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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 705

[Docket No. 180227217-8217-03]

RIN 0694-AH55

Implementation of New Commerce Section 232 Exclusions Portal

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

ACTION: Interim final rule.

SUMMARY: This interim final rule changes the process for requesting exclusions from the duties and quantitative limitations on imports of aluminum and steel discussed in two Commerce interim final rules implementing the exclusion process authorized by the President as part of the action he took to adjust imports under Section 232 of the Trade Expansion Act of 1962, as amended (“232”). The Department of Commerce (“the Department”) has developed the portal referred to henceforth as the “232 Exclusions Portal” for persons submitting exclusion requests, objections to exclusion requests, rebuttals, and surrebuttals to replace the use of the Federal rulemaking portal (<http://www.regulations.gov>) and streamline the exclusions process while enhancing data integrity and quality controls. Based on public comment on the current process for submissions to the Department, Commerce is publishing this interim final rule to grant the

public the ability to submit new exclusion requests as soon as possible through the 232 Exclusions Portal while still allowing the opportunity for public comment on the portal.

DATES: *Effective date:* This interim final rule is effective [INSERT DATE 7 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST].

Comments: Comments on this interim final rule must be received by BIS no later than [INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: See **SUPPLEMENTARY INFORMATION** section for information on submitting exclusion requests, objections thereto, rebuttals, and surrebuttals.

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

- By the Federal eRulemaking Portal: <http://www.regulations.gov>. Comments on this interim final rule may be submitted to [regulations.gov](http://www.regulations.gov) docket number BIS-2019-0005.
- By e-mail directly to publiccomments@bis.doc.gov. Include RIN 0694-AH55 in the subject line.
- By mail or delivery to Regulatory Policy Division, Bureau of Industry and Security, U.S. Department of Commerce, Room 2099B, 14th Street and Pennsylvania Avenue, NW, Washington, DC 20230. Reference RIN 0694-AH55.

FOR FURTHER INFORMATION CONTACT: Brad Botwin, Director, Industrial Studies, Office of Technology Evaluation, Bureau of Industry and Security, U.S. Department of Commerce (202) 482-5642, Steel232@bis.doc.gov regarding provisions in this rule specific to

steel exclusion requests and (202) 482-4757, 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 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. On March 19, 2018, the Department 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.

On September 11, 2018, the Department 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.

This rule generally does not address all the comments received in response to the September 11 rule. This rule is limited to making changes necessary to implement the new 232 Exclusions Portal because many commenters, in response to the March 19 and September 11 rules, had expressed concerns over the inefficiencies of the 232 exclusions process, in particular the limitations of using regulations.gov to actively manage the ongoing exclusions process.

The Genesis of the New 232 Exclusions Portal

At the time of the March 19 rule, the Federal rulemaking portal at www.regulations.gov was chosen because it was the best option the Department had available for managing the 232 exclusions process. Many comments on the March 19 rule stated that, based on the rule’s documentation requirements, regulations.gov was not easy to navigate nor fully transparent about where requests were in process. In the September 11 rule, to help resolve these issues, in addition to adding a rebuttal and surrebuttal process, Commerce also added Annex 1 to Supplements No. 1 and 2 to part 705, which provided additional guidance on regulations.gov usage for the 232 exclusions process. Commerce also posted FAQs, quick tips, and guidance documents on both the Department’s website and on the steel and aluminum dockets on regulations.gov. While commenters acknowledged the September 11 rule improved the 232 exclusions process somewhat, it also added to the complexity of using regulations.gov because more documents needed to be provided and the process of locating documents in regulations.gov

became more complicated for persons making 232 submissions and for the Department in managing the 232 exclusions process.

While regulations.gov was readily available to quickly implement the exclusions process, the site was not easily adaptable to the 232 submissions process, particularly as it evolved into a multi-step system and required a significant amount of human data entry. The Department concluded the 232 exclusions process worked on regulations.gov, but determined a specifically designed web-based portal would be easier and more efficient for both outside parties and the Department.

Two bureaus within the Department of Commerce, the Bureau of Industry and Security (BIS) and the International Trade Administration (ITA), developed the Portal to streamline the exclusions process for external parties, including importers and domestic manufacturers, by replacing the data collection point with web-based forms, which will enhance data integrity and quality controls. The Portal allows 232 submitters to easily view all exclusion request, objection, rebuttal, and surrebuttal documents in one, web-based system. In order to benefit from using the new Portal, submitters must complete a web-based registration prior to submitting any documents. In addition, external parties will now be able to track submission deadlines in this same system. This also allows for better collaboration between government agencies processing 232 exclusion requests.

So, on November 26, 2018, the Department published the notice, *Procedures for Participating in User Testing of the New Commerce 232 Exclusion Process Portal* (83 FR 60393). On December 6-7, 2018, various parties tested the 232 Exclusions Portal at the Department and provided feedback on the functionality of the Portal.

Comments on this rule allows the Department to identify additional enhancements for later incorporation.

Use of the New Portal and Transition Period

This interim final rule only makes changes to the 232 exclusions process needed for the implementation of a new 232 Exclusions Portal. The Department will address any remaining comments from the September 11 rule and any comments received in response to this rule in a subsequent rulemaking. In order to begin transition, the Department will begin accepting new exclusion requests on the 232 Exclusions Portal on [INSERT DATE 7 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST] and will no longer accept new exclusion requests on regulations.gov. The last day on which an exclusion request may be initiated through regulations.gov is [INSERT DATE 6 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST]. Objections, rebuttals, and surrebuttals must always be filed on the system where the exclusion request was submitted, whether in www.regulations.gov or in the 232 Exclusions Portal.

In addition, on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], the Department will publish a detailed user guide for the 232 Exclusions Portal (including screen shot images) on its website (<https://www.commerce.gov/page/section-232-investigations>), so that parties can familiarize themselves with the operation of the 232 Exclusions Portal prior to [INSERT DATE 7 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST], when all new exclusion requests must be submitted through the 232 Exclusions Portal.

There will be a transition period during which both the regulations.gov system and the new 232 Exclusions Portal will coexist. The Department will continue to use regulations.gov for

the processing of all exclusion requests that have already been filed or that are filed no later than [INSERT DATE 6 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST], including related submissions that are filed in regulations.gov after [INSERT DATE 6 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST], until the underlying exclusions requests receive a final decision. However, all new Section 232 exclusion requests submitted on or after [INSERT DATE 7 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST], must be submitted in the new 232 Exclusions Portal. Objections, rebuttals, and surrebuttals must always be filed on the system where the exclusion request was submitted, whether in www.regulations.gov or in the 232 Exclusions Portal. This transition period is necessary given the significant limitations and difficulties that transferring data from regulations.gov to the 232 Exclusions Portal would entail.

This interim final rule makes various edits to Supplements No. 1 and 2, and to Annex 1 to Supplements No. 1 and 2, to add provisions relating to the transition period and to add references to the 232 Exclusions Portal. Because regulations.gov will continue to be used for exclusion requests filed up to and including [INSERT DATE 6 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST], and for all submissions related to those exclusion requests (objections, rebuttals, and surrebuttals), the regulatory provisions referring to regulations.gov must remain until the Department has provided a final disposition on all exclusions requests filed up to and including [INSERT DATE 6 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST].

Changes made in this interim final rule to adopt the 232 Exclusions Portal

This interim final rule makes the same changes to Supplements No. 1 and No. 2 for transitioning to the 232 Exclusions Portal. The changes described below will apply to both supplements and are being made to the same paragraphs in each supplement. This interim final rule updates Annex 1 to Supplements No. 1 and 2 to part 705 to make conforming changes relating to the addition of the 232 Exclusions Portal. The majority of the changes being made to the two supplements involve adding references to the 232 Exclusions Portal wherever regulations.gov is referenced. The changes also describe the transition period and provide guidance on what submission method is to be used based on the date the exclusion request was or is to be submitted.

The Department has tried to minimize the number of changes made to Supplements No. 1 and 2 in this interim final rule. The structure of how the transition provisions are being implemented will not require a rule to be published later to end the transition period. Thus, the end of the transition period will be self-implementing based on the criteria included in this interim final rule. However, a subsequent rule will remove provisions related to regulations.gov that will no longer be applicable after the transition period ends, as well as to reflect any enhancements to the 232 Exclusions Portal that may be made in the interim.

To implement the changes described above, this interim final rule makes the following revisions in both Supplements No. 1 and 2:

In paragraph (a), six sentences are added to the end of this paragraph to specify that the supplements reference two different methods of submission for 232 exclusion submissions. The new text specifies that the first method of submission is based on a legacy system used for 232 submissions (www.regulations.gov), and the second method of submission is based on a new

portal developed by the U.S. Department of Commerce (232 Exclusions Portal), for receiving, managing and responding to 232 exclusion submissions.

The new text being added to paragraph (a) specifies that the two methods of processing for exclusions are for use during a transition period that will end once the Department has made a final disposition on all exclusion requests submitted via regulations.gov no later than [INSERT DATE 6 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST]. The new text being added also specifies that new exclusion requests submitted on or after [INSERT DATE 7 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST], may only be submitted using the new 232 Exclusions Portal. The new text specifies that any objection, rebuttal, or surrebuttal pertaining to an exclusion request will be submitted using the same submission method as used for the respective exclusion request during this transition period. The last two sentences provide two examples for submitting 232 exclusion submissions during the transition period.

Shortly after the transition period for processing of exclusions is completed, the Department intends to publish another rule to update the two supplements to remove the transition related provisions to clarify that only the 232 Exclusions Portal is available for 232 exclusion submissions.

In the introductory text of paragraph (b), the first sentence after the heading is revised to specify that any exclusion request to be submitted no later than [INSERT DATE 6 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST], must be submitted through regulations.gov and that the other provisions regarding where to find forms remain unchanged. This same type of change is made in several of the paragraphs in the two supplements where provisions for using regulations.gov are referenced. The requirements

specific to regulations.gov are not being changed at this time, except that provisions specific to the transition timelines are being added. These changes are being made so 232 exclusion request submitters will know how much longer those 232 exclusion provisions tied to the use of regulations.gov will continue to be used during the transition period.

Also in the introductory text of paragraph (b), three sentences are added to introduce the requirements for the required forms that will be used on the 232 Exclusions Portal for any exclusion request submitted on or after [INSERT DATE 7 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST]. Because the 232 Exclusions Portal includes web-based fillable forms within the system, there is no need to reference filling out one of the four external forms and then uploading it into the system, as a submitter would need to do in regulations.gov. This is an example of one of the advantages of the 232 Exclusions Portal. The new introductory text for the 232 Exclusions Portal specifies that each web-based form is available at the bottom of the preceding filing. For example, to file an objection, a party must scroll to the bottom of the exclusion request and click on “Create Objection Filing” link to start the objection filing for that specific exclusion request. The new text provides application examples for how to identify and submit the forms for objections, rebuttals, and surrebuttals in the 232 Exclusions Portal. Lastly, this rule adds three sentences to describe that 232 submitters will be required to complete a web-based registration on the 232 Exclusions Portal prior to submitting any documents. The registration process will require submitters to provide an email and establish a password for an account in the 232 Exclusions Portal. Once registered in the 232 Exclusions Portal, submitters will be able to log in to their account on the 232 Exclusions Portal and submit exclusion requests, objections, rebuttals and surrebuttal documents.

In paragraphs (b)(1), (2), (3) and (4), one sentence is added to the end of each of these respective paragraphs to reference the name of the web-based form on the 232 Exclusions Portal. Each of the new sentences begins by specifying what the title of the web-based fillable form in the 232 Exclusions Portal is and then provides the name of the web-based fillable form: Exclusion Request (for paragraph (b)(1)), Objection (for paragraph (b)(2)), Rebuttal (for (b)(3)), and Surrebuttal (for paragraph (b)(4)). This rule adds a new Note to paragraphs (b)(1) through (4) to describe how each filing of one of the web-based fillable forms (232 submissions) will be automatically assigned its own distinct ID# in the 232 Exclusions Portal. The new Note also specifies that each 232 submission in addition to having its own distinct ID# will also be preceded with an acronym for the file type: exclusion requests (ER ID#), Objection (OF ID#), Rebuttals (RB ID#) and Surrebuttals (SR ID#). The new Note provides examples of this for the four types of 232 submissions. The new Note specifies that the 232 Exclusions Portal will automatically assign the two letter designator depending on the type of web-based form being submitted. The Note specifies that the 232 Exclusions Portal 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. Under regulations.gov, many of these are manual processes, so this is an example of how the 232 Exclusions Portal should reduce the burdens on the public, as well as the U.S. Government, by automating processes of associating documents under the same ID#.

Under paragraph (b)(5)(iii) (*Procedures for identifying, but not disclosing confidential or proprietary business information (CBI) in the public version, and procedures for submitting CBI*) paragraphs (b)(5)(iii)(A) and (B), a reference to the Commerce 232 Exclusions Portal is added right after the reference to regulations.gov. The email process used for submitting CBI

will generally be the same for rebuttals and surrebuttals submitted in either regulations.gov or the 232 Exclusions Portal. Therefore, the change in paragraph (b)(5)(iii)(A) is limited to adding a reference to the 232 Exclusions Portal. A reference to the 232 Exclusions Portal is also added to paragraph (b)(5)(iii)(B). In addition, this rule also adds provisions to paragraph (b)(5)(iii)(B) related to the transition from regulations.gov to the 232 Exclusions Portal, including the different naming convention for 232 submissions used in the 232 Exclusions Portal that must be referenced in any email submitting CBI.

Thus, the first sentence is revised to specify that for any rebuttals and surrebuttals pertaining to 232 submissions for exclusion requests submitted no later than [INSERT DATE 6 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST], the email subject line must only include the original regulations.gov exclusion request ID # and the body of the email must include the 11-digit alphanumeric tracking number received from regulations.gov. For any rebuttals and surrebuttals pertaining to 232 submissions for exclusion requests submitted on or after [INSERT DATE 7 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST], the email subject line must only include the original 232 Exclusions Portal Exclusion Request (ER) ID #. In addition, this new sentence specifies that the body of the email must include the 232 Exclusions Portal Rebuttal (RB) ID #, or Surrebuttal (SR) ID # that was generated by the 232 Exclusions Portal when the rebuttal, or surrebuttal was successfully submitted. In paragraphs (b)(5)(iii)(B) and (C), the last sentence of each of these paragraphs is revised to add a reference to the 232 Exclusions Portal.

In paragraph (c)(3), the first sentence after the heading is revised to specify that all exclusion requests submitted no later than [INSERT DATE 6 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST] must be in electronic form and must be

submitted through regulations.gov. A new sentence is added to paragraph (c)(3) to specify that all exclusion requests submitted on or after [INSERT DATE 7 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST], must be submitted directly through the 232 Exclusions Portal.

In paragraph (c)(4), the entire paragraph is revised to specify that there continues to be no time limit for submitting exclusion requests, but that the method of submission will vary based on the date, and that the correct method of submission must be used based on the date of submission. Paragraph (c)(4) is also revised to specify that the U.S. Department of Commerce will reject and require resubmission using the correct submission method for any exclusion request that does not comply with the submission requirements specified in paragraph (c)(3). The paragraph specifies that adhering to these date requirements is needed during the transition period to allow the transition period to be completed as quickly as possible and in a fair and transparent manner.

In paragraph (d)(2), this rule redesignates and slightly revises the text of the paragraph after the heading as new paragraph (d)(2)(i). Transition related text is added to specify that when submitting an objection to a submitted exclusion request that was submitted no later than [INSERT DATE 6 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST], the objector must locate the exclusion request and its objection form for the submitted exclusion request in regulations.gov. The rest of text of the paragraph for submitting objections in regulations.gov remains the same.

New paragraph (d)(2)(ii) is added to specify that when submitting an objection to a submitted exclusion request that was submitted on or after [INSERT DATE 7 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST], the objector must locate the

exclusion request and submit the objection in response to the request, directly in the 232 Exclusions Portal. The new paragraph (d)(2)(ii) includes a sentence to assist objectors in how to find the web-based objection form when reviewing a posted exclusion request form.

In paragraph (d)(3), transition related provisions are added to specify that all objections to submitted exclusion requests that were submitted no later than [INSERT DATE 6 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST] must be in electronic form and submitted to regulations.gov no later than 30 days after the related exclusion request is posted. This rule adds a new sentence at the end of the paragraph to specify that all objections to submitted exclusion requests that were submitted on or after [INSERT DATE 7 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST], must be submitted directly on the 232 Exclusions Portal no later than 30 days after the related exclusion request is posted.

In the introductory text of paragraph (f), a reference to the 232 Exclusions Portal is added after the regulations.gov reference to specify that this paragraph that identifies the requirements for the rebuttal process also applies to rebuttals submitted using the 232 Exclusions Portal.

In paragraph (f)(1), this rule redesignates the existing text after the heading as new paragraph (f)(1)(i).

New paragraph (f)(1)(ii) is added to specify how an eligible rebutter can find the web-based rebuttal form by scrolling to the bottom of the objection form and how to fill out the web-based form for submitting their rebuttal to the objection form through the 232 Exclusions Portal.

In paragraph (f)(2) (*Format and size limitations for rebuttals*), a reference to the 232 Exclusions Portal is added after the reference to regulations.gov in the second sentence after the paragraph heading. This change is being made to specify that the same format and size limitations apply for rebuttals submitted in the 232 Exclusions Portal and regulations.gov. The

revisions also specify that the submission method for the rebuttal will depend on what submission method was used for the submission of the exclusion request.

In paragraph (f)(4), a reference to the 232 Exclusions Portal is added after regulations.gov in the first sentence after the paragraph heading. This change is being made to specify that the same time limit for submitting rebuttals apply for rebuttals submitted in the 232 Exclusions Portal and regulations.gov. The revisions specify that the submission method for the rebuttal will depend on what submission method was used for the submission of the exclusion request. Lastly, a reference to the 232 Exclusions Portal is added after regulations.gov in the third sentence because the same rationale for the number of processing days needed applies to the 232 Exclusions Portal.

In paragraph (g), the first sentence after the paragraph heading is revised to add a reference to the 232 Exclusions Portal after regulations.gov to specify that the requirements for the surrebuttal process also applies to surrebuttals submitted using the 232 Exclusions Portal.

In paragraph (g)(1), this rule redesignates the existing text after the heading as new paragraph (g)(1)(i).

New paragraph (g)(1)(ii) is added to specify how an eligible surrebutter can find the web-based surrebuttal form by scrolling to the bottom of the rebuttal form and how to fill out the web-based form for submitting their surrebuttal to the rebuttal through the 232 Exclusions Portal.

In paragraph (g)(2), a reference to the 232 Exclusions Portal is added after the reference to regulations.gov in the second sentence after the paragraph heading. This change is being made to specify that the same format and size limitations apply for surrebuttals whether submitted through the 232 Exclusions Portal or through regulations.gov. The revisions specify that the

submission method for the surrebuttal will depend on which submission method was used for the submission of the exclusion request.

In paragraph (g)(4), a reference to the 232 Exclusions Portal is added after regulations.gov in the first sentence after the paragraph heading.

In paragraph (h)(2)(i), this rule redesignates the existing text after the heading as paragraph (h)(2)(i)(A) to specify the requirements identified in this paragraph apply to each exclusion request submitted no later than [INSERT DATE 6 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST] under the two docket numbers referenced in the two respective supplements for steel and aluminum. This rule makes no other changes to this redesignated paragraph, except to add the parenthetical phrase “(decision memos)” in the first sentence to clarify that the posted responses in regulations.gov are referred to as decision memos.

New paragraph (h)(2)(i)(B) is added to specify that the requirements identified in this paragraph apply to each exclusion request submitted on or after [INSERT DATE 7 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST]. Similar to the requirements specified in paragraph (h)(2)(i)(A), the U.S. Department of Commerce response (decision memo) 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.

In paragraph (h)(2)(ii), the reference to “the U.S. Department of Commerce will work with U.S. Customs and Border Protection (CBP) to ensure that the requester provided an accurate HTSUS statistical reporting number.” is deleted. This change is made to reflect a change in the internal business process whereby CBP is being sent the exclusion request for HTSUS validation and exclusion request administrability prior to an exclusion request being

posted on regulations.gov. In the 232 Exclusions Portal, CBP will have access to the portal and will be able to receive the exclusion request for conducting the same type of review, but in a more efficient manner than is currently done with exclusion requests submitted in regulations.gov. This rule adds a reference to the 232 Exclusions Portal in the second sentence. As a conforming change, this rule revises the third sentence to remove the phrase “If so” at the beginning of the sentence because it is no longer needed because of the revision made to the second sentence. In the third sentence, this rule adds a reference to the 232 Exclusions Portal to specify that if BIS identifies no national security concerns, it will post a decision on the 232 Exclusions Portal granting the exclusion request following the same streamlined review process as exclusion requests submitted using regulations.gov.

In paragraph (h)(2)(iii)(A), a reference to the 232 Exclusions Portal is added after regulations.gov to specify that approved exclusions will be effective five business days after publication of the U.S. Department of Commerce response granting an exclusion in regulations.gov or in the 232 Exclusions Portal and this will be based on which submission method was used for the submission of the exclusion request.

In paragraph (h)(3)(i), the second sentence after the paragraph heading is revised to add a reference to the 232 Exclusions Portal after regulations.gov. This change is being made to specify the estimated 106-day period begins on the day the exclusion request is posted in regulations.gov or in the 232 Exclusions Portal based on which submission method was used for the exclusion request.

Paragraph (i) is revised by adding text directing the public to *See Annex 1 to Supplements Nos. 1 and 2 to part 705* for application issues that are specific to using www.regulations.gov for submitting rebuttals and surrebuttals under these two supplements for

exclusion requests submitted no later than [INSERT DATE 6 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST] and describing a manual in the 232 Exclusions Portal for exclusion requests submitted on or after [INSERT DATE 7 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST], titled 232 Exclusions Portal Comprehensive Guide (“232 Exclusions Guide”) and posted online at (<https://www.commerce.gov/page/section-232-investigations>).

In Annex 1 to Supplements No. 1 and 2 to Part 705 - Steps for Using Regulations.gov to File Rebuttals and Surrebuttals, this rule adds introductory text before the part of the Annex dealing with “How to file rebuttal comments.” The introductory text specifies that these steps for how to file rebuttal and surrebuttal comments are only applicable during the transition period for exclusion requests submitted no later than [INSERT DATE 6 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST] in regulations.gov. Also, a second sentence is added to specify that for guidance on how to file rebuttal and surrebuttal comments to exclusion requests submitted on or after [INSERT DATE 7 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST], in the 232 Exclusions Portal, to see the manual titled 232 Exclusions Portal Comprehensive Guide (“232 Exclusions Guide”).

Types of comments the Department is requesting on this rule

The Department is not seeking comments regarding the duties or quantitative limitations themselves or the exclusion and objection process overall. Rather, the Department seeks comment on whether the specific changes included in this third interim final rule have addressed earlier concerns with the use of regulations.gov for the 232 exclusions process, as well as comments on the 232 Exclusions Portal and the transition related provisions. Specifically,

Commerce encourages comments on the 232 Exclusions Portal as to which features are an improvement, as well highlighting any areas of concern or suggestions for improvement.

The 232 Exclusions Portal should make significant improvements to the efficiency of the 232 exclusions process. The Department will continue to make improvements to the 232 Exclusions Portal, including based on comments received on this rule, and parties will be notified of any new features.

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 three 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).

This rule is not expected to increase the burden hours for any of the collections associated with this rule as minimal changes are anticipated.

Any comments regarding the collection of information associated with this rule, including suggestions for reducing the burden, may be sent to Jasmeet K. Seehra, Office of Management and Budget (OMB), by e-mail to Jasmeet_K._Seehra@omb.eop.gov, or by fax to (202) 395-7285.

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

4. Pursuant to 5 U.S.C. 553, the Department of Commerce generally seeks notice and comment before issuing a final rule. However, an agency may forgo notice and comment when issuing “rules of agency organization, procedure, or practice.” Section 553(b)(3)(A). “The ‘critical feature’ of [such a] rule is that it covers agency actions that do not themselves alter the

rights or interests of parties, although it may alter the manner in which the parties present themselves or their viewpoints to the agency.” *Nat’l Min. Ass’n v. McCarthy*, 758 F.3d 243, 250 (D.C. Cir. 2014) (internal quotations omitted). Procedural rules “ensure that agencies retain latitude in organizing their internal operations.” *Am. Hosp. Ass’n v. Bowen*, 834 F.2d 1037, 1047 (D.C. Cir. 1987) (internal quotations omitted).

Under Section 553(b)(3)(A), the Department may issue this rule without notice and comment. This rule changes the Department’s procedures but does not alter the rights or interests of parties. Before this rule, the Department managed the 232 exclusions process through the Federal rulemaking portal (www.regulations.gov). While [regulations.gov](http://www.regulations.gov) allowed for submission of exclusion requests, objections, rebuttals and surrebuttals, processing those separate submissions required significant human data entry. The new, custom-designed portal will automatically compile all submissions and allow both submitters and the Department to view the documents more easily in one web-based system. The new portal also displays submission deadlines and requires submitters to complete a web-based registration to better track submissions. Under this rule, submitters retain the ability to submit exclusion requests, objections, rebuttals, and surrebuttals, but new submitters as of the effective of this interim final rule, [INSERT DATE 7 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST], must now use the 232 Exclusions Portal. The rule does not change the standards for granting 232 exclusions. Therefore, while this rule changes how submitters provide information to the Department, the rule does not alter the rights or interests of submitters or other parties involved in the 202 exclusion process.

In addition, the agency may waive the requirement under Section 553(d) that a final rule be published not less than 30 days prior to its effective date when an agency finds “good cause”

and publishes the good cause finding with the rule. “[T]he purpose of the thirty-day waiting period [pursuant to Section 553(d)] is to give affected parties a reasonable time to adjust their behavior before the final rule takes effect.” *Omnipoint Corp. v. FCC*, 78 F.3d 620, 630 (D.C. Cir. 1996). Accordingly, “[i]n determining whether good cause exists, an agency should balance the necessity for immediate implementation against principles of fundamental fairness which require that all affected persons be afforded a reasonable amount of time to prepare for the effective date of its ruling.” *Id.* (internal quotations omitted).

Here, the Department finds good cause to waive the 30-day waiting period. Public comments received in response to the March 19 and September 11 rules asserted concerns with the use of the Federal rulemaking portal regulations.gov for the 232 exclusions process. These commenters asserted that the use of regulations.gov made the 232 exclusions process complex and burdensome. Waiving the 30-day waiting period allows the Department to provide the public the benefits of the streamlined 232 Exclusions Portal immediately.

The U.S. Department of Commerce has stated that the use of regulations.gov was intended as a temporary solution to allow for the 232 exclusions process to be established quickly and that developing an online portal specific to the 232 exclusions process as soon as possible was one of the goals for improving the efficiency of the 232 exclusions process.

On November 26, 2018, the U.S. Department of Commerce published the notice, *Procedures for Participating in User Testing of the New Commerce 232 Exclusion Process Portal* (83 FR 60393). The November 26 notice described the process for the public to submit requests to participate in the public testing phase of the new 232 Exclusions Portal, and specified that the Department planned to transition to the new 232 Exclusions Portal once testing was completed and any final updates were made. On December 6-7, 2018, various parties tested the

portal at the Department. Based on the feedback from these parties, the Department's portal development team made revisions to the 232 Exclusions Portal and presented these changes to the testing parties at the Department on February 19, 2019. The 232 Exclusions Portal is better suited than regulations.gov for the 232 exclusions process based on the public input during the public testing phase and the portal development team's experience developing and testing the new portal.

Moreover, the Department's administrative burden decreases significantly. Finally, foregoing the delay in effective date imposes no burden on submitters as they continue to provide the same information through a different, streamlined portal.

In order to provide for a smooth transition to the 232 Exclusions Portal and avoid imposing costs on the public, the Department will continue to use regulations.gov for the processing of all exclusion requests that have already been filed or that are filed no later than [INSERT DATE 6 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST], including related submissions that are filed in regulations.gov after [INSERT DATE 6 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST], until the underlying exclusions requests receive a final decision.

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 – [AMENDED]

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 amended:

- a. By revising paragraph (a);
- b. By revising the introductory text of paragraph (b) and paragraphs (b)(1) through (4);
- c. By revising paragraphs (b)(5)(iii)(A) through (C);
- d. By revising paragraphs (c)(3) and (4);
- e. By revising paragraph (d)(2) and (3);
- f. By revising the first sentence of the introductory text of paragraph (f) and paragraphs (f)(1), (2), and (4);
- g. By revising the first sentence of the introductory text of paragraph (g) and paragraphs (g)(1), (2), and (4);
- h. By revising paragraphs (h)(2)(i) and (ii), (h)(2)(iii)(A), and (h)(3)(i); and
- i. By revising paragraph (i).

The revisions read as follows:

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

* * * * *

(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 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. This supplement references two different methods of submission for 232 submissions: one based on a legacy system used for 232 submissions (www.regulations.gov), and a second system based on a new portal developed by the U.S. Department of Commerce (232 Exclusions Portal), for receiving, managing and responding to 232 submissions. The [regulations.gov](http://www.regulations.gov) system must be used for all exclusion requests submitted no later than [INSERT DATE 6 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST]. Thereafter, beginning on [INSERT DATE 7 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST], all exclusion requests must be submitted on the 232 Exclusions Portal (<https://www.commerce.gov/page/section-232-investigations>). Objections, rebuttals, and surrebuttals must always be filed on the system where the exclusion request was submitted, whether in www.regulations.gov or in the 232 Exclusions Portal. For example, if the exclusion

request was submitted in www.regulations.gov, any objections, rebuttals, and surrebuttals pertaining to that exclusion request would also only be submitted in www.regulations.gov. Conversely, if the exclusion request was submitted in the 232 Exclusions Portal, any objections, rebuttals, and surrebuttals pertaining to that exclusion request would also only be submitted in the 232 Exclusions Portal. The use of [regulations.gov](http://www.regulations.gov) for the 232 exclusions process will end once all exclusion requests submitted to [regulations.gov](http://www.regulations.gov) no later than [INSERT DATE 6 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST] have completed the 232 exclusions process pursuant to this supplement – meaning the exclusion, objection, rebuttal, and surrebuttal process have been completed and the U.S. Department of Commerce has made a final disposition of the 232 submissions.

(b) *Required forms.* For any exclusion request to be submitted no later than [INSERT DATE 6 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST], the U.S. Department of Commerce has posted four separate fillable forms on the BIS website at <https://www.bis.doc.gov/index.php/232-steel> and on the Federal rulemaking portal (<http://www.regulations.gov>) that are to be used for submitting exclusion requests, objections to exclusion requests, rebuttals, and surrebuttals described in this supplement. On [regulations.gov](http://www.regulations.gov), you can find these four forms for steel exclusion requests, objections to exclusion requests, rebuttals to objections, and surrebuttals by searching for its [regulations.gov](http://www.regulations.gov) docket number, which is BIS-2018-0006. For any exclusion request to be submitted on or after [INSERT DATE 7 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST], 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, the rebuttal filer will access the rebuttal form by scrolling to the bottom of the objection form, and the 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 exclusion requests is *Request for Exclusion from Remedies: Section 232 National Security Investigation of Steel Imports*. The Title in www.regulations.gov is *Exclusion Request – Steel* and is posted under ID # BIS-2018-0006-0002. The Title of the web-based fillable form 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 exclusion requests is *Objection Filing to Posted Section 232 Exclusion Request: Steel*. The Title in www.regulations.gov is *Objection Filing –*

Steel and is posted under ID # BIS-2018-0006-0003. The Title of the web-based fillable form in the 232 Exclusions Portal is *Objection*.

(3) *Form required for submitting rebuttals*. The name of the form used for submitting rebuttals to objections is *Rebuttal to Objection Received for Section 232 Exclusion Request: Steel*. The Title in www.regulations.gov is *Rebuttal Filing – Steel* and is posted under ID # BIS-2018-0006-45144. The Title of the web-based fillable form in the 232 Exclusions Portal is *Rebuttal*.

(4) *Form required for submitting surrebuttals*. The name of the form used for submitting surrebuttals to objections is *Surrebuttal to Rebuttal Received on Section 232 Objection: Steel*. The Title in www.regulations.gov is *Surrebuttal Filing – Steel* and is posted under ID # BIS-2018-0006-45145. The Title of the web-based fillable form 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) * * *

(iii) * * *

(A) On the same day that you submit your 232 submission in www.regulations.gov or in the 232 Exclusions Portal, send an 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; and CBI for surrebuttals use 232surrebuttals@doc.gov.

(B) For rebuttals and surrebuttals pertaining to 232 submissions for exclusion requests submitted no later than [INSERT DATE 6 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST], the email subject line must only include the original www.regulations.gov exclusion request ID # (BIS-2018-000X-XXXXX) and the body of the email must include the 11-digit alphanumeric tracking number (XXX-XXXX-XXXX) you received from www.regulations.gov when you successfully submitted your rebuttal, or surrebuttal. For rebuttals and surrebuttals pertaining to 232 submissions for exclusion requests submitted on or after [INSERT DATE 7 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST], 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 www.regulations.gov and in the 232 Exclusions Portal, respectively, will assist the U.S. Department of Commerce to associate the CBI that will not be posted in www.regulations.gov or in the 232 Exclusions Portal, with the information included in the public submission.

(C) Submit the CBI as an attachment to that email. The CBI is limited to a maximum of 5 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 must be submitted using www.regulations.gov or in the 232 Exclusions Portal following the procedures identified in this supplement, as appropriate.

* * * * *

(c) * * *

(3) *Where to submit exclusion requests?* All exclusion requests submitted no later than [INSERT DATE 6 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST] must be in electronic form and submitted to the Federal rulemaking portal (<http://www.regulations.gov>). You can find the interim final rule that added this supplement by searching for the [regulations.gov](http://www.regulations.gov) docket number, which is BIS-2018-0006. All exclusion requests submitted on or after [INSERT DATE 7 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST], 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, but the date of submission determines whether an exclusion request must be submitted via [regulations.gov](http://www.regulations.gov) or via the new 232 Exclusions Portal, as indicated in paragraph (c)(3) of this supplement. The U.S. Department of Commerce will reject, and require resubmission using the correct submission method, of any exclusion request that does not use the correct submission method specified in this supplement based on the date of submission. Strict adherence to the correct submission method based on the date of an exclusion request's submission is required to ensure the efficient, fair, and transparent processing of exclusion requests during the transition period by the U.S. Department of Commerce, and to enable the Department to complete the transition to the 232 Exclusions Portal as quickly as possible.

* * * * *

(d) * * *

(2) *Identification of objections to submitted exclusion requests.* (i) *Objections to submitted exclusion requests in regulations.gov.* When submitting an objection to an exclusion request that was submitted no later than [INSERT DATE 6 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST], the objector must locate the exclusion request and submit a comment on the submitted exclusion request in regulations.gov. The file name of the objection submission should include the objector's name, date of submission of the objection, name of the organization that submitted the exclusion request, and date the exclusion request was posted. For example, if Company B is submitting on April 1, 2018, an objection to an exclusion request submitted by Company A on March 15, 2018, the file should be named: "Company B objection_4-1-18 for Company A exclusion request_3-15-18." In regulations.gov once an objection to a submitted exclusion request is posted, the objection will appear as a document under the related exclusion request.

(ii) *Objections to submitted exclusion requests in the 232 Exclusions Portal.* When submitting an objection to a submitted exclusion request that was submitted on or after [INSERT DATE 7 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST], 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 filling 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 that were submitted no later than [INSERT DATE 6 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST] must be in electronic form and submitted to the Federal rulemaking portal (<http://www.regulations.gov>) no later than 30 days after the related exclusion request is posted. All objections to submitted exclusion requests that were submitted on or after [INSERT DATE 7 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST], 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.

* * * * *

(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 to their exclusion request in the Federal rulemaking portal (<http://www.regulations.gov>) or in the 232 Exclusions Portal (<https://www.commerce.gov/page/section-232-investigations>). * * *

(1) *Identification of rebuttals.* (i) *Identification of rebuttals in regulations.gov.* When submitting a rebuttal, the individual or organization that submitted the exclusion request submits a comment on the objection submitted to the exclusion request in the Federal rulemaking portal (<http://www.regulations.gov>). See Annex 1 to Supplements No. 1 and 2 to this part for a five-step process for how to submit rebuttals. Annex 1 describes the naming convention used for identification of rebuttals and the steps needed to identify objections to exclusion requests when using www.regulations.gov to submit a rebuttal. Submitters of rebuttals must follow the steps described in Annex 1, including following the naming convention of rebuttals. In [regulations.gov](http://www.regulations.gov)

once a rebuttal to an objection to a submitted exclusion request is posted, the rebuttal will appear as a document under the related exclusion request.

(ii) *Identification of rebuttals in 232 Exclusions Portal.* 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. The rebuttal must be in writing and submitted in regulations.gov if the exclusion request was submitted via regulations.gov, or in the 232 Exclusions Portal if the exclusion request was submitted via the 232 Exclusions Portal. Each rebuttal is to be limited to a maximum of 10 pages, 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.

* * * * *

(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 regulations.gov if the exclusion request was submitted via regulations.gov, or in the 232 Exclusions Portal if the exclusion request was submitted via the 232 Exclusions Portal. This beginning date will be sometime between thirty-one to forty-five days (a fifteen day range) after an exclusion request has been posted. The range of days is needed to account for time needed by the U.S. Department of

Commerce to review any objections submitted to determine whether the objections are complete and should be posted in regulations.gov or 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.

Note to paragraph (f)(4): For exclusion requests that received an objection(s) but for which the U.S. Department of Commerce has not posted a final determination on the exclusion request as of September 11, 2018, the Department will reopen the requests to allow for the submission of rebuttals. The Department will reopen the requests on a rolling basis starting on September 11, 2018, and will seek to complete the reopening process on the date that is seven days after September 18, 2018, to serve as the start date for the review periods identified in paragraph (f)(4) of this supplement for those requests.

(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 Federal rulemaking portal (<http://www.regulations.gov>) or in the 232 Exclusions Portal (<https://www.commerce.gov/page/section-232-investigations>). * * *

(1) *Identification of surrebuttals.* (i) *Identification of surrebuttals in regulations.gov.* When submitting a surrebuttal, the individual or organization that submitted the objection to an exclusion request would submit a comment on the submitted rebuttal to the objection submitted in the Federal rulemaking portal (<http://www.regulations.gov>). See Annex 1 to Supplements No. 1 and 2 to this part for a five-step process for how to submit surrebuttals. Annex 1 describes the naming convention used for identification of surrebuttals and the steps needed to identify

rebuttals when using www.regulations.gov to submit a surrebuttal. Submitters of surrebuttals must follow the steps described in Annex 1, including following the naming convention of surrebuttals. In [regulations.gov](http://www.regulations.gov) once a surrebuttal to a rebuttal to an objection to a submitted exclusion request is posted, the surrebuttal will appear as a document under the related exclusion request.

(ii) *Identification of surrebuttals in the 232 Exclusions Portal.* 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 in writing and submitted in [regulations.gov](http://www.regulations.gov) if the exclusion request was submitted via [regulations.gov](http://www.regulations.gov), or in the 232 Exclusions Portal if the exclusion request was submitted via the 232 Exclusions Portal. Each surrebuttal is to be limited to a maximum of 10 pages, 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.

* * * * *

(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 regulations.gov if the exclusion request was submitted via regulations.gov, or in the 232 Exclusions Portal if the exclusion request was submitted via the 232 Exclusions Portal. This will be sometime within a fifteen-day range after the rebuttal period has closed. The range of days is needed to account for time needed by the U.S. Department of Commerce to review any rebuttals to objections submitted to determine whether the rebuttals are complete and should be posted in regulations.gov or 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) * * *

(2) Disposition of complete submissions. (i) Posting of responses. (A) Responses in regulations.gov. The U.S. Department of Commerce will post responses (decision memos) in regulations.gov to each exclusion request submitted no later than [INSERT DATE 6 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST] under docket number BIS-2018-0006. 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 under docket number BIS-2018-0006.

(B) 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 submitted on or after [INSERT DATE 7 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST]. 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 on regulations.gov or in the 232 Exclusions Portal (based on which submission method was used for the submission of the exclusion request) 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 on regulations.gov if the exclusion request was submitted via regulations.gov, or in the 232 Exclusions Portal if the exclusion request was submitted via 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 regulations.gov or in the 232 Exclusions Portal, based on which submission method was used for the submission of the exclusion request. 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.

* * * * *

(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 either regulations.gov or in the 232 Exclusions Portal, and ends once a decision to grant or deny is made on the exclusion request.

* * * * *

(i) *For further information.* If you have questions on this supplement, you may contact Director, Industrial Studies, Office of Technology Evaluation, Bureau of Industry and Security, U.S. Department of Commerce, at (202) 482-5642 or Steel232@bis.doc.gov regarding steel exclusion requests. See Annex 1 to Supplements Nos. 1 and 2 to this part for application issues that are specific to using www.regulations.gov for submitting rebuttals and surrebuttals under these two supplements for exclusion requests submitted no later than [INSERT DATE 6 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST]. The U.S. Department of Commerce has posted in regulations.gov training documents to assist your understanding when submitting exclusion requests and objections, including step-by-step screen shots of the process when using regulations.gov. The U.S. Department of Commerce website also 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 [INSERT DATE 7 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST], 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. Supplement No. 2 to part 705 is amended:

a. By revising paragraph (a);

b. By revising the introductory text of paragraph (b) and paragraphs (b)(1) through (4);

- c. By revising paragraphs (b)(5)(iii)(A) through (C);
- d. By revising paragraphs (c)(3) and (4);
- e. By revising paragraph (d)(2) and (3);
- f. By revising the first sentence of the introductory text of paragraph (f) and paragraphs (f)(1), (2), and (4);
- g. By revising the first sentence of the introductory text of paragraph (g) and paragraphs (g)(1), (2), and (4);
- h. By revising paragraphs (h)(2)(i) and (ii), (h)(2)(iii)(A), and (h)(3)(i); and
- i. By revising paragraph (i).

The revisions read as follows:

Supplement No. 2 to Part 705 - Requirements for Submissions Requesting Exclusions from the Remedies Instituted in Presidential Proclamation 9704 of March 8, 2018 to Adjusting Imports of Aluminum into the United States

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(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 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. This supplement references two different methods of submission for 232 submissions: one based on a legacy

system used for 232 submissions (www.regulations.gov), and a second system based on a new portal developed by the U.S. Department of Commerce, (232 Exclusions Portal) for receiving, managing and responding to 232 submissions. The www.regulations.gov system must be used for all exclusion requests submitted no later than [INSERT DATE 6 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST]. Thereafter, beginning on [INSERT DATE 7 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST], all exclusion requests must be submitted on the 232 Exclusions Portal (<https://www.commerce.gov/page/section-232-investigations>). Objections, rebuttals, and surrebuttals must always be filed on the system where the exclusion request was submitted whether in www.regulations.gov, or in the 232 Exclusions Portal. For example, if the exclusion request was submitted in www.regulations.gov, any objections, rebuttals, and surrebuttals pertaining to that exclusion request would also only be submitted in www.regulations.gov. Conversely, if the exclusion request was submitted in the 232 Exclusions Portal, any objections, rebuttals, and surrebuttals pertaining to that exclusion request would also only be submitted in the 232 Exclusions Portal. The use of www.regulations.gov for the 232 exclusions process will end once all exclusion requests submitted to www.regulations.gov no later than [INSERT DATE 6 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST] have completed the 232 exclusions process pursuant to this supplement – meaning the exclusion, objection, rebuttal, and surrebuttal process have been completed and the U.S. Department of Commerce has made a final disposition of the 232 submissions.

(b) *Required forms.* For any exclusion request to be submitted no later than [INSERT DATE 6 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST], the U.S. Department of Commerce has posted four separate fillable forms on the BIS website at

<https://www.bis.doc.gov/index.php/232-aluminum> and on the Federal rulemaking portal (<http://www.regulations.gov>) that are to be used by organizations for submitting exclusion requests, objections to exclusion requests, rebuttals, and surrebuttals described in this supplement. On [regulations.gov](http://www.regulations.gov), you can find these four forms for aluminum exclusion requests, objections to exclusion requests, rebuttals to objections, and surrebuttals by searching for its [regulations.gov](http://www.regulations.gov) docket number, which is BIS-2018-0002. For any exclusion request to be submitted on or after [INSERT DATE 7 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST], 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, the rebuttal filer will access the rebuttal form by scrolling to the bottom of the objection form, and the 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 exclusion requests is *Request for Exclusion from Remedies: Section 232 National Security Investigation of Aluminum Imports*. The Title in www.regulations.gov is *Exclusion Request – Aluminum* and is posted under ID # BIS-2018-0002-0002. The Title of the web-based fillable form 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 exclusion requests is *Objection Filing to Posted Section 232 Exclusion Request: Aluminum*. The Title in www.regulations.gov is *Objection Filing – Aluminum* and is posted under ID # BIS-2018-0002-0003. The Title of the web-based fillable form in the 232 Exclusions Portal is *Objection*.

(3) *Form required for submitting rebuttals.* The name of the form used for submitting rebuttals to objections is *Rebuttal to Objection Received for Section 232 Exclusion Request: Aluminum*. The Title in www.regulations.gov is *Rebuttal Filing – Aluminum* and is posted under ID # BIS-2018-0002-4393. The Title of the web-based fillable form in the 232 Exclusions Portal is *Rebuttal*.

(4) *Form required for submitting surrebuttals.* The name of the form used for submitting surrebuttals to objections is *Surrebuttal to Rebuttal Received on Section 232 Objection: Aluminum*. The Title in www.regulations.gov is *Surrebuttal Filing – Aluminum* and is posted under ID # BIS-2018-0002-4394. The Title of the web-based fillable form 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 identifying 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) * * *

(iii) * * *

(A) On the same day that you submit your 232 submission in www.regulations.gov or in the 232 Exclusions Portal, send an 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; and CBI for surrebuttals use 232surrebuttals@doc.gov.

(B) For rebuttals and surrebuttals pertaining to 232 submissions for exclusion requests submitted no later than [INSERT DATE 6 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST], the email subject line must only include the original www.regulations.gov exclusion request ID # (BIS-2018-000X-XXXXX) and the body of the email must include the 11-digit alphanumeric tracking number (XXX-XXXX-XXXX) you received from www.regulations.gov when you successfully submitted your rebuttal, or surrebuttal. For rebuttals

and surrebuttals pertaining to 232 submissions for exclusion requests submitted on or after [INSERT DATE 7 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST], 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 www.regulations.gov and in the 232 Exclusions Portal, respectively, will assist the U.S. Department of Commerce to associate the CBI that will not be posted in regulations.gov or in the 232 Exclusions Portal, with the information included in the public submission.

(C) Submit the CBI as an attachment to that email. The CBI is limited to a maximum of 5 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 must be submitted using www.regulations.gov or in the 232 Exclusions Portal following the procedures identified in this supplement, as appropriate.

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(c) * * *

(3) *Where to submit exclusion requests?* All exclusion requests submitted no later than [INSERT DATE 6 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST] must be in electronic form and submitted to the Federal rulemaking portal (<http://www.regulations.gov>). You can find the interim final rule that added this supplement by searching for the regulations.gov docket number, which is BIS-2018-0002. All exclusion requests submitted on or after [INSERT DATE 7 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST], 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, but the date of submission determines whether an exclusion request must be submitted via [regulations.gov](https://www.regulations.gov) or via the new 232 Exclusions Portal, as indicated in paragraph (c)(3) of this supplement. The U.S. Department of Commerce will reject and require resubmission using the correct submission method, of any exclusion request that does not use the correct submission method specified in this supplement based on the date of submission. Strict adherence to the correct submission method based on the date of an exclusion request's submission is required to ensure the efficient, fair, and transparent processing of exclusion requests during the transition period by the U.S. Department of Commerce, and to enable the Department to complete the transition to the 232 Exclusions Portal as quickly as possible.

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(d) * * *

(2) *Identification of objections to submitted exclusion requests--(i) Objections to submitted exclusion requests in regulations.gov.* When submitting an objection to an exclusion request that was submitted no later than [INSERT DATE 6 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST], the objector must locate the exclusion request and submit a comment on the submitted exclusion request in [regulations.gov](https://www.regulations.gov). The file name of the objection submission should include the objector's name, date of submission of the objection, name of the organization that submitted the exclusion request, and date the exclusion request was posted. For example, if Company X is submitting on April 1, 2018, an objection to an exclusion request submitted by Company A on March 15, 2018, the file should be named: "Company X objection_4-1-18 for Company A exclusion request_3-15-18." In [regulations.gov](https://www.regulations.gov) once an

objection to a submitted exclusion request is posted, the objection will appear as a document under the related exclusion request.

(ii) *Objections to submitted exclusion requests in the 232 Exclusions Portal.* When submitting an objection to a submitted exclusion request that was submitted on or after [INSERT DATE 7 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST], 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 filling 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 that were submitted no later than [INSERT DATE 6 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST] must be in electronic form and submitted to the Federal rulemaking portal (<http://www.regulations.gov>) no later than 30 days after the related exclusion request is posted. All objections to submitted exclusion requests that were submitted on or after [INSERT DATE 7 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST], 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.

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(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 to their exclusion request in the Federal rulemaking portal (<http://www.regulations.gov>) or in the 232 Exclusions Portal (<https://www.commerce.gov/page/section-232-investigations>). * * *

(1) *Identification of rebuttals.* (i) *Identification of rebuttals in regulations.gov.* When submitting a rebuttal, the individual or organization that submitted the exclusion request submits a comment on the objection to the submitted exclusion request in the Federal rulemaking portal (<http://www.regulations.gov>). See Annex 1 to Supplements No. 1 and 2 to this part for a five-step process for how to submit rebuttals. Annex 1 describes the naming convention used for identification of rebuttals and the steps needed to identify objections to exclusion requests when using www.regulations.gov to submit a rebuttal. Submitters of rebuttals must follow the steps described in Annex 1, including following the naming convention of rebuttals. In [regulations.gov](http://www.regulations.gov) once a rebuttal to an objection to a submitted exclusion request is posted, the rebuttal will appear as a document under the related exclusion request.

(ii) *Identification of rebuttals in 232 Exclusions Portal.* 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. The rebuttal must be in writing and submitted in

regulations.gov if the exclusion request was submitted via regulations.gov, or in the 232 Exclusions Portal if the exclusion request was submitted via the 232 Exclusions Portal. Each rebuttal is to be limited to a maximum of 10 pages, 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.

* * * * *

(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 regulations.gov if the exclusion request was submitted via regulations.gov, or in the 232 Exclusions Portal if the exclusion request was submitted via the 232 Exclusions Portal. This beginning date will be sometime between thirty-one to forty-five days (a fifteen day range) after an exclusion request has been posted. The range of days is needed to account for time needed by the U.S. Department of Commerce to review any objections submitted to determine whether the objections are complete and should be posted in regulations.gov or 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.

Note to paragraph (f)(4): For exclusion requests that received an objection(s) but for which the U.S. Department of Commerce has not posted a final determination on the exclusion request as of September 11, 2018, the Department will reopen the requests to allow for the submission of rebuttals. The Department will reopen the requests on a rolling basis starting on September 11, 2018, and will seek to complete the reopening process on the date that is seven

days after September 18, 2018, to serve as the start date for the review periods identified in paragraph (f)(4) of this supplement for those requests.

(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 Federal rulemaking portal (<http://www.regulations.gov>) or in the 232 Exclusions Portal (<https://www.commerce.gov/page/section-232-investigations>). * * *

(1) *Identification of surrebuttals.* (i) *Identification of surrebuttals in regulations.gov.* When submitting a surrebuttal, the individual or organization that submitted the objection to an exclusion request would submit a comment on the submitted rebuttal to the objection submitted in the Federal rulemaking portal (<http://www.regulations.gov>). See Annex 1 to Supplements No. 1 and 2 to this part for a five-step process for how to submit surrebuttals. Annex 1 describes the naming convention used for identification of surrebuttals and the steps needed to identify rebuttals in regulations when using www.regulations.gov to submit a surrebuttal. Submitters of surrebuttals must follow the steps described in Annex 1, including following the naming convention of surrebuttals. In [regulations.gov](http://www.regulations.gov) once a surrebuttal to a rebuttal to an objection to a submitted exclusion request is posted, the surrebuttal will appear as a document under the related exclusion request.

(ii) *Identification of surrebuttals in the 232 Exclusions Portal.* 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) supplement. The surrebuttal must be in writing and submitted in regulations.gov if the exclusion request was submitted via regulations.gov, or in the 232 Exclusions Portal if the exclusion request was submitted via the 232 Exclusions Portal. Each surrebuttal is to be limited to a maximum of 10 pages, 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.

* * * * *

(4) *Time limit for submitting surrebuttals.* The surrebuttal period begins on the date the Department opens the surrebuttal period, after the posting of the last rebuttal to an objection to an exclusion request in regulations.gov if the exclusion request was submitted via regulations.gov, or in the 232 Exclusions Portal if the exclusion request was submitted via the 232 Exclusions Portal. This will be sometime within a fifteen-day range after the rebuttal period has closed. The range of days is needed to account for time needed by the U.S. Department of Commerce to review any rebuttals to objections submitted to determine whether the rebuttals are complete and should be posted in regulations.gov or in the 232 Exclusions Portal. The surrebuttal period ends seven days after the surrebuttal 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) * * *

(2) *Disposition of complete submissions.* (i) *Posting of responses.* (A) *Responses in regulations.gov.* The U.S. Department of Commerce will post responses (decision memos) in regulations.gov to each exclusion request submitted no later than [INSERT DATE 6 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST] under docket number BIS-2018-0002. 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 under docket number BIS-2018-0002.

(B) *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 submitted on or after [INSERT DATE 7 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST]. 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 on regulations.gov or in the 232 Exclusions Portal (based on which submission method was used for the submission of the exclusion request) 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 on regulations.gov if the exclusion request was submitted via regulations.gov, or in the 232 Exclusions Portal if the exclusion request was submitted via 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 regulations.gov or in the 232 Exclusions Portal, based on which submission method was used for the submission of the exclusion request. 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.

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(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 either regulations.gov or in the 232 Exclusions Portal and ends once a decision to grant or deny is made on the exclusion request.

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(i) *For further information.* If you have questions on this supplement, you may contact Director, Industrial Studies, Office of Technology Evaluation, Bureau of Industry and Security, U.S.

Department of Commerce, at (202) 482-4757 or Aluminum232@bis.doc.gov regarding aluminum exclusion requests. See Annex 1 to Supplements Nos. 1 and 2 to this part for application issues that are specific to using www.regulations.gov for submitting rebuttals and surrebuttals under these two supplements for exclusion requests submitted no later than [INSERT DATE 6 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST]. The U.S. Department of Commerce has posted in regulations.gov training documents to

assist your understanding when submitting 232 submissions. These documents include step-by-step screen shots of the process for using regulations.gov. The U.S. Department of Commerce website also includes FAQs and best practices other companies have used for submitting exclusion requests and objections. 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 [INSERT DATE 7 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST], 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.

4. Annex 1 to Supplements No. 1 and 2 to part 705 is amended by adding introductory text before the phrase “HOW TO FILE REBUTTAL COMMENTS” to read as follows:

Annex 1 to Supplements No. 1 and 2 to Part 705 - Steps for Using Regulations.gov to File Rebuttals and Surrebuttals

These steps for how to file rebuttal and surrebuttal comments are only applicable to exclusion requests submitted no later than [INSERT DATE 6 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST] in regulations.gov. For guidance on how to file rebuttal and surrebuttal comments to exclusion requests submitted on or after [INSERT DATE 7 DAYS AFTER DATE OF DISPLAY ON THE PUBLIC INSPECTION LIST], in the 232 Exclusions Portal, see the manual, 232 Exclusions Portal Comprehensive Guide (“232 Exclusions Guide”) posted online at (<https://www.commerce.gov/page/section-232-investigations>).

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Dated: June 6, 2019.

Nazak Nikakhtar,

Assistant Secretary for Industry and Analysis,

performing the nonexclusive functions and

duties of the Under Secretary for Industry and Security.

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