 Exclusions Portal is likely to create

significant opportunity for errors and requires significantly more time and resource allocation than under the previous system. The ability to reuse information included in previously submitted 232 submission forms would be very beneficial. A commenter acknowledged that the user guide for the 232 Exclusions Portal provides information on creating a profile within web-browsers, but a simplified system for importing previously-filed submissions by users through their dashboard would be immensely beneficial for all users of the system.

*BIS response:* Commerce clarifies here that the AutoFill Feature of the 232 Exclusions Portal addresses these comments. The AutoFill Feature that launched with the 232 Exclusions Portal addresses several of the comments submitted in response to the June 10 rule. AutoFill enables users to effectively *import previous filings* by allowing them to fill out a filing once and then save that template for reuse in future filings. It also allows users to *save their in-progress filings* as templates. A native save/share feature is still under discussion.

*Comment (g)(2): Increasing the search functionality in the 232 Exclusions Portal.* Commerce received a number of comments requesting improvements to various aspects of the search functionality in the 232 Exclusions Portal. A commenter requested that product class should be a searchable field, and that product class should be added to the main portal screen with a filtering function. Another commenter noted that the search functionality needs to be improved by adding a simple “find all” type of search capability in the 232 Exclusions Portal. One commenter noted that the search functionality is not as good as it is in *www.regulations.gov*. Another commenter requested a change be made to allow the download of individual submissions and all data in the new portal. Specifically, this commenter noted that it is extremely important that all users can download both individual submissions (exclusion requests, objections, rebuttal, and surrebuttal filings) and the information found in the portal in its entirety, as can be done currently in *www.regulations.gov*. Another commenter noted that it is difficult to extract data for queried databases, particularly from the volume and origin fields. Another commenter requested allowing users to refresh the portal without resetting the filters.

*BIS response:* Commerce had addressed a number of these concerns with the 232 Exclusions Portal by improving the Public Data Extract

functionality of the portal. The Public Data Extract tool allows users to *download a filterable and searchable set of all filed data* in the 232 Exclusions Portal, effectively functioning as an *advanced search feature*. Commerce will continue to consider additional measures to improve the Public Data Extract tool.

*Comment (g)(3): Improving Dashboard functionality.* A commenter requested that the dashboard allow organizations to allow others in their organizations to view submissions made by others in the same organization.

*BIS response:* Commerce has made changes under the Dashboard Limit to address these types of requests for additional Dashboard functionality. Commerce expanded the Dashboard View in the 232 Exclusions Portal in 2020, improving dashboard functionality by allowing users to see all of their filings in one location on the front page of their Dashboard.

*Comment (g)(4): Allow extensions of time when 232 Exclusions Portal is not accessible.* A commenter expressed concern about technical issues with accessing the new 232 Exclusions Portal. This commenter requested that if documented information technology issues with the portal occur, Commerce should be able to extend the time for companies to file exclusion requests or objections.

*BIS response:* Commerce has taken steps to address technical extensions for timelines for 232 submission. Specifically, BIS works with users on a case-by-case basis to address any technical issues encountered and take necessary corrective action. Occasionally these corrective measures may include reopening filing windows during periods in which they were inaccessible.

### **Changes Made in This Interim Final Rule To Improve the 232 Exclusions Process**

#### *Simplification of the Text*

As described further below, this rule makes three changes to simplify the text for the 232 exclusions process by removing one of the supplements, and making conforming changes to add references to aluminum in the steel supplement; removing references to *www.regulations.gov*; and, as a conforming change, removing the Annex that provided steps for using *www.regulations.gov*.

When Commerce added supplements nos. 1 and 2 to part 705, the objective was to create two parallel supplements with one specific to the 232 exclusion process for steel under supplement no.

1, and a second one specific to the 232 exclusion process for aluminum under supplement no. 2. Commerce has reevaluated whether this parallel structure is needed because the vast majority of the text is identical between the two supplements and, when making updates to improve the regulatory provisions, it creates the potential for unintended differences between the two supplements and makes updating the two supplements more burdensome than necessary. For these reasons, in this rule Commerce is removing supplement no. 2 to part 705 and is making conforming changes to supplement no. 1 where information that is specific to aluminum needs to be added because of the removal of supplement no. 2.

This interim final rule updates and simplifies the text in supplement no. 1 by removing various references to *www.regulations.gov* and all text that was previously needed in supplement no. 1 to describe the previous process of using *www.regulations.gov* for submitting 232 submissions. At this time, there are no longer any more pending 232 exclusion requests in *www.regulations.gov*. Therefore, Commerce is removing those references to *www.regulations.gov* from supplement no. 1 in this rule, thus simplifying and shortening the text in supplement no. 1 considerably.

As an additional conforming change related to the removal of references to *www.regulations.gov*, this rule removes Annex 1 to Supplements No. 1 and 2 to Part 705—Steps for Using *Regulations.gov* to File Rebuttals and Surrebuttals. The additional guidance included in this Annex is no longer needed because *www.regulations.gov* is no longer being used for the 232 exclusions process. The 232 Exclusions Portal does not require guidance on the steps to be included in the regulations.

#### *Adding Reminder Regarding Consequences for False Statements or Representations*

This interim final rule adds a new Note 2 to Paragraph (b) to remind all parties submitting 232 submissions under supplement no. 1 to part 705 that it is a criminal offense to willfully make a false statement or representation to any department or agency of the United States Government as to any matter within its jurisdiction [18 U.S.C. 1001(2018)]. As a conforming change, this interim final rule redesignates the existing Note to Paragraph (b) as Note 1 to Paragraph (b).

### *Improving the Fairness and Efficiency of the Review Process*

In order to improve the efficiency of the review process, this interim final rule reduces the page limit for exclusion requests, objections to submitted exclusion requests, rebuttals, and surrebuttals. In paragraph (e), this rule removes the 25-page limit for exclusions and objections to submitted exclusions requests, and replaces that with a 5,000-word limit. In paragraph (f)(2), this rule removes the ten-page limit for rebuttals and replaces that with a 2,500-word limit. In paragraph (g)(2), this rule removes the ten-page limit for surrebuttals and replaces that with a 2,500-word limit.

### *232 Exclusion Request Volume Certification*

This interim final rule makes changes to ensure that the volume request in exclusion requests is consistent with the past use of steel or aluminum by an exclusion requester. This interim final rule revises paragraph (c)(5) (*Substance of exclusion requests*) by redesignating the existing text of paragraph (c)(5) as a new paragraph (c)(5)(i). This interim final rule adds a new paragraph (c)(5)(ii) (*Certification for volume requested*).

New paragraph (c)(5)(i) specifies that in order to ensure that the volume requested in an exclusion request is consistent with legitimate business needs for the same steel or aluminum articles obtained (*i.e.*, imported from abroad either directly by the requester or indirectly by purchasing from distributors) by the entity requesting an exclusion, a certification needs to be made in the 232 Exclusions Portal when completing the submission of a 232 exclusion request. The 232 Exclusions Portal will include the text specified in paragraphs (c)(5)(ii)(A)–(E), and this exclusion request certification for volume requested must be signed in the 232 Exclusions Portal by an organization official specifically authorized to certify the document as being accurate and complete to the best of his/her knowledge.

The person signing the certification under paragraph (c)(5)(ii)(A) must attest that the exclusion requester intends to manufacture, process, or otherwise transform the imported product for which they have filed an exclusion request, or has a purchase order or orders for such products.

Under paragraph (c)(5)(ii)(B), the exclusion requester must certify that they do not intend to use the requested exclusion, if granted, solely to hedge or arbitrage the price.

Under paragraph (c)(5)(ii)(C), the exclusion requester must certify that

they expect to consume, sell, or otherwise use the total volume of product across all their active exclusions and pending exclusion requests in the course of their organization's business activities within the next calendar year.

Under new paragraph (c)(5)(ii)(D), the exclusion requester is submitting an exclusion request for a product for which they previously received an exclusion, they must certify that they either imported the full amount of their approved exclusion(s) last year, or intended to import the full amount but could not due to one of the reasons specified in new paragraphs (c)(5)(ii)(D)(1)–(3). The criteria included in new paragraphs (c)(5)(ii)(D)(1)–(3) that must be attested to, if applicable, are intended to ensure that, if a requester did not import the full amount, there were legitimate business reasons justifying that outcome. These legitimate business reasons are loss of contract(s); business downturns; or other factors that were beyond the organization's control that directly resulted in less need for steel or aluminum articles.

Under new paragraph (c)(5)(ii)(E), the exclusion requester certifies that the exclusion amount requested this year is in line with what their organization expects to import based on their current business outlook. Lastly, paragraph (c)(5)(ii)(E) requires the exclusion requester to certify that, if contacted by Commerce, their organization will provide documentation that justifies the assertions in the certification regarding past imports of steel or aluminum articles and projections for the current year, as it relates to past and current calendar year exclusion requests.

This interim final rule adds a new Note 2 to paragraphs (c)(5)(i) and (ii) to make the public aware that an exclusion request that does not include a certification made in accordance with (c)(5)(i) and (ii) will be treated as an incomplete submission and will therefore be rejected.

### *Clarification of Eight Weeks and Available "Immediately"*

This rule makes changes to clarify when an objector would be required to be able to provide the steel or aluminum in the quantity and quality to which they were objecting on the basis that they could provide that steel or aluminum "immediately."

In the introductory text of paragraph (c)(6), this rule revises the criteria to clarify that an objector must be able to provide the steel or aluminum "by a date earlier than the time required for the requester to obtain the entire

quantity of the product from the requester's foreign supplier," instead of being strictly limited to producing it within eight weeks.

In paragraph (c)(6)(i), this rule retains the term "immediately," but clarifies that the aluminum or steel does not need to be produced within eight weeks in certain cases. This interim final rule clarifies that "immediately" now means produced and delivered within eight weeks or, if not possible, then produced and delivered within a time frame that is equal to or earlier than that needed by the requester as demonstrated by the time required to obtain the product from the requester's foreign supplier. This change is made to create a more equal playing field between U.S. objectors and foreign producers, and to ensure that U.S. producers are not given less time to be able to meet the steel or aluminum demand being requested in an exclusion request. For example, if a requester can obtain foreign-produced steel described in an exclusion request in 12 weeks, there is no reason to arbitrarily limit the U.S. producer to having to produce the steel within eight weeks. The change this interim final rule makes to the term "immediately" addresses this issue.

This interim final rule also revises paragraph (c)(6)(i) to address the scenario where an objector can produce and deliver a portion of the steel or aluminum that is being requested in the exclusion request. This new sentence clarifies that, consistent with current practice, Commerce may partially approve an exclusion request when an objector can produce and deliver a portion, which is less than 100 percent but 10 percent or more, of the amount of steel or aluminum being requested in the exclusion request. In such cases, Commerce may partially approve a requested exclusion for that percentage of imported steel or aluminum that the objector has demonstrated it can produce and deliver.

This interim final rule revises paragraph (d)(4) to clarify that, if an objector is not currently producing the steel or aluminum but can produce the aluminum or steel and make it available "immediately," the objector still has ground to object to the exclusion request. This rule defines the term "immediately" to mean that the objector must be able to produce and deliver the quantity of steel or aluminum needed either within eight weeks, or if after eight weeks, by a date earlier than the time required for the requester to obtain the entire quantity of the product from the requester's foreign supplier. It is incumbent upon both the exclusion requester and objecting producers to

provide supplemental evidence supporting their claimed delivery times.

#### *General Approved Exclusions (GAEs)*

This rule adds a new Supplement No. 2 to Part 705—General Approved Exclusions (GAEs) for Steel Articles Under the 232 Exclusions Process, and a new Supplement No. 3 to Part 705—General Approved Exclusions (GAEs) for Aluminum Articles under the 232 Exclusions Process. These two supplements identify the steel and aluminum articles that have been approved for import under a GAE. This rule adds 108 GAEs for steel articles under supplement no. 2 part 705 and 15 GAEs for aluminum articles under supplement no. 3 to part 705. Each GAE is identified under the GAE identifier column, *e.g.*, GAE.1.S: 7304592030 (for the first approved GAE for steel) or GAE.1.A: 7609000000 (for the first approved GAE for aluminum).

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, makes these determinations that certain aluminum and steel articles may be authorized under a GAE consistent with the objectives of the 232 exclusions process as outlined in supplement no. 1 to this part. The GAEs described in these supplements may be used by any importer. The two new supplements specify that, in order to use a GAE, the importer must reference the GAE identifier in the Automated Commercial Environment (ACE) system that corresponds to the steel or aluminum articles being imported. GAEs do not include quantity limits. The effective date for each GAE will be fifteen calendar days after the date of publication of a **Federal Register** notice either adding or revising a specific GAE identifier in supplement no. 1 to this part. There will be no retroactive relief for GAEs. This interim final rule also specifies that relief is only available to steel or aluminum articles that are entered for consumption, or withdrawn from warehouse for consumption, on or after the effective date of a GAE included in supplement no. 1 to this part. These GAEs are indefinite in length, but Commerce may at any time issue a **Federal Register** notice removing, revising, or adding to an existing GAE in this supplement as warranted to align with the objectives of the 232 exclusions process as described in supplement no. 1 to this part.

Commerce may periodically publish notices of inquiry in the **Federal Register** soliciting public comments on potential removals, revisions, or additions to this supplement.

#### *Other Changes and Clarifications to the 232 Exclusions Process*

In paragraph (b)(5)(iii), this interim final rule adds a new paragraph (b)(5)(iii)(A) and redesignates existing paragraphs (b)(5)(iii)(A)–(C) as paragraphs (B) to (D). New paragraph (b)(5)(iii)(A) clarifies the process for handling CBI related to exclusion requests or objections by directing exclusion requesters and objectors to check the appropriate box in the 232 Exclusions Portal to indicate that the filer has relevant CBI for consideration when applicable. This new paragraph also clarifies the existing practice that if Commerce determines after review that the CBI is needed, Commerce will directly request the CBI.

In paragraph (c)(2) (*Identification of exclusion requests*), this rule removes the word “distinct” in the phrase “distinct critical dimensions.” This change is being made to avoid any potential confusion on the scope of ranges that are permissible under an exclusion request. This change will make clear that, provided the range being requested in an exclusion request is within the minimum and maximum range that is specified in the HTSUS statistical reporting number and applicable notes for the provision, a single exclusion request may be requested for that steel or aluminum article. Objections that indicate the ability to produce one or more products within the range, even if not the entire range, will be considered to be valid objections to an exclusion request.

Also in paragraph (c)(2), this rule removes the Note to paragraph (c)(2) because it is no longer needed. The exclusions form on the 232 Exclusions Portal does not include that block for countries subject to a quantitative limitation, so the instructions in the Note to paragraph (c)(2) are no longer needed.

In paragraph (c)(6) (*Criteria used to review exclusion requests*) introductory text, this interim final rule adds one sentence at the end for clarification and to alert the public that items for which a broader determination has been made will be identified in supplements no. 2 or 3 to part 705.

In paragraph (d)(3) (*Time limit for submitting objections to submitted exclusions requests*), this interim final rule makes revisions to specify that the 30-day clock starts at 11:59 p.m. Eastern Time on the calendar day an exclusion

request is posted in the 232 Exclusions Portal.

In paragraph (h)(1)(i), this interim final rule adds the term “rejected” before the phrase “or denied” to clarify that exclusion requests that do not satisfy the requirements specified in paragraphs (b) and (c) of this supplement may be rejected or denied.

In paragraph (h)(2)(iv) (*Validity period for exclusion requests*), this interim final rule makes revisions to add the phrase “from the date of the signature on the decision memo” to clarify that exclusions will generally be approved for one year from the date of the signature on the decision memo.

#### **Types of Comments Commerce Is Requesting on This Rule**

Commerce is not seeking comments regarding the duties or quantitative limitations themselves or the exclusion and objection process overall. Rather, Commerce seeks comments on whether the specific changes included in this fourth interim final rule have addressed earlier concerns with the 232 exclusions process. Specifically, Commerce encourages comments on these 232 exclusions process changes and on which features are an improvement and comments highlighting any areas of concern or suggestions for improvement.

Commerce will continue to make improvements to the 232 exclusions process, including improvements based on comments received on this rule, and parties will be notified of any additional changes to the 232 exclusions process and of any new features to the 232 Exclusions Portal.

#### *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. Pursuant to Proclamations 9704 and 9705 of March 8, 2018, and Proclamations 9776 and 9777 of August 29, 2018, the establishment of procedures for an exclusions process under each Proclamation shall be published in the

**Federal Register** and are exempt from Executive Order 13771.

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.

This final regulation involves four collections currently approved by OMB with the following control numbers

- Exclusions from the Section 232 National Security Adjustments of Imports of Steel and Aluminum (control number 0694–0139).
- Objections from the Section 232 National Security Adjustments of Imports of Steel and Aluminum (control number 0694–0138).
- Procedures for Submitting Rebuttals and Surrebuttals Requests for Exclusions from and Objections to the Section 232 Adjustments for Steel and Aluminum (OMB control number 0694–0141).
- Procedures for Submitting Requests for Expedited Relief from Quantitative Limits—Existing Contract: Section 232 National Security Investigations of Steel Imports (OMB control number 0694–0140).

This rule is expected to reduce the burden hours for one of the collections associated with this rule, OMB control number 0694–0139. This reduction is expected because of the addition of 108 GAEs for steel and 15 GAEs for aluminum, which is expected to result in a decrease of 5,000 exclusion request per year. This is expected to be a reduction in 5,000 burden hours for a total savings of 740,000 dollars to the public. This is also expected to be a reduction in 30,000 burden hours for a total savings of 1,170,000 dollars to the U.S. Government. The steel and aluminum articles that have been identified as being eligible for GAEs have typically not received any objections, so the addition of these new GAEs is not estimated to result in a decrease in the number of objections, rebuttals, or surrebuttals received by BIS. This rule is not expected to increase the burden hours for two of the collections associated with this rule, OMB control numbers 0694–0138, 0694–0141 as minimal changes are anticipated. BIS is making a change to the collection for OMB control number 0694–0140 to account for certification that needs to be made in the 232 Exclusions Portal under paragraph

(c)(5)(ii). Any comments regarding the collection of information associated with this rule, including suggestions for reducing the burden, may be sent to <https://www.reginfo.gov/public/do/PRAMain>.

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 an effective process by which affected domestic parties can obtain exclusion requests “based upon specific national security considerations.” Commerce started this process with the publication of the March 19 rule and refined the process with the publication of the September 11 and June 10 rules and is continuing this process with the publication of today’s interim final rule. The revisions to the exclusion request process are informed by the comments received in response to the March 19 rule and Commerce’s experience with managing the 232 exclusions process. Commenters on the past rules (March 19, September 11 and June 10 rules) were generally supportive and welcomed the idea of creating an exclusion process, but most of the commenters believe the exclusion process, although improving over time, still could be significantly improved in order for it to achieve the intended purpose. The commenters identified a number of areas where transparency, effectiveness, and fairness of the process could be improved. Commerce understands the importance of having a transparent, fair, and efficient product exclusion request process, consistent with the directive provided by the President to create this type of process to mitigate any unintended consequences of imposing the tariffs on steel and aluminum in order to protect critical U.S. national security interests. The publication of today’s rule should make further improvements in all three

respects, but because of the scope of this new process, BIS is publishing today’s rule as an interim final rule with a request for comments.

In addition, Commerce 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 that there is good cause 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 that 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. The Presidential Proclamations further directed the Secretary to, within ten days, issue procedures for submitting and granting these requests for exclusions—this interim final rule fulfills that direction. As described above, the Secretary complied with the direction from the President with the publication of the March 19 rule, as well as in the improvements made in the September 11 and June 10 rules, and is taking the next step in improving the 232 exclusions process by making needed changes with the publication of today’s rule. The immediate implementation of an effective exclusion request process, consistent with the intent of the Presidential Proclamations, also required creating a process to allow any individual or organization in the United States to submit objections to submitted exclusion requests. The objection process was created with the publication of the March 19 rule, and the rebuttal and surrebuttal process was added in the publication of the September 11 rule to further improve the 232 exclusions process. The publication of today’s rule makes needed changes in the 232 exclusions process to create the type of fair, transparent, and efficient process that

was intended in the March 19, September 11 and June 10 rules, but was still found lacking by commenters in several key respects. Today's rule makes critical changes to ensure a fair, transparent, and efficient exclusion process.

If this interim final rule were to be delayed to allow for public comment or to provide for a thirty day delay in the date of effectiveness, companies in the United States would be unable to immediately benefit from the improvements made in the exclusion, objection, rebuttal, and surrebuttal process and could face significant economic hardship, which could potentially create a detrimental effect on the general U.S. economy. Whether they were supportive of tariffs or against tariffs, the comments received on the March 19, September 11 and June 10 rules were clear that an efficient exclusion request, objection, rebuttal, and surrebuttal process was needed, that the March 19 rule had not sufficiently created such a process, and that, although substantial improvements were made with the publications of the September 11 and June 10 rules, additional improvements were needed. Commenters noted that, if specific improvements are not made, significant economic consequences could occur. Commenters also thought the inefficiencies of the process could undermine other critical U.S. national security interests. Likewise, our national security could be impacted if Commerce lacked adequate information to make a fair, transparent and efficient determination for all parties involved and to ensure the critical national security considerations are being protected.

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.

#### *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 of 15 CFR chapter VII is amended as follows:

### **PART 705—EFFECT OF IMPORTED ARTICLES ON THE NATIONAL SECURITY**

- 1. The authority citation for part 705 continues 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. Supplement No. 1 to part 705 is revised to read as follows:

#### **Supplement No. 1 to Part 705—Requirements for Submissions Requesting Exclusions From the Adjustment of Imports of Aluminum and Steel Imposed Pursuant to Section 232 of the Trade Expansion Act of 1962, as Amended**

On March 8, 2018, the President issued Proclamations 9704 and 9705 concurring with the findings of the January 11, 2018 reports of the Secretary of Commerce on the effects of imports of aluminum and steel mill articles (steel articles) on the national security and determining that adjusting aluminum and steel imports through the imposition of duties is necessary so that their imports will no longer threaten to impair the national security. Clause 3 of Proclamations 9704 and 9705 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 at the request of directly affected parties located in the United States if the requested steel or aluminum article is 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. On August 29, 2018, the President issued Proclamation 9776. Clause 1 of Proclamation 9776, authorizes the Secretary of Commerce, in consultation with the Secretary of State, the Secretary of the Treasury, the Secretary of Defense, the United States Trade Representative, the Assistant to the President for National Security Affairs, the Assistant to the President for Economic Policy, and such other senior Executive Branch officials as the Secretary deems appropriate, to provide relief from the applicable quantitative limitations set forth in Proclamation 9740 and Proclamation 9759 for steel articles and as set forth in Proclamation

9739 and 9758 for aluminum articles and their accompanying annexes, as amended, at the request of a directly affected party located in the United States for any steel or aluminum article determined by the Secretary to not be produced in the United States in a sufficient and reasonably available amount or of a satisfactory quality. The Secretary is also authorized to provide such relief based upon specific national security considerations.

(a) *Scope.* This supplement specifies the requirements and process for how directly affected parties located in the United States may submit requests for exclusions from the duties and quantitative limitations imposed 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 for relief from the duties or quantitative limitations imposed by the President and the process for rebuttals to submitted objections and surrebuttals (collectively, “232 submissions”). This supplement identifies the time periods for such submissions, the methods of submission, and the information that must be included in such submissions.

(b) *Required forms.* The 232 Exclusions Portal (<https://www.commerce.gov/page/section-232-investigations>) includes four web-based forms that are to be used for submitting exclusion requests, objections to exclusion requests, rebuttals, and surrebuttals described in this supplement. On the 232 Exclusions Portal, each web-based form is available on the portal at the bottom of the preceding filing. For example, a party submitting an objection will access the objection form by scrolling to the bottom of the exclusion request, a rebuttal filer will access the rebuttal form by scrolling to the bottom of the objection form, and a surrebuttal filer would access the surrebuttal form by scrolling to the bottom of the rebuttal form. The U.S. Department of Commerce requires requesters and objectors to use the appropriate form as specified under paragraphs (b)(1) and (2) of this supplement for submitting exclusion requests and objections to submitted exclusion requests and the forms specified under paragraphs (b)(3) and (4) of this supplement for submitting rebuttals and surrebuttals. In addition, submitters of exclusion requests, objections to submitted exclusion requests, rebuttals, and surrebuttals to the 232 Exclusions Portal will be required to complete a web-based registration on the 232 Exclusions Portal prior to submitting any

documents. In order to register, submitters will be required to provide an email and establish a password for the account. After completing the registration, submitters will be able to login to an account on the 232 Exclusions Portal and submit exclusion requests, objections, rebuttals, and surrebuttal documents.

(1) *Form required for submitting exclusion requests.* The full name of the form used for submitting steel exclusion requests is *Request for Exclusion from Remedies: Section 232 National Security Investigation of Steel Imports*. The full name of the form used for submitting aluminum exclusion requests is *Request for Exclusion from Remedies: Section 232 National Security Investigation of Aluminum Imports*. The Title of the web-based fillable form for both steel and aluminum in the 232 Exclusions Portal is *Exclusion Request*.

(2) *Form required for submitting objections to submitted exclusion requests.* The name of the form used for submitting objections to submitted steel exclusion requests is *Objection Filing to Posted Section 232 Exclusion Request: Steel*. The name of the form used for submitting objections to submitted aluminum exclusion requests is *Objection Filing to Posted Section 232 Exclusion Request: Aluminum*. The Title of the web-based fillable form for both steel and aluminum in the 232 Exclusions Portal is *Objection*.

(3) *Form required for submitting rebuttals.* The name of the form used for submitting rebuttals to steel objections is *Rebuttal to Objection Received for Section 232 Exclusion Request: Steel*. The name of the form used for submitting rebuttals to aluminum objections is *Rebuttal to Objection Received for Section 232 Exclusion Request: Aluminum*. The Title of the web-based fillable form for both steel and aluminum in the 232 Exclusions Portal is *Rebuttal*.

(4) *Form required for submitting surrebuttals.* The name of the form used for submitting surrebuttals to steel objections is *Surrebuttal to Rebuttal Received on Section 232 Objection: Steel*. The name of the form used for submitting surrebuttals to aluminum objections is *Surrebuttal to Rebuttal Received on Section 232 Objection: Aluminum*. The Title of the web-based fillable form for both steel and aluminum in the 232 Exclusions Portal is *Surrebuttal*.

**Note to Paragraphs (b)(1) Through (4):** On the 232 Exclusions Portal, each exclusion request is assigned a distinct ID #, which is also used with its associated 232 submissions, but preceded with an acronym

indicating the file type: Exclusion Requests (ER ID #), Objection (OF ID #), Rebuttals (RB ID #) and Surrebuttals (SR ID #). For an example of the four possible types of 232 submissions associated with a single exclusion request, you could have ER ID 237, OF ID 237, RB ID 237 and SR ID 237. The 232 Exclusions Portal will automatically assign the two letter designator depending on the type of web-based form being submitted in the portal and will assign an ID number to the original exclusion request and that ID number will be common to any objection, rebuttal, or surrebuttal submitted pertaining to the same exclusion request.

(5) *Public disclosure and information protected from public disclosure.* (i) Information submitted in 232 submissions will be subject to public review and made available for public inspection and copying, except for the information described in paragraph (b)(5)(iii) of this supplement. Individuals and organizations must fully complete the relevant forms.

(ii) *Information not subject to public disclosure should not be submitted.* 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 232 submissions. Individuals and organizations that have confidential business information (“CBI”) that they believe relevant to the Secretary’s consideration of the 232 submission should so indicate in the appropriate field of the relevant form, or on the rebuttal or surrebuttal submission, following the procedures in paragraph (b)(5)(iii) of this supplement.

(iii) *Procedures for identifying, but not disclosing confidential or proprietary business information (CBI) in the public version, and procedures for submitting CBI.* For persons seeking to submit confidential or proprietary business information (CBI), the 232 submission available to the public must contain a summary of the CBI in sufficient detail to permit a reasonable understanding of the substance of the information. If the submitting person claims that summarization is not possible, the claim must be accompanied by a full explanation of the reasons supporting that claim. Generally, numerical data will be considered adequately summarized if grouped or presented in terms of indices or figures within ten percent of the actual figure. If an

individual portion of the numerical data is voluminous (e.g., five pages of numerical data), at least one percent of the numerical data, representative of that portion, must be summarized. In order to submit CBI that is not for public release as a separate email submission to the U.S. Department of Commerce, you must follow the procedures in paragraphs (b)(3)(iii)(A)–(D) of this supplement to assist the U.S. Department of Commerce in identifying these submissions and associating these submissions with the respective 232 submission in the 232 Exclusions Portal. Submitters with classified information should contact the U.S. Department of Commerce for instructions on the appropriate methods to send this type of information.

(A) For CBI related to exclusion requests or objections, check the appropriate box in the 232 Exclusions Portal indicating that the filer has relevant CBI for consideration. If Commerce determines after review that the CBI is needed, Commerce will directly request the CBI from the exclusion requester or objector as warranted.

(B) For CBI related to rebuttals or surrebuttals, on the same day that you submit your 232 submission in the 232 Exclusions Portal, submit the CBI via email to the U.S. Department of Commerce. The email address used is different depending on the type of submission the emailed CBI is for, as follows: CBI for rebuttals use [232rebuttals@doc.gov](mailto:232rebuttals@doc.gov); and CBI for surrebuttals use [232surrebuttals@doc.gov](mailto:232surrebuttals@doc.gov).

(C) For rebuttals and surrebuttals pertaining to 232 submissions for exclusion requests the email subject line must only include the original 232 Exclusions Portal Exclusion Request (ER) ID # and the body of the email must include the 232 Exclusions Portal Rebuttal (RB) ID #, or Surrebuttal (SR) ID # you received from the 232 Exclusions Portal when you successfully submitted your rebuttal or surrebuttal. These naming conventions used in the 232 Exclusions Portal, respectively, will assist the U.S. Department of Commerce to associate the CBI that will not be posted in the 232 Exclusions Portal with the information included in the public submission.

(D) Submit the CBI as an attachment to that email. The CBI is limited to a maximum of five pages per rebuttal or surrebuttal. The email is to be limited to sending your CBI. All other information for the public submission, and public versions of the CBI, where appropriate, for a 232 submission in the 232

Exclusions Portal following the procedures identified in this supplement, as appropriate.

**Note 1 to Paragraph (b) for Submissions of Supporting Documents (Attachments):**

Supporting attachments must be emailed as PDF documents.

**Note 2 to Paragraph (b):** It is a criminal offense to willfully make a false statement or representation to any department or agency of the United States Government as to any matter within its jurisdiction [18 U.S.C. 1001(2018)].

(c) *Exclusion requests.* (1) *Who may submit an exclusion request?* Only directly affected individuals or organizations located in the United States may submit an exclusion request. An individual or organization is “directly affected” if they are using steel in business activities (e.g., construction, manufacturing, or supplying steel product to users) in the United States.

(2) *Identification of exclusion requests.* Separate exclusion requests must be submitted for steel products with chemistry by percentage breakdown by weight, metallurgical properties, surface quality (e.g., galvanized, coated), and critical dimensions covered by a common HTSUS statistical reporting number. Separate exclusion requests must be submitted for aluminum products with critical dimensions covered by a common HTSUS statistical reporting number. The exclusion request forms allow for minimum and maximum dimensions. A permissible range must be within the minimum and maximum range that is specified in the HTSUS statistical reporting number and applicable notes. Separate exclusion requests must also be submitted for products falling in more than one ten-digit HTSUS statistical reporting number. The U.S. Department of Commerce 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 directly-affected individuals or organizations located in the United States 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 request under this supplement. These additional exclusion requests by other directly-affected individuals or organizations in the United States are not required to reference the previously approved exclusion but are advised to do so, if

they want Commerce to take that exclusion into account when reviewing a subsequent exclusion request. Directly affected 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 submitted directly on the 232 Exclusions Portal (<https://www.commerce.gov/page/section-232-investigations>).

(4) *No time limit for submitting exclusion requests.* Exclusion requests may be submitted at any time.

(5)(i) *Substance of exclusion requests.* An exclusion request must specify the business activities in the United States within which the requester is engaged that qualify the individual or organization to be directly affected and thus eligible 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, reasonably available amount, and of a satisfactory quality, or for specific national security considerations.

(ii) *Certification for volume requested.* In order to ensure that the volume requested in an exclusion request is consistent with legitimate business needs for the same steel or aluminum articles obtained (i.e., imported from abroad either directly by the requester or indirectly by purchasing from distributors) by the entity requesting an exclusion, the following certification in paragraphs (c)(5)(ii)(A)–(E) must be acknowledged in the 232 Exclusions Portal when completing the submission of a 232 exclusion request. The exclusion request certification for volume requested must be signed by an organization official specifically authorized to certify the document (the certification being made in the 232 Exclusions Portal) as being accurate and complete. The undersigned certifies in the 232 Exclusions Portal that the information herein supplied in response to this paragraph is complete and correct to the best of his/her knowledge. By signing the certification below, I attest that:

(A) My organization intends to manufacture, process, or otherwise transform the imported product for which I have filed an exclusion request or I have a purchase order or orders for such products;

(B) My organization does not intend to use the exclusion for which I have filed an exclusion request, if granted, solely to hedge or arbitrage the price;

(C) My organization expects to consume, sell, or otherwise use the total volume of product across all my active exclusions and pending exclusion requests in the course of my organization’s business activities within the next calendar year;

(D) If my organization is submitting an exclusion request for a product for which we previously received an exclusion, I certify that my organization either imported the full amount of our approved exclusion(s) last year or intended to import the full amount but could not due to one of the following reasons:

(1) Loss of contract(s);

(2) Unanticipated business downturns; or

(3) Other factors that were beyond my organization’s control that directly resulted in less need for steel or aluminum articles; and

(E) I certify that the exclusion amount requested this year is in line with what my organization expects to import based on our current business outlook. If requested by the Department of Commerce, my organization shall provide documentation that justifies its assertions in this certification regarding its past imports of steel or aluminum articles and its projections for the current year, as it relates to past and current calendar year exclusion requests.

**Note to Paragraphs (c)(5)(i) and (ii):** Any exclusion request that does not include a certification made in accordance with (c)(5)(ii) will be treated as an incomplete submission and will therefore be rejected.

(6) *Criteria used to review exclusion requests.* The U.S. Department of Commerce will review each exclusion request to determine whether an article described in an exclusion request meets any of the following three criteria: The article is not produced in the United States in an amount which can be delivered in a time period equal to or less than the time needed for the requester to obtain the product from their foreign supplier, is not produced in the United States in a satisfactory quality, or for specific national security considerations. The reviews will be made on a case-by-case basis to determine whether the requester has shown that the article is not produced in the United States in sufficient and reasonably available amount or of a satisfactory quality, or that there are specific national security considerations to grant the exclusion. To provide



additional context on the meaning and application of the criteria, paragraphs (c)(6)(i)–(iii) of this supplement define key terms used in the review criteria and provide illustrative application examples. The U.S. Department of Commerce will use the same criteria identified in paragraphs (c)(6)(i)–(iii) of this supplement when determining whether it is warranted to approve broader product-based exclusions based on trends the Department may see over time with 232 submissions. The public is not permitted to request broader product-based exclusions that would apply to all importers, because the Department makes these determinations over time by evaluating the macro trends in 232 submissions. Items for which a broader determination has been made will be identified in supplements no. 2 or 3 to part 705.

(i) *Not produced in the United States in a sufficient and reasonably available amount.* The exclusion review criterion “Not produced in the United States in a sufficient and reasonably available amount” means that the amount that is needed by the end user requesting the exclusion is not available immediately in the United States to meet its specified business activities. Available “immediately” means that a product (whether it is currently being produced in the United States, or could be produced in the United States) can be delivered by a U.S. producer “within eight weeks”, or, if that is not possible, by a date earlier than the time required for the requester to obtain the entire quantity of the product from the requester’s foreign supplier. Furthermore, to the extent that an objector can produce and deliver a portion, which is less than 100 percent, but ten percent or more, of the amount of steel or aluminum needed in the business activities of the user in the United States described in the exclusion request, the Department of Commerce may deny a requested exclusion for that percentage of imported steel or aluminum. It is incumbent upon both the exclusion requester, and objecting producers, to provide supplemental evidence supporting their claimed delivery times.

(ii) *Not produced in the United States in a satisfactory quality.* The exclusion review criterion “not produced in the United States in a satisfactory quality” does not mean the steel or aluminum needs to be identical, but it does need to be equivalent as a substitute product. “Substitute product” for purposes of this review criterion means that the steel or aluminum being produced by an objector can meet “immediately” (see paragraph (c)(6)(i) of this supplement)

the quality (e.g., industry specs or internal company quality controls or standards), regulatory, or testing standards, in order for the U.S.-produced steel to be used in that business activity in the United States by that end user.

(A) *Steel application examples.* For a steel example, if a U.S. business activity requires that steel plates to be provided must meet certain military testing and military specification standards in order to be used in military combat vehicles, that requirement would be taken into account when reviewing the exclusion request and any objections, rebuttals, and surrebuttals submitted. As another steel example, if a U.S. business activity requires that steel tubing to be provided must meet certain Food and Drug Administration (FDA) approvals to be used in medical devices, that requirement would be taken into account when reviewing the exclusion request and any objections, rebuttals, and surrebuttals submitted. Another steel example would be a food manufacturer that requires tin-plate approval from the U.S. Department of Agriculture (USDA) to make any changes in the tin-plate it uses to make cans for fruit juices. An objector would not have to make steel for use in making the cans that was identical, but it would have to be a “substitute product,” meaning it could meet the USDA certification standards.

(B) *Aluminum application examples.* For an aluminum example, if a U.S. business activity requires that aluminum to be provided must meet certain military testing and military specification standards in order to be used in military aircraft, that requirement would be taken into account when reviewing the exclusion request and any objections, rebuttals, and surrebuttals submitted. Another aluminum example would be a U.S. pharmaceutical manufacturer that requires approval from the Food and Drug Administration (FDA) to make any changes in its aluminum product pill bottle covers. An objector would not have to make aluminum for use in making the product covers that was identical, but it would have to be a “substitute product,” meaning it could meet the FDA certification standards.

(iii) *For specific national security considerations.* The exclusion review criterion “or for specific national security considerations” is intended to allow the U.S. Department of Commerce, in consultation with other parts of the U.S. Government as warranted, to make determinations whether a particular exclusion request

should be approved based on specific national security considerations.

(A) *Steel application examples.* For example, if the steel included in an exclusion request is needed by a U.S. defense contractor for making critical items for use in a military weapons platform for the U.S. Department of Defense, and the duty or quantitative limitation will prevent the military weapons platform from being produced, the exclusion will likely be granted. The U.S. Department of Commerce, in consultation with the other parts of the U.S. Government as warranted, can consider other impacts to U.S. national security that may result from not approving an exclusion, e.g., the unintended impacts that may occur in other downstream industries using steel, but in such cases the demonstrated concern with U.S. national security would need to be tangible and clearly explained and ultimately determined by the U.S. Government.

(B) *Aluminum application examples.* For example, if the aluminum included in an exclusion request is needed by a U.S. defense contractor for making critical items for use in a military weapons platform for the U.S. Department of Defense, and the duty or quantitative limitation will prevent the military weapons platform from being produced, the exclusion will likely be granted. The U.S. Department of Commerce, in consultation with the other parts of the U.S. Government as warranted, can consider other impacts to U.S. national security that may result from not approving an exclusion, e.g., the unintended impacts that may occur in other downstream industries using aluminum, but in such cases the demonstrated concern with U.S. national security would need to be tangible and clearly explained and ultimately determined by the U.S. Government.

(d) *Objections to submitted exclusion requests.* (1) *Who may submit an objection to a submitted exclusion request?* Any individual or organization that manufactures steel or aluminum articles in the United States may file objections to steel exclusion requests, but the U.S. Department of Commerce 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 the objection in response to the request directly in the 232 Exclusions Portal. Once the relevant exclusion request has

been located, an individual or organization that would like to submit an objection will access the objection form by scrolling to the bottom of the exclusion request form and then fill out the web-based form for submitting their objection to the exclusion request in the 232 Exclusions Portal (<https://www.commerce.gov/page/section-232-investigations>).

(3) *Time limit for submitting objections to submitted exclusions requests.* All objections to submitted exclusion requests must be submitted directly on the 232 Exclusions Portal (<https://www.commerce.gov/page/section-232-investigations>) no later than 30 days after the related exclusion request is posted, with the 30-day clock starting at 11:59 p.m. Eastern Time on the calendar day an 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. If the objector is asserting that it is not currently producing the steel or aluminum identified in an exclusion request but can produce the steel or aluminum and make that steel or aluminum available “immediately” in accordance with the time required for the user of steel or aluminum in the United States to obtain the product from its foreign suppliers, the objector must identify how it will be able to produce and deliver the quantity of steel or aluminum needed either within eight weeks, or if after eight weeks, by a date which is earlier than the named foreign supplier would deliver the entire quantity of the requested product. It is incumbent on both the exclusion requester, and objecting producers, to provide supplemental evidence supporting their claimed delivery times. This requirement includes specifying in writing to Department of Commerce as part of the objection, the timeline the objector anticipates in order to start or restart production of the steel included in the exclusion request to which it is objecting. For example, a summary timeline that specifies the steps that will occur over the weeks needed to produce that steel or aluminum would be helpful to include, not only for the Department of Commerce review of the objection, but also for the requester of the exclusion and its determination whether to file a rebuttal to the objection. The U.S. Department of Commerce understands that, in certain cases, regulatory approvals, such as from the

Environmental Protection Agency (EPA) or some approvals at the state or local level, may be required to start or restart production and that some of these types of approvals may be outside the control of an objector.

(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 5,000 words, inclusive of all exhibits and attachments, but exclusive of the respective forms and any CBI provided to the U.S. Department of Commerce. Each attachment to a submission must be less than 10 MB.

(f) *Rebuttal process.* Only individuals or organizations that have submitted an exclusion request pursuant to this supplement may submit a rebuttal to any objection(s) posted in the 232 Exclusions Portal (<https://www.commerce.gov/page/section-232-investigations>). The objections to submitted exclusion requests process identified under paragraph (d) of this supplement already establish a formal response process for steel and aluminum manufacturers in the United States.

(1) *Identification of rebuttals.* When submitting a rebuttal, the individual or organization that submitted the exclusion request will access the rebuttal form by scrolling to the bottom of the objection form and then filling out the web-based form for submitting their rebuttal to the objection in the 232 Exclusions Portal (<https://www.commerce.gov/page/section-232-investigations>).

(2) *Format and size limitations for rebuttals.* Similar to the exclusions process identified under paragraph (c) of this supplement and the objection process identified under paragraph (d) of this supplement, the rebuttal process requires the submission of a government form as specified in paragraph (b)(3) of this supplement. Each rebuttal is to be limited to a maximum of 2,500 words, inclusive of all exhibits and attachments, but exclusive of the rebuttal form and any CBI provided to the U.S. Department of Commerce. Each attachment to a submission must be less than 10 MB.

(3) *Substance of rebuttals.* Rebuttals must address an objection to the exclusion request made by the requester. If multiple objections were received on a particular exclusion, the requester may submit a rebuttal to each objector. The most effective rebuttals will be those that aim to correct factual errors or misunderstandings in the objection(s).

(4) *Time limit for submitting rebuttals.* The rebuttal period begins on the date the Department opens the rebuttal period after the posting of the last objection in the 232 Exclusions Portal. The rebuttal period ends seven days after the rebuttal comment period is opened. This seven-day rebuttal period allows for the individual or organization that submitted an exclusion request pursuant to this supplement to submit any written rebuttals that it believes are warranted.

(g) *Surrebuttal process.* Only individuals or organizations that have a posted objection to a submitted exclusion request pursuant to this supplement may submit a surrebuttal to a rebuttal (*see* paragraph (f) of this supplement) posted to their objection to an exclusion request in the 232 Exclusions Portal (<https://www.commerce.gov/page/section-232-investigations>).

(1) *Identification of surrebuttals.* When submitting a surrebuttal, the individual or organization that submitted the objection will access the surrebuttal form by scrolling to the bottom of the rebuttal form and then filling out the web-based form for submitting their surrebuttal to the rebuttal in the 232 Exclusions Portal (<https://www.commerce.gov/page/section-232-investigations>).

(2) *Format and size limitations for surrebuttals.* Similar to the exclusions process identified under paragraph (c) of this supplement, the objection process identified under paragraph (d) of this supplement, and the rebuttal process identified under paragraph (f) of this supplement, the surrebuttal process requires the submission of a government form as specified in paragraph (b)(4) of this supplement. The surrebuttal must be submitted in the 232 Exclusions Portal. Each surrebuttal is to be limited to a maximum of 2,500 words, inclusive of all exhibits and attachments, but exclusive of the surrebuttal form and any CBI provided to the U.S. Department of Commerce. Each attachment to a submission must be less than 10 MB.

(3) *Substance of surrebuttals.* Surrebuttals must address a rebuttal to an objection to the exclusion request made by the requester. The most effective surrebuttals will be those that aim to correct factual errors or misunderstandings in the rebuttal to an objection.

(4) *Time limit for submitting surrebuttals.* The surrebuttal period begins on the date the Department opens the surrebuttal comment period after the posting of the last rebuttal to an objection to an exclusion request in

the 232 Exclusions Portal. The surrebuttal period ends seven days after the surrebuttal comment period is opened. This seven-day surrebuttal period allows for the individual or organization that submitted an objection to a submitted exclusion request pursuant to this supplement to submit any written surrebuttals that it believes are warranted to respond to a rebuttal.

(h) *Disposition of 232 submissions—*

(1) *Disposition of incomplete*

*submissions.* (i) Exclusion requests that do not satisfy the requirements specified in paragraphs (b) and (c) of this supplement will be rejected.

(ii) Objection filings that do not satisfy the requirements specified in paragraphs (b) and (d) will not be considered.

(iii) Rebuttal filings that do not satisfy the requirements specified in paragraphs (b) and (f) will not be considered.

(iv) Surrebuttal filings that do not satisfy the requirements specified in paragraphs (b) and (g) will not be considered.

(2) *Disposition of complete*

*submissions—*(i) *Posting of responses in the 232 Exclusions Portal.* The U.S. Department of Commerce will post responses (decision memos) in the 232 Exclusions Portal to each exclusion request. The U.S. Department of Commerce response to an exclusion request will also be responsive to any of the objection(s), rebuttal(s) and surrebuttal(s) for that submitted exclusion request submitted through the 232 Exclusions Portal.

(ii) *Streamlined review process for “No Objection” requests.* The U.S. Department of Commerce will grant properly filed exclusion requests which meet the requisite criteria, receive no objections, and present no national security concerns. If an exclusion request’s 30-day comment period in the 232 Exclusions Portal has expired and no objections have been submitted, BIS will immediately assess the request for any national security concerns. If BIS identifies no national security concerns, it will post a decision granting the exclusion request in the 232 Exclusions Portal.

(iii) *Effective date for approved exclusions and date used for calculating duty refunds—*(A) *Effective date for approved exclusions.* Approved exclusions will be effective five business days after publication of the U.S. Department of Commerce response granting an exclusion in the 232 Exclusions Portal. 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. Companies are able to receive retroactive relief on granted requests dating back to the date of the request’s submission on unliquidated entries.

(B) *Contact for obtaining duty refunds.* The U.S. Department of Commerce does not provide refunds on tariffs. Any questions on the refund of duties should be directed to CBP.

(iv) *Validity period for exclusion requests.* Exclusions will generally be approved for one year from the date of the signature on the decision memo, but may be valid for shorter or longer than one year depending on the specifics of the exclusion request; any objections filed; and analysis by the U.S. Department of Commerce and other parts of the U.S. Government, as warranted, of the current supply and demand in the United States, including any limitations or other factors that the Department determines should be considered in order to achieve the national security objectives of the duties and quantitative limitations.

(A) *Examples of what fact patterns may warrant a longer exclusion validity period.* Individuals or organizations submitting exclusion requests or objections may, and are encouraged to specify how long they believe an exclusion may be warranted and specify the rationale for that recommended time period. For example, an individual or organization submitting an exclusion request may request a longer validity period if there are factors outside of their control that may make it warranted to grant a longer period. These factors may include regulatory requirements that make a longer validity period justified, *e.g.*, for an aircraft manufacturer that would require a certain number of years to make a change to an FAA-approved type certificate or for a manufacturer of medical items to obtain FDA approval. Business considerations, such as the need for a multi-year contract for steel with strict delivery schedules in order to complete a significant U.S. project by an established deadline, *e.g.*, a large scale oil and gas exploration project, is another illustrative example of the types of considerations that a person submitting an exclusion request may reference.

(B) *Examples of what criteria may warrant a shorter exclusion validity period.* Objectors are encouraged to provide their suggestions for how long they believe an appropriate validity period should be for an exclusion request. In certain cases, this may be an objector indicating it has committed to

adding new capacity that will be coming online within six months, so a shorter six-month period is warranted.

Conversely, if an objector knows it will take two years to obtain appropriate regulatory approvals, financing and/or completing construction to add new capacity, the objector may, in responding to an exclusion that requests a longer validity period, *e.g.*, three years, indicate that although they agree a longer validity period than one year may be warranted in this case, that two years is sufficient.

(C) None of the illustrative fact patterns identified in paragraphs (h)(2)(iv)(A) or (B) of this supplement will be determinative in and of themselves for establishing the appropriate validity period, but this type of information is helpful for the U.S. Department of Commerce to receive, when warranted, to help determine the appropriate validity period if a period other than one year is requested.

(3) *Review period and implementation of any needed conforming changes—*(i) *Review period.* The review period normally will not exceed 106 days for requests that receive objections, including adjudication of objections submitted on exclusion requests and any rebuttals to objections, and surrebuttals. The estimated 106-day period begins on the day the exclusion request is posted in the 232 Exclusions Portal, and ends once a decision to grant or deny is made on the exclusion request.

(ii) *Coordination with other agencies on approval and implementation.* Other agencies of the U.S. Government, such as CBP, will take any additional steps needed to implement an approved exclusion request. These additional steps needed to implement an approved exclusion request are not part of the review criteria used by the U.S. Department of Commerce to determine whether to approve an exclusion request, but are an important component in ensuring the approved exclusion request can be properly implemented. 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.

(i) *For further information.* If you have questions on this supplement, you may contact the Director, Industrial Studies, Office of Technology Evaluation, Bureau of Industry and Security, U.S. Department of Commerce, at (202) 482-5642 or [Steel232@bis.doc.gov](mailto:Steel232@bis.doc.gov) regarding steel exclusion requests, or at (202) 482-4757 or [Aluminum232@bis.doc.gov](mailto:Aluminum232@bis.doc.gov) regarding aluminum exclusion requests. The U.S. Department of Commerce website includes FAQs, best practices other companies have used for submitting exclusion requests and objections, and helpful checklists. The U.S. Department of Commerce has also included a manual providing instruction on the 232 Exclusions Portal for exclusion requests submitted on or after June 13, 2019, titled 232 Exclusions Portal Comprehensive Guide (“232 Exclusions Guide”) and posted online at (<https://www.commerce.gov/page/section-232-investigations>) to assist your understanding when making 232 submissions in the 232 Exclusions Portal.

■ 3. Effective December 29, 2020 Supplement No. 2 to part 705 is revised to read as follows:

**Supplement No. 2 to Part 705—General Approved Exclusions (GAEs) for Steel Articles Under the 232 Exclusions Process**

This supplement identifies steel articles that have been approved for import under a General Approved Exclusion (GAE). 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, makes these determinations that certain steel articles may be authorized under a GAE consistent with the objectives of the 232 Exclusions Process as outlined in supplement no. 1 to this part. The GAEs described in this supplement may be used by any importer. GAEs do not include quantity limits. Each GAE identifier will be effective fifteen calendar days after

publication of a **Federal Register** notice either adding or revising a specific GAE identifier. There is no retroactive relief for GAEs. Relief is only available to steel articles that are entered for consumption, or withdrawn from warehouse for consumption, on or after the effective date of a GAE included in supplement no. 2 to this part. In order to use a GAE, the importer must include the GAE identifier in the Automated Commercial Environment (ACE) system that corresponds to the steel articles being imported. These GAEs are indefinite in length, but the Department of Commerce on behalf of the Secretary of Commerce may at any time issue a **Federal Register** notice removing, revising or adding to an existing GAE in this supplement as warranted to align with the objectives of the 232 exclusions process as described in supplement no. 1 to this part. The Department of Commerce on behalf of the Secretary of Commerce may periodically publish notices of inquiry in the **Federal Register** soliciting public comments on potential removals, revisions or additions to this supplement.

GAE identifier	Description of steel that may be imported (at 10-digit harmonized tariff schedule of the United States (HTSUS) statistical reporting number or more narrowly defined at product level)	Other limitations (e.g., country of import or quantity allowed)	Federal Register citation
GAE.1.S: 7304592030 .....	7304592030. TUBES/PIPES/HLLW PRFLS OTH ALLOY STL, SMLSS, CIRC CS, NOT COLD-TRTD, SUITABLE FOR BOILERS ETC, HEAT-RESISTING STL.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.2.S: 7304592080 .....	7304592080. TUBES/PIPES/H PRFLS ALLOY STL, SMLSS, CIRC CS, NOT COLD-TRTD, SUIT FOR BOILERS ETC, NOT HT-RSST STL, OS DIAM >406.4MM.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.3.S: 7220900060 .....	7220900060. OTHER FLAT-ROLLED STAINLESS STL, WIDTH <600MM, FURTH WRKD THAN COLD-RD, </=0.5% OR >/=24% NICKEL, <15% CHROMIUM.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.4.S: 7222406000 .....	7222406000. ANGLES SHAPES AND SECTIONS STAINLESS STEEL, OTHER THAN HOT ROLLED, NOT DRILLED, NOT PUNCHED, AND NOT OTHERWISE ADVANCED.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.5.S: 7306901000 .....	7306901000. OTH TUBES/PIPES/HOLLOW PROFILES IRON/NONALLOY STL, RIVETED/SIMILARLY CLOSED (NOT WELDED).	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.6.S: 7212600000 .....	7212600000. FLAT-ROLLED IRON/NONALLOY STL, WIDTH <600MM, CLAD.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.7.S: 7227901060 .....	7227901060. BARS/RODS TOOL STL (NOT HIGH-SPEED), HOT-RD, IRR COILS, NOT TEMPRD/TREATD/PARTLY MFTD, NOT BALL BEARING STEEL.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.8.S: 7220207060 .....	7220207060. FLAT-ROLLED STAINLESS STL, WIDTH <300MM, COLD-RD, THICKNESS >0.25MM BUT </=1.25MM, </=0.5% NICKEL, <15% CHROMIUM.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.9.S: 7223005000 .....	7223005000. FLAT WIRE OF STAINLESS STEEL .....	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.10.S: 7220208000 .....	7220208000. FLAT-ROLLED STAINLESS STL, WIDTH <300MM, COLD-RD, THK </=0.25MM, RAZOR BLADE STL.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.11.S: 7217108060 .....	7217108060. ROUND WIRE IRON/NONALLOY STL, NOT PLATED/COATED, >0.6% CARBON, NOT HEAT-TREATED, DIAM <1.0MM.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.12.S: 7226923060 .....	7226923060. FLAT-ROLLED OTH ALLOY STL, WIDTH <300MM, COLD-RD, TOOL STEEL OTH THAN HIGH-SPEED, OTHER THAN BALL-BEARING STEEL.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.13.S: 7229905016 .....	7229905016. ROUND WIRE OTHER ALLOY STL, DIAM <1.0MM ...	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.14.S: 7215500018 .....	7215500018. OTHER BARS/RODS IRON/NONALLOY STL, COLD-FORMED/FINISHED, NOT COILS, <0.25% CARBON, DIAMETER OR CROSS-SECTN >/=76MM BUT <228MM.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.15.S: 7304598060 .....	7304598060. TUBES/PIPES/HLLW PRFLS OTH ALLOY STL, SMLSS, CIRC CS, NOT COLD-TRTD, OS DIAMETER >285.8MM BUT <406.4MM, WALL THK<12.7MM.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].

GAE identifier	Description of steel that may be imported (at 10-digit harmonized tariff schedule of the United States (HTSUS) statistical reporting number or more narrowly defined at product level)	Other limitations (e.g., country of import or quantity allowed)	Federal Register citation
GAE.16.S: 7228501040 ....	7228501040. OTHER BARS/RODS TOOL STL (NOT HIGH-SPEED), COLD-FRMD/FNSHD, MAX CS <18MM, OTHER THAN OF ROUND OR RECTANGULAR CROSS SECTION WITH SURFACES GROUND, MILLED, OR POLISHED.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.17.S: 7304246030 ....	7304246030. TUBING (OIL/GAS DRILLING) STAINLESS STL, SEAMLESS, OUTSIDE DIAM <=114.3MM, WALL THK >9.5 MM.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.18.S: 7229905031 ....	7229905031. ROUND WIRE OTHER ALLOY STL, WITH DIAMETER >=1.0MM BUT <1.5MM.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.19.S: 7304598010 ....	7304598010. TUBES/PIPES/HOLLOW PROFILES OTH ALLOY STL, SEAMLESS, CIRC CS, NOT COLD-TREATED, NOT HEAT-RESISTANT, OUTSIDE DIAM <38.1MM.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.20.S: 7219310010 ....	7219310010. FLAT-ROLLED STAINLESS STL, WIDTH >=600MM, COLD-RD, THK >=4.75MM, COILS.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.21.S: 7304598045 ....	7304598045. TUBES/PIPES/HLLW PRFLS OTH ALLOY STL, SMLESS, CIRC CS, NOT CLD-TRTD, NOT HEAT-RESISTANT, OS DIAMETER >190.5MM BUT <285.8MM, WALL THK<12.7MM.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.22.S: 7306401090 ....	7306401090. OTH TUBES/PIPES/HOLLOW PRFLS STAINLESS STL, WELDED, CIRC CS, WALL THK <1.65MM, <=0.5% NICKEL.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.23.S: 7220206010 ....	7220206010. FLAT-ROLLED STAINLESS STL, WIDTH <300MM, COLD-RD, THK >1.25MM, >0.5% NICKEL, >1.5% BUT <5% BY WEIGHT OF MOLYBDENUM.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.24.S: 7211296080 ....	7211296080. FLAT-ROLLED IRON/NONALLOY STL, WIDTH >300MM BUT <600MM, NOT CLAD/PLATED/COATED, COLD-RD, >=0.25% CRBN, THK <=1.25MM.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.25.S: 7217201500 ....	7217201500. FLAT WIRE IRON/NONALLOY STL, PLATED/COATED WITH ZINC.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.26.S: 7219120026 ....	7219120026. FLAT-ROLLED STAINLESS STL, WIDTH >1575MM, HOT-RD, COILS, THK >6.8MM BUT <10MM.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.27.S: 7219320020 ....	7219320020. FLAT-ROLLED STAINLESS STL, WIDTH >=1370MM, COLD-RD, THICKNESS >3MM BUT <4.75MM, COILS, >0.5% NICKEL.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.28.S: 7304243010 ....	7304243010. CASING (OIL/GAS DRILLING) STAINLESS STL, SEAMLESS, THREADED/COUPLED, OUTSIDE DIAM <215.9MM, WALL THK <12.7MM.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.29.S: 7219220035 ....	7219220035. FLAT-ROLLED STAINLESS STL, THICKNESS >=4.75MM BUT <10MM, WIDTH >=600MM BUT <1575MM, HOT-RD, NOT COILS, THK 4.75-10MM, >0.5% NICKEL.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.30.S: 7222403085 ....	7222403085. SHAPES/SECTIONS STAINLESS STL, HOT-RD, NOT DRILLED/PUNCHED/ADVANCED, MAX CROSS SECTION <80MM.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.31.S: 7222403045 ....	7222403045. SHAPES/SECTIONS STAINLESS STL, HOT-RD, NOT DRILLED/PUNCHED/ADVANCED, MAX CS >=80MM.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.32.S: 7219110060 ....	7219110060. FLAT-ROLLED STAINLESS STL, WIDTH >1575MM, HOT-RD, COILS, THK >10MM.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.33.S: 7304515005 ....	7304515005. TUBES/PIPES/HOLLOW PROFILES OTH ALLOY STL, SEAMLESS, CIRC CS, COLD-DRWN/RD, HIGH-NICKEL ALLOY STL.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.34.S: 7219330025 ....	7219330025. FLAT-ROLLED STAINLESS STL, WIDTH >=1370MM, COLD-RD, THICKNESS >1MM BUT <3MM, COILS, <=0.5% NICKEL.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.35.S: 7217901000 ....	7217901000. WIRE, IRON OR NONALLOY STEEL, COATED WITH PLASTICS.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.36.S: 7219110030 ....	7219110030. FLAT-ROLLED STAINLESS STL, WIDTH >=600MM BUT <1575MM, HOT-RD, COILS, THK >10MM.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.37.S: 7217108030 ....	7217108030. ROUND WIRE IRON/NONALLOY STL, NOT PLATED/COATED, >0.6% CARBON, HEAT-TREATED, DIAMETER >=1.0MM BUT <1.5MM.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.38.S: 7212200000 ....	7212200000. FLAT-ROLLED IRON/NONALLOY STL, WIDTH <600MM, ELECTROLYTICALLY PLATED/COATED WITH ZINC.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.39.S: 7217204560 ....	7217204560. ROUND WIRE IRON/NONALLOY STL, PLATED/COATED WITH ZINC, DIAMETER >=1.0MM BUT <1.5MM, >=0.6% CARBON.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.40.S: 7220206060 ....	7220206060. FLAT-ROLLED STAINLESS STL, WIDTH <300MM, COLD-RD, THK >1.25MM, <=0.5% NICKEL, <15% CHROMIUM.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.41.S: 7217108025 ....	7217108025. ROUND WIRE IRON/NONALLOY STL, NOT PLATED/COATED, >0.6% CARBON, HEAT-TREATED, DIAM <1.0MM.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.42.S: 7220121000 ....	7220121000. FLAT-ROLLED STAINLESS STL, WIDTH >=300MM BUT <600MM, HOT-RD, THK <4.75MM.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.43.S: 7209900000 ....	7209900000. FLAT-ROLLED IRON/NONALLOY STL, WIDTH >=600MM, COLD-RD, NOT CLAD/PLATED/COATED, WHETHER OR NOT IN COILS.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.44.S: 7213913020 ....	7213913020. BARS/RODS IRON/NA STL, IRR COILS, HOT-RD, CIRC CS<14MM DIAM, NOT TEMPRD/TREATD/PARTLY MFTD, WELDING QUALITY WIRE ROD.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.45.S: 7306617060 ....	7306617060. OTH TUBES/PIPES/HOLLOW PROFILES OTH ALLOY STL (NOT STAINLESS), WELDED, SQ/RECT CS, WALL THK <4MM.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.46.S: 7216330090 ....	7216330090. H SECTIONS IRON/NONALLOY STL, HOT-RD/DRWN/EXTRD, HEIGHT >=80MM.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].

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GAE.47.S: 7217905030 ....	7217905030. WIRE IRON/NONALLOY STL, NOT PLATED/COATED WITH BASE METALS OR PLASTICS, <0.25% CARBON.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.48.S: 7226923030 ....	7226923030. FLAT-ROLLED OTH ALLOY STL, WDTN <300MM, COLD-RDL, TOOL STEEL OTH THAN HIGH-SPEED, BALL-BEARING STL.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.49.S: 7219120051 ....	7219120051. FLAT-ROLLED STAINLESS STL, WIDTH >=1370MM BUT <1575MM, HOT-RDL, COILS, THICKNESS >=4.75MM BUT <6.8MM.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.50.S: 7227906020 ....	7227906020. BARS/RODS OTHER ALLOY STL, IRR COILS, HOT-RDL, NOT TOOL STL, WELDING QUALITY WIRE RODS.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.51.S: 7217905090 ....	7217905090. WIRE IRON/NONALLOY STL, NOT PLATED/COATED WITH BASE METALS OR PLASTICS, >=0.6% CARBON.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.52.S: 7219220040 ....	7219220040. FLAT-ROLLED STAINLESS STL, HOT-RDL, NOT COILS, THK >=4.75 MM BUT <10MM, NOT HIGH-NICKEL ALLOY, >0.5% NICKEL, <=1.5% OR >=5% MOLYBDENUM, WIDTH >1575MM BUT <1880MM.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.53.S: 7219320038 ....	7219320038. FLAT-ROLLED STAINLESS STL, COLD-RDL, THICKNESS >=3MM BUT <4.75MM, COILS, WIDTH >600MM BUT <1370MM, NOT HIGH-NICKEL ALLOY, >0.5% NICKEL, <=1.5% OR >=5% MOLYBDENUM.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.54.S: 7219320045 ....	7219320045. FLAT-ROLLED STAINLESS STL, WDTN >=1370MM, COLD-RDL, THICKNESS >=3MM BUT <4.75MM, NOT COILS.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.55.S: 7219350005 ....	7219350005. FLAT-ROLLED STAINLESS STL, WDTN >=600MM, COLD-RDL, THK <0.5MM, COILS, >0.5% BUT <24% NICKEL, >1.5% BUT <5% MOLYBDENUM.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.56.S: 7219320036 ....	7219320036. FLAT-ROLLED STAINLESS STL, COLD-RDL, THICKNESS >=3MM BUT <4.75MM, COILS, WIDTH >600MM BUT <1370MM, NOT HIGH-NICKEL ALLOY, >0.5% NICKEL, >1.5% BUT <5% MOLYBDENUM.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.57.S: 7304901000 ....	7304901000. TUBES/PIPES/HOLLOW PROFILES IRON/NONALLOY STL, SEAMLESS, NONCIRCULAR CROSS SECTION, WALL THK >=4MM.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.58.S: 7304390002 ....	7304390002. TUBES/PIPES/HLLW PRFLS IRON/NA STL, SMLESS, CIRC CS, NOT COLD-TRTD, SUITABLE FOR BOILERS ETC, OS DIAM <38.1MM.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.59.S: 7219120071 ....	7219120071. FLAT-ROLLED STAINLESS STL, WDTN >600MM BUT <1370MM, HOT-RDL, COILS, THICKNESS >=4.75MM BUT <10MM, NOT HIGH-NICKEL ALLOY, >0.5% NICKEL, <=1.5% OR >=5% MOLYBDENUM.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.60.S: 7225501110 ....	7225501110. FLAT-ROLLED OTH ALLOY STL, WDTN >=600MM, COLD-RDL, TOOL STEEL, HIGH-SPEED STL.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.61.S: 7217905060 ....	7217905060. WIRE IRON/NONALLOY STL, PLATED/COATED, >0.25% BUT <0.6% CARBON.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.62.S: 7220125000 ....	7220125000. FLAT-ROLLED STAINLESS STL, WDTN <300MM, HOT-RDL, THK <4.75MM.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.63.S: 7226928005 ....	7226928005. FLAT-ROLLED OTH ALLOY STL, WDTN <300MM, COLD-RDL, NOT TOOL STL, THK >0.25MM, HIGH-NICKEL ALLOY STL.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.64.S: 7217106000 ....	7217106000. OTHER WIRE IRON/NONALLOY STL, NOT PLATED/COATED, <0.25% CARBON.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.65.S: 7219120021 ....	7219120021. FLAT-ROLLED STAINLESS STL, WIDTH >=1370MM BUT <=1575MM, HOT-RDL, COILS, THICKNESS >6.8MM BUT <=10MM.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.66.S: 7304390016 ....	7304390016. TUBES/PIPES/HOLLOW PROFILES IRON/NA STL, SEAMLESS, CIRC CS, NOT COLD-TRTD, GALVANIZED, OS DIAM <=114.3MM.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.67.S: 7304244040 ....	7304244040. CASING (OIL/GAS DRILLING) STAINLESS STL, SEAMLESS, NOT THREADED/COUPLED, OS DIAMETER >=215.9MM BUT <=285.8MM, WALL THK >=12.7MM.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.68.S: 7302101015 ....	7302101015. OTHER RAILS IRON/NONALLOY STL, NEW, NOT HEAT TREATED, >30KG/M.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.69.S: 7304413005 ....	7304413005. TUBES/PIPES/HOLLOW PRFLS STAINLESS STL, SEAMLESS, CIRC CS, COLD-DRWN/RDL, EXT DIAM <19MM, HIGH-NICKEL ALLOY STL.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.70.S: 7215500090 ....	7215500090. OTHER BARS/RODS IRON/NONALLOY STL, COLD-FORMED/FINISHED, NOT COILS, >=0.6% CARBON.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.71.S: 7217304541 ....	7217304541. ROUND WIRE IRON/NONALLOY STL, PLATED/COATED W/OTH BASE METALS, DIAMETER >=1.0MM BUT <1.5MM, <0.25% CARBON.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.72.S: 7227200030 ....	7227200030. BARS/RODS SILICO-MANGANESE STL, IRR COILS, HOT-RDL, WELDING QUALITY WIRE RODS, STAT NOTE 6.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.73.S: 7306697060 ....	7306697060. OTH TUBES/PIPES/HOLLOW PROFILES OTH ALLOY STL (NOT STAINLESS), WELDED, OTH NONCIRCULAR CS, WALL THK <4MM.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.74.S: 7302101045 ....	7302101045. OTHER RAILS IRON/NONALLOY STL, NEW, HEAT TREATED, >30KG/M.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.75.S: 7219210005 ....	7219210005. FLAT-ROLLED STAINLESS STL, WDTN >=600MM, HOT-RDL, NOT COILS, THK >10MM, HIGH-NICKEL ALLOY STL.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.76.S: 7304293160 ....	7304293160. CASING (OIL/GAS DRILLING) OTH ALLOY STL, SEAMLESS, THREADED/COUPLED, OS DIAMETER >285.8MM BUT <=406.4MM, WALL THK >=12.7MM.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].

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GAE.77.S: 7305316090 ....	7305316090. OTHER TUBES/PIPES ALLOY STL, CIRC CS, EXT DIAM >406.4MM, NOT LINE PIPE OR CASING (OIL/GAS), LONGITUDINALLY WELDED, NOT TAPERED PIPES/TUBES, NON-STAINLESS ALLOY STEEL.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.78.S: 7216400010 ....	7216400010. L SECTIONS IRON/NONALLOY STL, HOT-ROLLED/DRAWN/EXTRUDED, HEIGHT >=80MM.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.79.S: 7226990110 ....	7226990110. FLAT-ROLLED OTH ALLOY STL, WIDTH <600MM, ELECTROLYTICALLY PLATD/COATD W/ZINC, NOT GRAIN ORIENTED, NOT OF HIGH-SPEED STEEL, FURTHER WORKED THAN HOT-ROLLED OR COLD-ROLLED.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.80.S: 7225506000 ....	7225506000. FLAT-ROLLED OTH ALLOY STL, WIDTH >=600MM, COLD-RLD, THK >=4.75MM, NOT OF TOOL STEEL.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.81.S: 7304905000 ....	7304905000. TUBES/PIPES/HOLLOW PROFILES IRON/NONALLOY STL, SEAMLESS, NOT CIRCULAR CS, WALL THK <4MM.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.82.S: 7219220005 ....	7219220005. FLAT-ROLLED STAINLESS STL, WIDTH >=600MM, HOT-RLD, NOT COILS, THICKNESS >=4.75MM BUT <=10MM, HIGH-NICKEL ALLOY STL.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.83.S: 7217104045 ....	7217104045. ROUND WIRE IRON/NONALLOY STL, NOT PLATED/COATED, <0.25% CARBON, DIAM <1.5MM, HEAT-TREATED, IN COILS WEIGHING >2 KG.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.84.S: 7209270000 ....	7209270000. FLAT-ROLLED IRON/NONALLOY STL, WIDTH >=600MM, COLD-RLD, NOT CLAD/PLATED/COATED, NOT COILS, THK 0.5-1MM.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.85.S: 7219900060 ....	7219900060. OTHER FLAT-ROLLED STAINLESS STL, WIDTH >=600MM, FURTHER WORKED THAN COLD-RLD, <=0.5% NICKEL, <15% CHROMIUM.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.86.S: 7219120081 ....	7219120081. FLAT-ROLLED STAINLESS STL, WIDTH >=600MM BUT <1370MM, HOT-RLD, COILS, NOT HIGH-NICKEL ALLOY, THICKNESS >=4.75MM BUT <=10MM, <=0.5% NICKEL.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.87.S: 7304293180 ....	7304293180. CASING (OIL/GAS DRILLING) OTH ALLOY STL, SEAMLESS, THREADED/COUPLED, OUTSIDE DIAM >406.4MM.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.88.S: 7224100005 ....	7224100005. INGOTS AND OTHER PRIMARY FORMS OF HIGH-NICKEL ALLOY STEEL.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.89.S: 7213200080 ....	7213200080. BARS/RODS IRON/NONALLOY STL, HOT-RLD, IRR COILS, FREE-CUTTING STL, <0.1% LEAD.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.90.S: 7216100010 ....	7216100010. U SECTIONS IRON/NONALLOY STL, HOT-ROLLED/DRAWN/EXTRUDED, HEIGHT <80MM.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.91.S: 7306695000 ....	7306695000. OTH TUBES/PIPES/HOLLOW PROFILES IRON/NONALLOY STL, WELDED, OTH NONCIRCULAR CS, WALL THK <4MM.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.92.S: 7208390015 ....	7208390015. FLAT-ROLLED IRON/NA STL, WIDTH >=600MM, HOT-RLD, NOT CLAD/PLATED/COATED, COILS, THK <3MM, HIGH-STRENGTH STL.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.93.S: 7208380015 ....	7208380015. FLAT-ROLLED IRON/NA STL, WIDTH >=600MM, HOT-RLD, NOT CLAD/PLATED/COATED, COILS, THICKNESS >=3MM BUT <4.75MM, HIGH-STRENGTH STL.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.94.S: 7217104090 ....	7217104090. ROUND WIRE IRON/NONALLOY STL, NOT PLATED/COATED, <0.25% CARBON, DIAM <1.5MM, NOT HEAT-TREATED.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.95.S: 7302105020 ....	7302105020. RAILS OF ALLOY STEEL, NEW .....	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.96.S: 7210706030 ....	7210706030. FLAT-ROLLED IRON/NA STL, WIDTH >=600MM, PAINTD/VARNSHD/COATD W/PLASTICS, ELECTROLYTICALLY PLATD/COATD W/ZINC.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.97.S: 7304244060 ....	7304244060. CASING (OIL/GAS DRILLING) STAINLESS STL, SEAMLESS, NOT THREADED/COUPLED, OS DIAMETER >285.8MM BUT <=406.4MM, WALL THK >=12.7MM.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.98.S: 7229200015 ....	7229200015. ROUND WIRE SI-MN STL, DIAM <=1.6MM, <0.20%C, >0.9% MN, >0.6% SI, FOR ELEC ARC WELDING, NOT PLATD/COATD W/COPPER.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.99.S: 7304243040 ....	7304243040. CASING (OIL/GAS DRILLING) STAINLESS STL, SEAMLESS, THREADED/COUPLED, OUTSIDE DIAMETER >=215.9MM BUT <=285.8MM, WALL THK >=12.7MM.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.100.S: 7304243020 ..	7304243020. CASING (OIL/GAS DRILLING) STAINLESS STL, SEAMLESS, THREADED/COUPLED, OUTSIDE DIAM <215.9MM, WALL THK >=12.7MM.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.101.S: 7219130081 ..	7219130081. FLAT-ROLLED STAINLESS STL, WIDTH >=600MM BUT <1370MM, HOT-RLD, COILS, THICKNESS >=3MM BUT <4.75MM, <=0.5% OR >=24% NICKEL.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.102.S: 7211140090 ..	7211140090. FLAT-ROLLED IRON/NONALLOY STL, WIDTH <600MM, NOT CLAD/PLATED/COATED, HOT-RLD, THK >=4.75MM, COILS.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.103.S: 7218910030 ..	7218910030. SEMIFINISHED STAINLESS STL, RECTANGULAR CROSS SECTION, WIDTH <4X THK, CS AREA >=232 CM2.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.104.S: 7306213000 ..	7306213000. CASING (OIL/GAS DRILLING) STAINLESS STL, WELDED, THREADED/COUPLED.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.105.S: 7211234500 ..	7211234500. FLAT-ROLLED IRON/NONALLOY STL, WIDTH <300MM, NOT CLAD/PLATED/COATED, COLD-RLD, <0.25% CRBN, THK <=0.25MM.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].

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GAE.106.S: 7220206080 ..	7220206080. FLAT-ROLLED STAINLESS STL, WIDTH <300MM, COLD-RLD, THK >1.25MM, NOT HIGH-NICKEL ALLOY, </=0.5% NICKEL, >/=15% CHROMIUM.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.107.S: 7305391000 ..	7305391000. OTHER TUBES/PIPES IRON/NONALLOY STL, CIRC CS, EXT DIAM >406.4MM, WELDED, OTHER THAN LONGITUDINALLY WELDED.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.108.S: 7217204550 ..	7217204550. ROUND WIRE IRON/NONALLOY STL, PLATED/ COATED WITH ZINC, DIAMETER >/=1.0MM BUT <1.5MM, >/=0.25% BUT <0.6% CARBON.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].

Annex 1 to Supplements No. 1 and 2 to part 705 [Removed]

■ 4. Annex 1 to Supplements No. 1 and 2 to part 705 is removed.

■ 5. Effective December 29, 2020, add Supplement No. 3 to part 705 to read as follows:

**Supplement No. 3 to Part 705—General Approved Exclusions (GAEs) for Aluminum Articles Under the 232 Exclusions Process**

This supplement identifies aluminum articles that have been approved for import under a General Approved Exclusion (GAE). 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, makes these determinations that certain aluminum articles may be authorized under a GAE consistent with the objectives of the 232 exclusions process as outlined in supplement no. 1 to this part. The GAEs described in this supplement may be used by any importer. GAEs do not include quantity limits. Each GAE identifier will be effective fifteen calendar days after publication of a **Federal Register** notice either adding or revising a specific GAE identifier. There is no retroactive relief for GAEs. Relief is only available to aluminum articles that are entered for consumption, or withdrawn from warehouse for consumption, on or after the effective date of a GAE included in supplement no. 2 to this part. In order

to use a GAE, the importer must reference the GAE identifier in the Automated Commercial Environment (ACE) system that corresponds to the aluminum articles being imported. These GAEs are indefinite in length, but the Department of Commerce on behalf of the Secretary of Commerce may at any time issue a **Federal Register** notice removing, revising or adding to an existing GAE in this supplement as warranted to align with the objectives of the 232 exclusions process as described in supplement no. 1 to this part. The Department of Commerce on behalf of the Secretary of Commerce may periodically publish notices of inquiry in the **Federal Register** soliciting public comments on potential removals, revisions or additions to this supplement.

GAE identifier	Description of aluminum that may be imported (at 10-digit Harmonized Tariff Schedule of the United States (HTSUS) statistical reporting number or more narrowly defined at product level)	Other limitations (e.g., country of import or quantity allowed)	Federal Register citation
GAE.1.A: 7609000000 .....	7609000000. ALUMINUM TUBE OR PIPE FITTINGS (COUPLINGS, ELBOWS, SLEEVES).	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.2.A: 7607205000 .....	7607205000. ALUMINUM FOIL OF THICKNESS .....	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.3.A: 7607196000 .....	7607196000. ALUMINUM FOIL OF THICKNESS .....	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.4.A: 7604210010 .....	7604210010. ALUMINUM ALLOY HOLLOW PROFILES OF HEAT-TREATABLE INDUSTRIAL ALLOYS OF A KIND DESCRIBED IN NOTE 6 TO THIS CHAPTER.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.5.A: 7604291010 .....	7604291010. ALUMINUM ALLOY PROFILES OTHER THAN HOLLOW PROFILES OF HEAT-TREATABLE INDUSTRIAL ALLOYS OF A KIND DESCRIBED IN NOTE 6 TO THIS CHAPTER.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.6.A: 7607191000 .....	7607191000. ALUMINUM FOIL OF THICKNESS .....	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.7.A: 7606116000 .....	7606116000. ALUMINUM PLATES, SHEETS AND STRIP, THICKNESS >0.2MM, RECTANGULAR (INCLUDING SQUARE), NOT ALLOYED, CLAD.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.8.A: 7605290000 .....	7605290000. ALUMINUM WIRE ALLOY, MAXIMUM CROSS-SECTIONAL DIMENSION </=7MM.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.9.A: 7601209080 .....	7601209080. UNWROUGHT ALUMINUM ALLOY, SHEET INGOT (SLAB) OF A KIND DESCRIBED IN STATISTICAL NOTE 3 TO THIS CHAPTER.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.10.A: 7607116010 ....	7607116010. ALUMINUM FOIL OF THICKNESS >0.01 MM AND </=0.15 MM, ROLLED, NOT BACKED, BOXED & WEIGHING </=11.3 KG.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.11.A: 7616995170 ....	7616995170. ALUMINUM FORGINGS .....	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.12.A: 7607201000 ....	7607201000. ALUMINUM FOIL OF THICKNESS </=0.2 MM, BACKED, COVERED OR DECORATED WITH A CHARACTER, DESIGN, FANCY EFFECT OR PATTERN.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.13.A: 7604295090 ....	7604295090. ALUMINUM ALLOY BARS AND RODS, OTHER THAN ROUND CROSS SECTION, OTHER THAN HEAT-TREATABLE INDUSTRIAL ALLOYS OF A KIND DESCRIBED IN NOTES 5 & 6 OF THIS CHAPTER.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].



GAE identifier	Description of aluminum that may be imported (at 10-digit Harmonized Tariff Schedule of the United States (HTSUS) statistical reporting number or more narrowly defined at product level)	Other limitations (e.g., country of import or quantity allowed)	Federal Register citation
GAE.14.A: 7601209095 ....	7601209095. UNWROUGHT ALUMINUM ALLOY, OTHER THAN COILS OF UNIFORM CROSS-SECTION <math>\leq 9.5</math> MM, CONTAINING <math>< 25\%</math> SILICON, OTHER THAN ALLUMINUM VANADIUM MASTER ALLOY, OTHER THAN REMELT SCRAP INGOT, OTHER THAN SHEET INGOT, OTHER THAN FOUNDRY INGOT.	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].
GAE.15.A:7616995160 .....	7616995160. ALUMINUM CASTINGS .....	.....	85 FR [INSERT FR PAGE NUMBER AND 12/14/2020].

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 [FR Doc. 2020-27110 Filed 12-10-20; 8:45 am]  
**BILLING CODE 3510-33-P**