



## DEPARTMENT OF COMMERCE

### International Trade Administration

#### 19 CFR Part 361

[Docket No. 201014-0270]

RIN: 0625-AB18

#### Aluminum Import Monitoring and Analysis System

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**ACTION:** Final rule.

**SUMMARY:** In this final rule, the U.S. Department of Commerce (Commerce) adopts the Aluminum Import Monitoring and Analysis (AIM) system by promulgating new regulations that establish a website for the AIM system that consists of an online aluminum import license application platform and public AIM monitor; require importers, customs brokers or their agents to apply for and obtain an import license for each entry of certain aluminum products into the United States through the AIM system website; require license applicants to identify, among other requirements, the country or countries where the largest and the second largest volume of primary aluminum used in the manufacture of the imported aluminum product was smelted (subject to certain exceptions) and the country where the aluminum product was most recently cast; allow for the public release of certain import license data on an aggregate basis, as appropriate, on the public AIM monitor; and apply the license requirement to all imports of basic aluminum products. Further, Commerce is adopting the aluminum import license application form in accordance with the Paperwork Reduction Act (PRA). Lastly, Commerce is notifying parties that, after the AIM system is in place, Commerce will seek additional comment from parties on potential improvements or changes to the system in a subsequent notice.

**DATES:** *Effective date:* January 25, 2021.

*Applicability date:* The AIM system website will be operational on January 4, 2021. Therefore, potential license applicants will be able to obtain their user identification numbers and apply for licenses beginning on January 4, 2021. Licenses will be required for all covered aluminum imports on or after January 25, 2021. For further information regarding a one-year delay for portions of the final rule, see SUPPLEMENTARY INFORMATION.

**ADDRESSES:**

The new AIM system website that will be operational on January 4, 2021 is <https://www.trade.gov/aluminum>. Through this website, potential license applicants can register for the online license application platform and apply for licenses. Additionally, the public AIM monitor is also featured on this website.

More information can be found at <https://www.trade.gov/aluminum>. Commerce is offering a virtual demonstration of the online license application platform for potential license applicants. Commerce is also offering a virtual demonstration of the public AIM monitor, which is available to the general public. Although the demonstrations will be completely virtual, Commerce will have a limited number of spots available for participation in the demonstrations, that will occur prior to the effective date of this rule. For specific dates and times of the demonstrations, and to participate in the demonstrations, please visit <https://www.trade.gov/aluminum>.

**FOR FURTHER INFORMATION, CONTACT:** Julie Al-Saadawi at (202) 482-1930, Brandon Custard at (202) 482-1823, or Jessica Link at (202) 482-1411.

**SUPPLEMENTARY INFORMATION:**

**Background**

On May 17, 2019, the United States announced joint understandings with Canada and Mexico, respectively, concerning trade in aluminum covered by the action taken pursuant to Section 232 of the Trade Expansion Act of 1962, as amended. Among other things, the

understandings call for the monitoring of aluminum trade between the United States and Canada and Mexico, respectively. Consistent with the joint understandings, and to enhance U.S. Government monitoring and analysis of aluminum products more generally, Commerce published a proposed rule on April 29, 2020 to establish the AIM system. The goal of the AIM system is to allow for the effective and timely monitoring of import surges of specific aluminum products and to aid in the prevention of transshipment of aluminum products. Over the past two decades, Commerce has operated the similar recently updated Steel Import Monitoring and Analysis (SIMA) system that allows for the effective and timely monitoring of import surges of specific steel products, and aids in the prevention of transshipment of steel products.

#### *Modeling the AIM System on the SIMA System*

To the extent practicable, the AIM System will operate in a similar manner as the SIMA system, which has been operating under its current authority since March 11, 2005.<sup>1</sup> The purpose of the SIMA system is to provide steel producers, steel consumers, importers, and the general public with accurate and timely information on anticipated imports of certain steel products into the United States. Steel import licenses, issued through the online SIMA licensing system, are required by U.S. Customs and Border Protection (CBP or Customs) for filing entry summary documentation, or its electronic equivalent, for imports of certain steel mill products into the United States. Through the monitoring tool, certain import data collected from the licenses are aggregated weekly and reported on the publicly available SIMA website, <https://www.trade.gov/steel>. This tool provides valuable data regarding U.S. imports of certain steel mill imports, as early as possible, and makes such data available to the public up to eight weeks in advance of official U.S. import statistics issued by the U.S. Census Bureau (Census).

#### *Section 232 Tariff on Imports of Aluminum into the United States*

On January 19, 2018, pursuant to section 232 of the Trade Expansion Act of 1962 (the Trade Expansion Act), as amended (19 U.S.C. 1862), the Secretary of Commerce (Secretary)

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<sup>1</sup> See *Steel Import Monitoring and Analysis System*, Final Rule, 70 FR 72373 (December 5, 2005).

transmitted to the President a report on his investigation into the effect of imports of aluminum articles on the national security of the United States.<sup>2</sup> The Secretary found and advised the President that aluminum articles were being imported into the United States in such quantities and under such circumstances as to threaten to impair the national security of the United States.<sup>3</sup> In Presidential Proclamation 9704 of March 8, 2018 (Adjusting Imports of Aluminum Into the United States) (Proclamation 9704), the President concurred with the Secretary's findings and decided to adjust the imports of aluminum articles, as defined in clause 1 of Proclamation 9704, by imposing a 10 percent ad valorem tariff on such articles imported from most countries.<sup>4</sup> Between March 2018 and August 2020, the President made several additional adjustments to the imports of aluminum articles.<sup>5</sup>

As a result, effective March 23, 2018, certain aluminum imports were subject to Section 232 tariffs, and imports from Canada and Mexico were exempted from these tariffs. With respect to Canada and Mexico, Proclamation 9704 provided that the United States would continue ongoing discussions with these countries and exempt aluminum imports from these countries from Section 232 tariffs.<sup>6</sup> Further, Proclamation 9704 stated that Canada and Mexico would be expected to take action to prevent transshipment of aluminum imports through these countries to the United States.<sup>7</sup> Subsequently, Presidential Proclamation 9758 of May 31, 2018 (Adjusting Imports of Aluminum into the United States) (Proclamation 9758) removed the

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<sup>2</sup> See *The Effect of Imports of Aluminum on the National Security: An Investigation Conducted Under Section 232 of the Trade Expansion Act of 1962, As Amended, U.S. Department of Commerce Report*, dated January 11, 2018 (<https://www.commerce.gov/files/effect-imports-aluminum-national-security-investigation-conducted-under-section-232-trade>).

<sup>3</sup> *Id.*

<sup>4</sup> *Adjusting Imports of Aluminum Into the United States, Proclamation 9704*, 83 FR 11619, 11620 (March 15, 2018) (*Presidential Proclamation 9704*).

<sup>5</sup> See *Adjusting Imports of Aluminum Into the United States, Proclamation 9710*, 83 FR 13355 (March 22, 2018) (*Presidential Proclamation 9710*); *Adjusting Imports of Aluminum Into the United States, Proclamation 9739*, 83 FR 20677 (April 30, 2018) (*Presidential Proclamation 9739*); *Adjusting Imports of Aluminum Into the United States, Proclamation 9758*, 83 FR 25849 (May 31, 2018) (*Presidential Proclamation 9758*); *Adjusting Imports of Aluminum Into the United States, Proclamation 9776*, 83 FR 45019 (August 28, 2018) (*Presidential Proclamation 9776*); *Adjusting Imports of Derivative Aluminum Articles and Derivative Steel Articles into the United States, Proclamation 9980*, 85 FR 5281 (January 24, 2020) (*Presidential Proclamation 9980*); and *Adjusting Imports of Aluminum Articles Into United States, Proclamation 10060*, 85 FR 49921 (August 14, 2020) (*Presidential Proclamation 10060*).

<sup>6</sup> See *Presidential Proclamation 9704*, 83 FR at 11620.

<sup>7</sup> *Id.*

exemption for aluminum imports from Canada and Mexico, and imposed Section 232 duties on aluminum imports from these countries, effective June 1, 2018.<sup>8</sup>

On May 17, 2019, the United States announced that discussions had yielded joint understandings with Canada and Mexico, respectively, to remove the Section 232 tariffs for aluminum imports from those countries.<sup>9</sup> As part of the joint understandings, the United States and Canada, and the United States and Mexico, agreed to implement effective measures to prevent the transshipment of aluminum products made outside of the United States, Canada, and Mexico, among other commitments. Additionally, the joint understandings provide that the countries will establish an agreed-upon process for monitoring aluminum trade between them. In light of the joint understandings, Presidential Proclamation 9893 of May 19, 2019 (Adjusting Imports of Aluminum into the United States) (Proclamation 9893) provided that a satisfactory alternative means had been agreed upon and, effective May 21, 2019, aluminum imports from Canada and Mexico would not be subject to Section 232 tariffs.<sup>10</sup>

### *Proposed Rule*

On April 29, 2020, Commerce published a proposal for the establishment of the AIM system in 19 CFR part 361.<sup>11</sup> Commerce received 17 comments on the *Proposed Rule*, and we have addressed those comments below. The *Proposed Rule*, comments received, and this final rule can be accessed using the Federal eRulemaking portal at <http://www.regulations.gov/>. After analyzing and considering the comments received, we are adopting regulations to establish the AIM system.

### **Explanation of Regulatory Provisions and Changes from the Proposed Rule**

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<sup>8</sup> See *Presidential Proclamation 9758*, 83 FR at 25850.

<sup>9</sup> See Joint Statement by the United States and Canada on Section 232 Duties on Steel and Aluminum, dated May 17, 2019, available at [https://ustr.gov/sites/default/files/Joint\\_Statement\\_by\\_the\\_United\\_States\\_and\\_Canada.pdf](https://ustr.gov/sites/default/files/Joint_Statement_by_the_United_States_and_Canada.pdf); Joint Statement by the United States and Mexico on Section 232 Duties on Steel and Aluminum, dated May 17, 2019, available at [https://ustr.gov/sites/default/files/Joint\\_Statement\\_by\\_the\\_United\\_States\\_and\\_Mexico.pdf](https://ustr.gov/sites/default/files/Joint_Statement_by_the_United_States_and_Mexico.pdf).

<sup>10</sup> See *Adjusting Imports of Aluminum into the United States, Proclamation 9893*, 84 FR 23983 (May 19, 2019).

<sup>11</sup> *Aluminum Import Monitoring and Analysis System Proposed Rule*, 85 FR 23748 (April 29, 2020) (*Proposed Rule*).

Pursuant to its authority under the Census Act, as amended (the Census Act) (13 U.S.C. 301(a) and 302), and consistent with the joint understandings, Commerce is establishing a system of import licensing to facilitate the monitoring of imports of aluminum articles, including monitoring for import surges, known as the AIM system. Commerce has thus proposed a rule and received comments regarding the establishment of the AIM system. The AIM system will operate in a similar way as the existing SIMA system (19 CFR part 360) and will be codified under 19 CFR part 361. Also, Commerce recently incorporated minor changes into its regulations for the SIMA system.<sup>12</sup> The AIM system tracks the modified SIMA system as closely as possible except where necessary to address the inherent differences between steel and aluminum imports.

The responsibility for issuing these regulations is delegated to the Assistant Secretary for Enforcement and Compliance.

The AIM system is based entirely on a web-based platform at <https://www.trade.gov/aluminum> and is comprised of the online registration system, automatic aluminum import license issuance system, and aluminum import monitor. As addressed in further detail below, for purposes of importing basic aluminum products,<sup>13</sup> any importer, importing company, customs broker or importer's agent of basic aluminum products must (1) register and obtain a username, (2) file for and obtain a unique aluminum import license (issued automatically) for each shipment, and (3) provide the license number to CBP as part of the submission of the entry summary form, Customs Form 7501, or its electronic equivalent. As discussed below, aluminum imports valued under \$5,000 per shipment may obtain a multi-use low-value license. Additionally, informal entries are exempt from the licensing requirement.<sup>14</sup>

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<sup>12</sup> See *Modification of Regulations Regarding the Steel Import Monitoring and Analysis System*, 85 FR 56162 (September 11, 2020) (*SIMA Modification*).

<sup>13</sup> The AIM system will cover basic aluminum products under the following HTS codes: 7601, 7604, 7605, 7606, 7607, 7608, 7609, 7616.99.51.60, and 7616.99.51.70. As discussed in 19 CFR 361.101(a)(1), a list of the products covered by the AIM system by Harmonized Tariff Schedule (HTS) codes can be obtained on the AIM system website. The HTS codes, which are maintained by the U.S. International Trade Commission (ITC), may be updated periodically to reflect revisions to the codes.

<sup>14</sup> See 19 CFR 143.21 through 143.28 for further information on informal entries.

The public AIM monitor, described further below, will aggregate and report certain information obtained from the aluminum licenses on a monthly basis and will be refreshed each week, as appropriate. Additionally, outdated license information will be replaced, where available, with publicly available U.S. import statistics. Like the public SIMA monitor, the public AIM monitor will function as an early warning system, yielding public data up to eight weeks prior to the release of publicly available import statistics by Census.

*Online Registration System and Automatic Aluminum Import License Issuance System*

Similar to the SIMA system, the AIM system will include both an online registration system and an automatic aluminum import license issuance system, as provided in 19 CFR 361.101-103. Section 361.102, covering the online registration system, provides that in order to obtain an aluminum import license, any importer, importing company, customs broker or the importer's agent must first register with Commerce and obtain a username to log into the automatic aluminum import license issuance system. Although a primary username will be issued to an importing company or brokerage house, all operating units within the company (*e.g.*, individual branches, divisions or employees) may have separate usernames associated with different email addresses that will be associated with the parent company. The AIM system will be designed to allow multiple users of a single Employer Identification Number (EIN) from different locations within the company to enter information simultaneously.

There is no fee to register (*see* § 361.106), and a username will be issued immediately if all registration fields are completed. As part of the registration process, the importer, importing company, customs broker, or importer's agent will be required to provide certain general information, including the applicant company name, EIN or the CBP-issued importer number (where no EIN is available), address, phone number, and email address for both the company's headquarters and any branch offices that will be applying for aluminum licenses. This information will be used solely for the purposes of administering the aluminum import licensing

and monitoring programs. The information will not be released by Commerce, except as required by U.S. law.

Section 361.103, covering the automatic issuance of import licenses, provides that aluminum import licenses will be issued to registered importers, customs brokers, or their agents through an automatic aluminum import licensing system. The separately issued username discussed above will be required to apply for the import license. There will be no fee charged to apply for the import licenses (see § 361.106). Like steel import licenses, aluminum import licenses will be issued automatically after the completion of all fields on the application form. In order to obtain the license, the applicant (also referred to as the filer) must report the information identified under § 361.103(c)(1) in the fields of the license application form. Certain fields will be generated automatically in the license form from the information in the registration system. Other information will be available from drop down lists in the application form (*e.g.*, aluminum HTS numbers, country of origin, country of smelt, port of entry) and will not have to be typed.

Much of the information requested on the license form is readily available to the importer or its broker and is similar to the information required by CBP for purposes of the entry summary. For certain fields, the information requested is not already required by CBP. Specifically, in the *Proposed Rule* Commerce proposed a field to reflect the country where the primary aluminum used in the manufacture of the imported aluminum product was smelted and poured. However, based on comments, and as discussed further below, in this final rule Commerce has altered this requirement. As stated in § 361.103(c)(1)(xiii), (xiv), and (xv), Commerce requires the applicant to provide information in three separate fields: (1) the country where the largest volume of primary aluminum used in the manufacture of the imported aluminum product was smelted (referred to as “country of smelt for the largest volume of primary aluminum” as shorthand), (2) the country where the second largest volume of primary aluminum used in the manufacture of the imported aluminum product was smelted (referred to as “country of smelt for the second largest volume of primary aluminum” as shorthand), and (3) the

country where the aluminum used in the imported aluminum product was most recently cast (referred to as “country of most recent cast” for shorthand). These fields are further described under § 361.103(c)(3). The reference to “pour” and “poured” is removed from the final rule.

Section 361.103(c)(3)(i)(A) defines the field for the country of smelt for the largest volume of primary aluminum as the country where the largest volume of new aluminum metal is produced from alumina (or aluminum oxide) by the electrolytic Hall–Héroult process.<sup>15</sup> Section 361.103(c)(3)(i)(B) provides that filers may state “not applicable” in this field if the product contains only secondary aluminum and no primary aluminum. Secondary aluminum is defined as aluminum metal that is produced from recycled aluminum scrap through a re-melting process.<sup>16</sup> Additionally, recognizing that importers may have some initial difficulties in securing this information, § 361.103(c)(3)(i)(C) allows filers to state “unknown” for this field on the license application on a temporary basis. Specifically, “unknown” may be stated for a period of one year from the publication of the final rule (*i.e.*, up to December 23, 2021) to allow license applicants sufficient time to gather the requisite information. Effective December 24, 2021, filers will no longer be able to state “unknown” and then will be required to provide the requested information for this field.

Similar to the country of smelt for the largest volume of primary aluminum field, § 361.103(c)(3)(ii)(A) defines the field for the country of smelt for the second largest volume of primary aluminum as the country where the second largest volume of new aluminum metal is produced from alumina (or aluminum oxide) by the electrolytic Hall–Héroult process. Section 361.103(c)(3)(ii)(B) also provides that filers may state “not applicable” in this field if the product contains only secondary aluminum and no primary aluminum. Additionally, filers may state

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<sup>15</sup> As discussed further below, this definition is directly responsive to the comments raised on the *Proposed Rule* as well as third-party sources, such as the discussion of primary aluminum production featured on the website of the Aluminum Association (available at <https://www.aluminum.org/industries/production/primary-production>). This discussion demonstrates that there is a well-understood and generally accepted description of the primary aluminum production process in the aluminum industry that allows Commerce to adopt the definitions in this final rule.

<sup>16</sup> As discussed further below, this definition takes into account comments on the *Proposed Rule* as well as third-party sources, such as the discussion of secondary aluminum production featured on the website of the Aluminum Association (available at <https://www.aluminum.org/industries/production/secondary-production>).

“not applicable” in this field if the product does not contain a second largest volume of primary aluminum. Further, filers will be allowed to state “unknown” in this field for a period of one year from the publication of the final rule (*i.e.*, up to December 23, 2021) for the reasons stated above. Effective December 24, 2021, filers will no longer be able to state “unknown” and then will be required to provide the requested information for this field.

Section 361.103(c)(3)(iii)(A) defines the field for the country of most recent cast as the country where the aluminum (with or without alloying elements) was last liquified by heat and cast into a solid state. The final solid state can take the form of either a semi-finished product (slab, billets or ingots) or a finished aluminum product.<sup>17</sup> Unlike the two fields described above, section 361.103(c)(3)(iii)(B) and (C) provide that filers will not be allowed to state “not applicable” or “unknown” for this field. As discussed further below, the country of most recent cast is information that generally is readily available to the importer or its broker and is most likely to be identified in the import documentation accompanying the entry summary to be filed with CBP (invoices, lab reports, etc.). In some instances, the country of most recent cast may be identified as the country of origin. Further, because a semi-finished or finished aluminum product could go through the casting process multiple times before importation into the United States, the field only requests the country of most recent cast.

A sample copy of the aluminum import license and the accompanying instructions will be available for viewing on Enforcement and Compliance’s website (<https://www.trade.gov/aluminum/>). Upon completion of the application form, the importer, customs broker or the importer’s agent will certify as to the accuracy and completeness of the information and submit the form electronically. Once the license is issued, the system will automatically issue an aluminum import license number which will appear on the application page. The applicant will also receive a confirmation email. The refreshed form containing the

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<sup>17</sup> As discussed further below, this definition takes into account comments on the *Proposed Rule* as well as third-party sources, such as the discussion of aluminum processing featured on the website of the Aluminum Association (available at <https://www.aluminum.org/industries/processing>).

submitted information and the newly issued license number will appear on the screen (the “license form”). Applicants can print the license form themselves. If needed, copies of completed license forms can be retrieved by the user or requested from Commerce during normal business hours.

Section 361.103(e) requires that users correct licenses themselves if they determine that there is an error submitted. To access a previously issued license, a user must log on with his/her username and identify the license number and the volume (quantity in kilograms) for the first product shown on the license. The information on the license should match the information presented in the entry summary data as closely as possible which includes the value and quantity of the shipment, the expected date of importation, and the customs port of entry.

Pursuant to § 361.101(b), the aluminum import license will be required for every entry of covered aluminum products (with certain exceptions for foreign trade zones and informal entries described below). As with SIMA, a single license can cover multiple products, as long as the information at the top of the form (*i.e.*, importer, exporter, manufacturer, country of origin and exportation, the expected date of export, first and second country of smelt, and expected date of import), are the same for the shipment. However, separate licenses will be required if any of the information above differs with respect to a given set of covered imported aluminum products. As a result, a single CBP entry may require more than one aluminum import license. The applicable license number(s) must cover the total quantity of the aluminum product entered and should match the information provided on the CBP entry summary. There is no requirement to present physical copies of the license forms at the time of entry summary. However, copies must be maintained in accordance with CBP’s normal requirements. Licenses will be issued for single use and will be specific to an entry (as discussed above), with the exception of low-value licenses described below.

Certain information collected from the license application system that can be aggregated without revealing business proprietary information will be reported on the public AIM monitor,

as described in further detail below. All other information including copies of the licenses and the names of importers, exporters, and manufacturers, will be considered business proprietary information and will not be released to the public.

#### *Duration of the Aluminum Import License*

In accordance with § 361.103(d), the aluminum import license can be applied for up to 60 days prior to the expected date of import and until the date of filing of the CBP entry summary documents, or its electronic equivalent. The aluminum import license is valid for up to 75 days. However, import licenses which are valid on the date of import but expire prior to the filing of CBP entry summary documents will be accepted. Issues related to foreign trade zones are addressed below.

#### *License Rules for Certain Types of Entries*

In accordance with § 361.101(e), aluminum import licenses are not required on temporary importation bond (TIB) entries, transportation and exportation (T&E) entries or entries into a bonded warehouse. Covered aluminum products withdrawn for consumption from a bonded warehouse will require a license at the entry summary.

#### *Foreign Trade Zone Admissions*

Pursuant to § 361.101(c), all shipments of covered aluminum products into foreign trade zone (FTZ), known as FTZ admissions, will require an aluminum import license prior to the filing of FTZ admission documents. The license number(s) must be reported on the FTZ admission documents and/or status designation (Customs Form 214) at the time of filing. There is no requirement to present physical copies of the license forms at the time of FTZ admission. However, copies must be maintained in accordance with Customs' normal requirements. FTZ admission documents without the required license number(s) will not be considered complete and will be subject to liquidated damages for violation of the bond condition requiring timely completion of admission. A further aluminum import license will not be required for shipments of entries for consumption from zones into the commerce of the United States. In the case of

FTZ admissions, the aluminum import license can be applied for up to 60 days prior to the expected date of importation into the Zone and until the date of filing of Customs Form 214. For FTZs, the licenses do not expire and covered aluminum products do not require a new license when leaving the zone and entering for consumption.

#### *Informal Entries and Low-Value Licenses*

In accordance with § 361.101(d), no import license shall be required on informal entries of covered aluminum products, such as merchandise valued at less than \$2,500 (*see* 19 CFR 143.21 through 143.28 for further information). This exemption applies to informal entries only; imports of aluminum valued at less than \$2,500 that are part of a formal entry will require a license.

Pursuant to § 361.103(f), for shipments containing less than \$5,000 worth of aluminum, applicants can apply for a reusable low-value license.

#### *Public AIM Monitor*

As provided in § 361.104, the public AIM monitor, featured on the AIM system website, will report certain aggregate information on imports of aluminum product categories using both publicly available import data and data obtained from the aluminum licenses. The public AIM monitor will provide information on U.S. imports of aluminum from all countries by broad product categories in both value and volume measures. Once the license collection begins, additional data will be added to the public AIM monitor. Aggregate data will be reported, as appropriate, on a monthly basis by country of origin, country where the largest volume of primary aluminum used in the manufacture of the product was smelted, country where the second largest volume of primary aluminum used in the manufacture of the product was smelted, country of most recent cast, and relevant aluminum product grouping, etc. and will include import quantity (metric tons), import Customs value (U.S. \$), and average unit value (\$/metric ton). The website will also contain certain aggregate data at the 6-digit Harmonized Tariff Schedule level and will also present a range of historical data for comparison purposes.

Provision of aggregate data on the website may be revisited should concerns arise over the possible release of proprietary data. The public AIM monitor will be similar to SIMA's but will not incorporate preliminary Census data. Commerce believes that the early release preliminary data from Census is not critical to the early warning monitor because the aluminum import license data will be available.

With respect to the public AIM monitor, which will aggregate and report certain license data, Commerce will only release or update weekly data on the country of smelt and cast for each product group (at the 6-digit HTS level) if there are sufficient observations for the product groups. Commerce releases data on its public AIM monitor under the authority of the Census Act (13 U.S.C. 301(a) and 302) and must adhere to Census guidance for the release of data which requires the protection of proprietary data. After collecting the data on the countries of smelt and country of most recent cast, Commerce will determine whether there are sufficient data observations to report at a 6-digit product group level without disclosing proprietary data. The public AIM monitor will divide license data into various product groupings, which can be seen at <https://www.trade.gov/aluminum>. In instances where there are few (*i.e.*, less than three) observations of certain country of origin/product group combinations, Commerce will not provide this disaggregated data (*i.e.*, product group level) when adding the countries of smelt and country of cast data. Further, provision of aggregate data on the public AIM monitor may be revisited should concerns arise over the possible release of business proprietary data.

Reported monthly import data will be updated each week with new data collected from licenses issued in the prior week. The data collected may be adjusted periodically for corrected, canceled or unused aluminum import licenses, if deemed appropriate, for accurate monitoring purposes. Information provided in the public AIM monitor will mirror the information available on the public SIMA monitor.<sup>18</sup>

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<sup>18</sup> See *SIMA Modification*.

The public AIM monitor will also present a range of historical data for comparison purposes. This will include comparisons to the previous month and to the same month in the previous year; three month rolling averages along with similar comparisons to the immediately preceding period, the same period from the preceding year; and monthly import data on each aluminum product category.

At the sub-regulatory level, Commerce will consider adding additional product groups (for example, aluminum scrap) to the public AIM monitor beyond the HTS categories covered by the license requirement, which will be based on publicly available import data.<sup>19</sup>

### *Miscellaneous Provisions*

Section 361.105 is reserved. Section 361.106 provides that no fees will be charged for obtaining a username, issuing an aluminum import license or accessing the public AIM monitor. Additionally, § 361.107 provides that the AIM system will generally be accessible 24 hours a day, 7 days a week but may be unavailable at times for server maintenance. If the system is unavailable for an extended period of time, parties will be able to obtain licenses from Commerce directly via email (aluminum.license@trade.gov) during regular business hours. Should the system be inaccessible for an extended period of time, Commerce would advise Customs to consider this as part of mitigation on any liquidated damage claims that may be issued. Lastly, § 361.108 states that Commerce may revoke a filer's electronic licensing privileges if the filer consistently files inaccurate licensing information or otherwise abuses the system. In such instances, the filer would only be able to obtain a license directly from Commerce, which may take 10 working days to process. Delays in the filing caused by the removal of a filer's electronic filing privilege will not be considered a mitigating factor by CBP.

### **Response to Comments Received on the Proposed Rule**

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<sup>19</sup> As discussed below, after the AIM system is in place, Commerce will seek additional comment from parties on potential improvements or changes to the system in a subsequent notice, including adding aluminum scrap products to the licensing requirement.

Commerce received 17 comments on the proposed rule that Commerce considered in finalizing this rule. Below is a summary of the comments, grouped by issue category, followed by Commerce's response. Further, because the AIM system is being adopted for the first time in this final rule, after the AIM system is in place, Commerce will seek additional comment from parties on potential improvements or changes to the system in a subsequent notice. Parties will have the opportunity to provide further comment on any issue discussed herein or any related topic at that time.

1. *Country of Smelt and Pour Field*

Several commenters supported the general concept of a "smelt and pour" requirement, while several other commenters opposed it. Most commenters recommended using the term "smelt and cast" instead of "smelt and pour" because they argued that "pour" was not a term used widely in the aluminum industry. These commenters recommended a wide range of alternatives.

a. *Replacing "Pour" with "Casting"*

Several commenters recommended that Commerce collect information on the country of smelt and replace the term "pour" with the country of most recent cast. Another commenter recommended collecting information only on the country of most recent cast, but not the country where primary aluminum was smelted.

b. *Traceability of Country of Smelt*

Several commenters stated that filers would not always know where primary aluminum used in their products was originally smelted because primary aluminum is often smelted and shipped to one or more third countries where it may be re-melted, alloyed, and/or shaped before shipment to the U.S. These commenters were concerned that tracing the primary aluminum, from the original smelting, through all the stages of re-melting in different countries might not be possible. However, several other commenters asserted that it is possible to trace the country of smelt, but it might take some time to gather such information. Another commenter requested that Commerce collect information on country of origin, and opposed collecting information on

smelting, pouring, or casting. This commenter stated that it would be burdensome to collect information beyond country of origin for alloys and secondary products but did not provide further details about the burden. This commenter also stated that it would be impossible to collect “smelt and pour” information for scrap.

One commenter asserted that aluminum semi-finished goods (profiles, castings, and rolled products) were produced using a mixture of primary aluminum, secondary (recycled) aluminum, and pre- and post-consumer aluminum scrap. The commenter stated that it was unclear how a smelt and pour field should be completed for typical aluminum products where the aluminum was smelted in various countries. This commenter recommended removing the smelt and pour field altogether, allowing an “unknown” option, or replacing smelt and pour with “last melted and poured.” Several other commenters explained that some aluminum imports contain only secondary (recycled) aluminum and, as a result, requested that importers have the option of reporting “no primary aluminum” in the smelt and pour (or smelt and cast) field. Another commenter also requested that the AIM system collect information on country of alloying which may be different from the country of most recent cast.

*c. Requiring Further Documentation and Additional Requirements*

Two commenters requested that Commerce collect documentation regarding the country of smelt and pour or the country of origin. One of these commenters requested that Commerce collect Country of Origin and Country of Analysis certificates, and another commenter requested the collection of mill test certificates for each stage of processing. Another commenter suggested that CBP examine the aluminum licenses, not just the license number, and inspect them against other import documents. Similarly, another commenter suggested that documentation proving Mexican country of origin should be required for imports from Mexico. These commenters expressed concerns that primary aluminum could be produced in countries other than Canada and Mexico, shipped to these countries as either ingots or other shapes, re-melted, and then entered duty-free if declared as Canadian or Mexican country of origin.

*Response:*

In the *Proposed Rule*, Commerce proposed a field to reflect the country where the primary aluminum used in the manufacture of the imported aluminum product was smelted and poured. Based on comments received on the *Proposed Rule*, Commerce will make several modifications to better reflect the characteristics of the aluminum industry and provide clarity to license applicants. These modifications are described in detail above and summarized here.

Specifically, the reference to “country of smelt” has been further refined and the reference to “country of pour” is removed from the final rule. Pursuant to § 361.103(c)(1)(xiii), (xiv), and (xv), Commerce will require the license applicant to provide information in three separate fields: (1) the country where the largest volume of primary aluminum used in the manufacture of the imported aluminum product was smelted (referred to as “country of smelt for the largest volume of primary aluminum” as shorthand), (2) the country where the second largest volume of primary aluminum used in the manufacture of the imported aluminum product was smelted (referred to as “country of smelt for the second largest volume of primary aluminum” as shorthand), and (3) the country where the aluminum used in the imported aluminum product was most recently cast (referred to as “country of most recent cast” for shorthand). These fields are further described under § 361.103(c)(3), including definitions. These updates also are adopted in the aluminum license application form. We address individual comments below.

As discussed above, after the AIM system is in place, Commerce will seek additional comment from parties on potential improvements or changes to the system in a subsequent notice. In particular, parties may comment on the requirement to report the country of smelt for the largest and second largest volume of primary aluminum and the country of most recent cast discussed herein.

A. *Replace “Pour” with the Term “Most Recent Casting” and have Separate License Fields for “Smelting” and “Most Recent Casting”*

We agree with commenters that the reference to “country of pour” should be removed from the final rule because this term is not widely used in the aluminum industry. Additionally,

based on comments, we have adopted the three fields described above. Requiring the completion of these separate fields will allow Commerce to collect data that are most relevant to the aluminum industry while minimizing the burden to applicants. Moreover, collection of this data will allow for the effective and timely monitoring of import surges of specific aluminum products and will assist in preventing the transshipment of aluminum products. Separately requiring the identification of the country of smelt for the largest and second largest volume of *primary* aluminum and the country of most recent cast better reflects data available to the industry. Furthermore, the specificity of the requested information should minimize confusion caused by the initially proposed “smelt and pour” field.

Commerce also agrees with certain commenters’ requests that clear definitions regarding these terms should be included in the aluminum license application. Specifically, in the country of smelt for the largest volume of primary aluminum field, the license applicant will be required to identify the country where the largest quantity of new aluminum metal is produced from alumina (or aluminum oxide) by the electrolytic Hall–Héroult process.<sup>20</sup> The country of smelt for the second largest volume of primary aluminum field adopts a similar definition. The establishment of these fields and the adopted definitions for these fields takes into account comments on the *Proposed Rule* as well as third-party sources, such as the discussion of primary aluminum production featured on the website of the Aluminum Association.<sup>21</sup> Thus, these definitions are consistent with the well-understood and generally accepted description of the primary aluminum production process in the aluminum industry. Additionally, these precise field names and definitions are further refinements of the term “country of smelt,” that was included in the *Proposed Rule*, to provide increased clarity and consistency for all potentially regulated entities.

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<sup>20</sup> See <https://www.aluminum.org/industries/production/primary-production>.

<sup>21</sup> *Id.*

Moreover, by including a field for the country of smelt for the second largest volume of primary aluminum, Commerce will address concerns from foreign producers, importers, and downstream producers that primary aluminum is often melted and chemically mixed with secondary aluminum and/or primary aluminum from multiple countries. At the same time, Commerce will allow applicants to state “not applicable” in this field if the product does not contain a second largest volume of primary aluminum. Additionally, applicants may state “not applicable” in this field if the product contains only secondary aluminum and no primary aluminum. For clarity, Commerce defines secondary aluminum as aluminum metal that is produced from recycled aluminum scrap through a re-melting process.<sup>22</sup> Consistent with other definitions adopted in this final rule, this definition takes into account comments on the *Proposed Rule* as well as third-party sources, and reflects a well-understood and generally accepted description of the secondary aluminum production process in the aluminum industry.

Lastly, in the country of most recent cast field, the license applicant will be required to identify the country where the aluminum (with or without alloying elements) was last liquified by heat, and cast into a solid state.<sup>23</sup> The final solid state can take the form of either a semi-finished product (slab, billets or ingots) or a finished aluminum product.<sup>24</sup> This is a refinement of the term “country of pour,” that was also in the *Proposed Rule*, and also provides increased clarity as requested by commenters. And similar to the above definitions, this definition takes into account third-party sources and reflects a well-understood and generally accepted description of aluminum processing in the aluminum industry. In light of this, we are adopting these fields and corresponding definitions in the final rule.

*B. Option to State “Unknown” in the Fields for the Country of Smelt for the Largest and Second Largest Volume of Primary Aluminum for a One-Year Period*

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<sup>22</sup> See <https://www.aluminum.org/industries/production/secondary-production>.

<sup>23</sup> See <http://centuryaluminum.com/plants-products/sebree/index.html>, accessed July 17, 2020 and [https://www.aluminum.org/sites/default/files/GAG\\_001\\_Terms\\_and\\_Definitions\\_3rd\\_Edition\\_2011\\_01\\_August\\_21\\_2011\\_JW.pdf](https://www.aluminum.org/sites/default/files/GAG_001_Terms_and_Definitions_3rd_Edition_2011_01_August_21_2011_JW.pdf), accessed July 17, 2020.

<sup>24</sup> See <https://www.aluminum.org/industries/processing>.

As stated above, recognizing that importers may have some initial difficulty in securing the information necessary to complete the fields for the country of smelt for the largest and second largest volume of primary aluminum, Commerce will allow filers to state “unknown” in these fields on a temporary basis. Specifically, “unknown” may be stated for a period of one year from the publication of the final rule (*i.e.*, up to December 23, 2021) to enable license applicants sufficient time to gather the requisite information. Effective one year from the publication of the final rule, December 24, 2021, filers will no longer be able to state “unknown” and then will be required to provide the requested information for this field.

This will address concerns from commenters who do not always know the country where primary aluminum was smelted, especially when it is re-melted and alloyed with secondary aluminum. In contrast, for the modified SIMA system, Commerce determined that steel license applicants would be expected to know the country where the steel used in the manufacture of the product is melted and poured for purposes of completing this field in the license application. Specifically, Commerce determined that this information is identifiable in the mill test certification that would be readily available to the applicant, and, for this reason, declined to allow SIMA license applicants an option to state “unknown” in this field.<sup>25</sup> Given the concerns identified above (*i.e.*, that aluminum license applicants may not know the country where primary aluminum was smelted), Commerce is allowing the use of the “unknown” option for aluminum license applicants as described herein. Nevertheless, Commerce recognizes that allowing an “unknown” option presents the potential for abuse and possible loophole concerns related to circumvention/transshipment and may inhibit the accurate collection of data. Therefore, Commerce will implement the following measures.

First, Commerce will allow the use of the “unknown” option for *one year* after the publication of the final rule, as described above. This will place importers on notice that they need to start collecting the necessary documentation that tracks this information within their

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<sup>25</sup> See *SIMA Modification*, 85 FR at 56166.

supply chains. It will also allow the AIM system to be launched expeditiously while providing importers an adjustment period to start collecting this information. By providing this adjustment period and considering the burden to importers, the AIM system would then be aligned with SIMA requirements in one year when the “unknown” option is removed from the form.

Second, applicants are required to certify that the information on the license application is correct to the best of the applicant’s knowledge. Therefore, when importers select “unknown” in the license application, they are certifying that this is the best information available to them at the time of license application.

Third, Commerce will monitor use of the “unknown” option for abuse, in a similar manner to current monitoring of the use of low-value import licenses in the SIMA system. Commerce will identify license applicants who repeatedly report “unknown” in the fields for the countries where the largest and/or second largest volume(s) of primary aluminum is smelted and contact these applicants to confirm that they are providing the best available information.

Fourth, to the extent possible without revealing business proprietary information, Commerce will also report data on the volume of imports associated with licenses that use the “unknown” option on the public AIM monitor. This will increase transparency and allow the industry to closely monitor, including raising concerns, of potential abuse and circumvention/transshipment.

### *C. Further Documentation and Additional Requirements*

Although commenters requested that Commerce collect further documentation (*i.e.*, mill test certificates, Country of Analysis/Origin certificates) and/or require CBP to examine licenses in order to prevent transshipment and circumvention/evasion, Commerce will not require such documentation or requirement at this time. These suggestions would create additional burdens and the public has not had an opportunity to comment. Moreover, it would be administratively burdensome for Commerce to examine these documents in issuing licenses through the automated license application system, and for CBP to examine such documentation upon entry of

covered aluminum products. Such a requirement would necessitate further inter-agency consultation and coordination and has not been considered for purposes of this final rule.

Finally, Commerce will not collect information on the country of alloying because this would add another field to the license form and would likely provide redundant information that is already collected through the identification of country of most recent cast.

That said, as discussed above, after the AIM system is in place, Commerce will seek additional comment from parties on potential improvements or changes to the system in a subsequent notice. Parties may further comment on the issues discussed above at that time.

## 2. *Expanding the License Requirement for Aluminum Scrap and/or Other Aluminum Products not Included in the Proposed Rule*

The *Proposed Rule* solicited comments on a licensing requirement for aluminum products subject to Section 232 tariffs, pursuant to Presidential Proclamation 9704,<sup>26</sup> but several commenters discussed whether the licensing requirement should be expanded to cover additional aluminum products. Specifically, several commenters requested confirmation that scrap products (not subject to Section 232 tariffs) be exempted from the *Proposed Rule*'s smelt and pour requirement but did not comment on whether scrap products should be subject to the licensing requirement in the first instance. Several commenters stated that scrap should be subject to the licensing requirement, though not subject to the *Proposed Rule*'s smelt and pour requirement, including one commenter that requested all of HTSUS Chapter 76 be subject to the licensing requirement. One commenter recommended allowing scrap importers to list the country where the scrap was purchased as the country of origin. Additionally, a commenter recommended expanding the licensing requirement to cover aluminum wire and cable products (HTS 7614.90.20, 7614.90.40, and 7614.90.50) because these products are now subject to Section 232 tariffs, pursuant to Presidential Proclamation 9980.<sup>27</sup>

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<sup>26</sup> See *Proposed Rule*, 85 FR at 23751.

<sup>27</sup> See *Presidential Proclamation 9980*, 85 FR 5281.

*Response:* The AIM system will not require import licenses for aluminum scrap (HTS 7602), and certain downstream/derivative products whose inclusion is requested in comments and are now subject to Section 232 tariffs pursuant to Presidential Proclamation 9980 (*i.e.*, aluminum wire and cable products (HTS 7614.90.20, 7614.90.40, and 7614.90.50)).<sup>28</sup> Commerce did not request comments on including these products in the *Proposed Rule*<sup>29</sup> and, as a result, the public has not been afforded an opportunity to provide comments on such a change to the scope of products subject to the AIM system. However, Commerce has considered the commenters' assertion that collecting data on scrap and downstream products will assist in monitoring potential evasion/circumvention. Accordingly, as discussed above, after the AIM system is in place, Commerce will seek additional comment from parties on potential improvements or changes to the system in a subsequent notice. Parties may comment on the inclusion of these products in the AIM system's import license requirement at that time. Furthermore, as noted above, at the sub-regulatory level, Commerce will consider adding additional product groups (such as aluminum scrap) to the public AIM monitor beyond the HTS categories covered by the license requirement, which will be based only on publicly available import data.

### 3. *Reconciling License Values Post-Entry*

Several commenters stated that aluminum prices are based on a London Metal Exchange (LME) reference price that is often unavailable at time of importation, so the price of the product imported would need to be corrected (reconciled) post-entry. These commenters were concerned that importers would need to correct values for all or nearly all aluminum imports after entry, increasing the public burden on completing the license application.

*Response:* As per 19 CFR 361.103(e), applicants will need to correct their licenses if they determine that there was an error in their application. The information on the license should

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<sup>28</sup> *Id.*

<sup>29</sup> *See Proposed Rule.*

match the information presented in the Customs Form 7501 entry summary document as closely as possible; this includes the value and quantity of the shipment, the expected date of importation, and the Customs port of entry. Commerce has included instructions on the license application, specifying that importers are to provide their best estimate of the value of imports at the time of license completion. Although this estimate does not need to perfectly match the final reconciled value on CBP entry summary documents, the estimate should be reasonably accurate, based on invoices, shipping documents, or the current LME reference price for the commodity imported (at time of license completion). Further, the regulations state that licenses are to closely reflect the information contained in the entry summaries. Therefore, importers will have the ability to edit and correct the information provided on the licenses after entry and will be able to address large discrepancies in accordance with 19 CFR 361.103(e).

#### 4. *Reporting of Data in the Public AIM Monitor*

There were two comments about the reporting of data in the public AIM monitor. One commenter requested that data be collected and reported at the 10-digit HTS level in order to distinguish between two types of aluminum products, can sheet end and body stock, that are the same at the 8-digit HTS level. Another commenter requested that the public AIM monitor publicly disclose specific import data (including specific importers and sources of imports), rather than aggregate import data to increase transparency.

*Response:* Commerce understands that it would be optimal from the data users' perspective to have the full 10-digit information collected through the licenses available to the users of the public AIM monitor. However, this may contain proprietary data, making it impossible for Commerce to provide so much detail. Commerce will release data in as much detail as possible (*i.e.*, at the most disaggregated level possible) without releasing companies' proprietary information. Like the public SIMA monitor, Commerce will release data on its public AIM monitor under the authority of the Census Act (13 U.S.C. 301(a) and 302) and must adhere to Census guidance for the release of data which requires the protection of proprietary

data. After collecting license data, Commerce will determine whether there are sufficient data observations (*i.e.*, more than three) to report at a 6-digit HTS level without disclosing business proprietary data. As with steel license data, the rationale for releasing only 6-digit HTS detail information is based on the notion that releasing data at the 10-digit HTS level from the license collection (updated weekly) could violate these rules and likely release identifiable proprietary information. Once Commerce begins the license collection, Commerce will re-evaluate the level of product detail it can release appropriately without disclosing proprietary information.

#### *5. Timing of License Application/Validity*

One commenter requested allowing quarterly licenses that were only estimates of the total import volume, created up to 120 days before importation to reduce the public burden and to provide an early warning about imports farther in advance than the 60 days in the proposed rule. Another commenter requested that Commerce not require licenses too far ahead of importation date (no more than 30 days).

*Response:* In accordance with § 361.103(d), and as described above, Commerce will require applicants to obtain a license prior to entry, up to 60 days in advance, the same period as the existing SIMA system. Licenses will be automatic and immediate, so an importer could create a license only minutes before entry. However, applicants will be encouraged to create licenses further in advance to maximize Commerce's ability to provide the public with an early warning about import trends. Licenses cannot be based on quarterly summaries, and volumes should closely match those on all other documents required for importation because allowing vague quarterly estimates would undermine the accuracy of the system.

#### *6. Collecting Information Related to Section 232 Tariffs*

There were several comments about Section 232 tariffs and tariff exclusions. One commenter requested requiring importers to indicate whether they received an exclusion on the license and requested that the public AIM monitor present exclusion data on its website.

Another commenter requested that licensing only be required for imports from countries that are not exempt from the Section 232 program.

*Response:* Commerce, at this time, will not require AIM license applicants to report information on Section 232 exclusions in the license application. As an initial matter, the AIM system and the Section 232 exclusion process, although both housed within Commerce, are administered separately and under separate legal authorities. Therefore, inclusion of a new field for Section 232 exclusions will require further consideration and analysis. Further, because Commerce did not request comments on including this additional field in the *Proposed Rule*, the public has not been afforded an opportunity to provide comments on what would be a significant change to the license application.

That said, Commerce has considered the commenters' assertion that collecting data on Section 232 exclusions could assist in monitoring for potential surges. Accordingly, as discussed above, after the AIM system is in place, Commerce will seek additional comment from parties on potential improvements or changes to the system in a subsequent notice, including the potential inclusion of a field for Section 232 exclusions on the AIM license application, at that time.

Additionally, Commerce is not accepting the commenter's request that licenses only be required for imports from countries that are not exempt from Section 232 tariffs. Requiring licenses for aluminum imports from all countries is consistent with the objectives of the joint understandings and the AIM system to monitor all imports of aluminum for potential surges. Indeed, a main objective of the joint understandings is to monitor potential surge patterns involving countries exempted from the Section 232 tariffs.<sup>30</sup>

## 7. *Training Materials*

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<sup>30</sup> See Joint Statement by the United States and Canada on Section 232 Duties on Steel and Aluminum, dated May 17, 2019, available at [https://ustr.gov/sites/default/files/Joint\\_Statement\\_by\\_the\\_United\\_States\\_and\\_Canada.pdf](https://ustr.gov/sites/default/files/Joint_Statement_by_the_United_States_and_Canada.pdf); Joint Statement by the United States and Mexico on Section 232 Duties on Steel and Aluminum, dated May 17, 2019, available at [https://ustr.gov/sites/default/files/Joint\\_Statement\\_by\\_the\\_United\\_States\\_and\\_Mexico.pdf](https://ustr.gov/sites/default/files/Joint_Statement_by_the_United_States_and_Mexico.pdf).

One commenter requested additional training material on how to create licenses and reconcile import values.

*Response:* Commerce will create training webinars, a “Frequently Asked Questions” page on the AIM system website, and other materials to ensure that the public understands the licensing requirement. This does not require regulatory modifications.

#### 8. *Bonded Warehouses*

One commenter requested that bonded warehouses not be exempted from licensing requirements. The commenter raised concerns that, because licenses can be obtained quickly and automatically, exempting bonded warehouses from licensing requirements creates the potential for importers to stockpile aluminum without licenses and then to later import them into the United States for consumption based on more favorable pricing conditions in the U.S. market. This commenter asserted that storing goods in bonded warehouses would also undermine the early warning provided by requiring importers to obtain licenses prior to entry of aluminum products.

*Response:* As provided in section 19 CFR 361.101(e) and consistent with the SIMA system, Commerce will not require users to obtain aluminum import licenses for entry into bonded warehouses. However, entries of covered aluminum products withdrawn for consumption from bonded warehouses will require a license at the entry summary. Entry into bonded warehouses does not constitute an entry for consumption as provided in § 361.101(b) and (e), and some of the aluminum could subsequently be re-exported from bonded warehouses. Additionally, Commerce also finds that including these shipments in the aluminum license data would likely overestimate monthly imports of aluminum for consumption. Furthermore, this would require users to obtain two separate licenses for importation into bonded warehouses and importation into consumption. This would increase the public burden and further reduce the accuracy of AIM licenses because the system would double-count these licenses.

#### 9. *Request for Further Consultation with Mexican Government*

Several commenters requested that the United States and Mexico implement an “agreed-upon process for monitoring aluminum trade between both countries” as part of USMCA negotiations. One commenter sought explicit clarification regarding whether the AIM system constitutes the “agreed-upon process for monitoring aluminum trade between countries” in accordance with the joint understandings on aluminum.<sup>31</sup> In particular, this commenter requested that the U.S. clarify the role of the AIM system with regard to the objectives of the joint understandings. This commenter also requested that Commerce clarify whether any additional measures to prevent unfair imports and transshipment are intended to complement the AIM system. This commenter further requested clarification regarding whether the AIM system could be modified in the future in the event of an “alternative bilateral” agreement.

Another commenter asserted that the joint understandings specify that the importing country may request consultation with the exporting country in the event of an import surge. This commenter requested that the AIM system therefore include a method for periodic consultations with the Government of Mexico.

*Response:* Although Commerce is cognizant of commenters’ concerns regarding increased imports and transshipment, Commerce will not consult further with the Government of Mexico at this time. The Office of the U.S. Trade Representative is already actively engaged in ongoing discussions with the Mexican Government regarding import surges. Commenters should therefore direct relevant comments or questions to USTR. The Government of Mexico is aware that the AIM system has been proposed by the U.S. Government for monitoring aluminum import surges.<sup>32</sup> Furthermore, the AIM system is a monitoring system and not an enforcement mechanism, therefore, incorporating a consultation method into the system exceeds the authority under which the system is established and the scope of its intended activities.

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<sup>31</sup> See Joint Statement by the United States and Mexico on Section 232 Duties on Steel and Aluminum, dated May 17, 2019, available at [https://ustr.gov/sites/default/files/Joint\\_Statement\\_by\\_the\\_United\\_States\\_and\\_Mexico.pdf](https://ustr.gov/sites/default/files/Joint_Statement_by_the_United_States_and_Mexico.pdf).

<sup>32</sup> See *generally Proposed Rule*, 85 FR at 23748.

## **Classifications**

### *Executive Order 12866*

The Office of Management and Budget (OMB) has determined that this final rule is significant, but not economically significant, for purposes of Executive Order 12866.

### *Executive Order 13771*

This final rule is not subject to Executive Order 13771 because it imposes *de minimis* costs.

### *Executive Order 13132*

This final rule does not contain policies with federalism implications as that term is defined in section 1(a) of Executive Order 13132, dated August 4, 1999 (64 FR 43255 (August 10, 1999)).

### *Paperwork Reduction Act*

This rule contains a collection of information subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35 (PRA). Similar requirements have been approved for steel by OMB (OMB No.: 0625-0245; Expiration Date: 07/31/2023). Based on Commerce's experience with steel and sample data for aluminum entries, Commerce estimates that public reporting for the data collection of information in the aluminum import license will be less than 10.5 minutes per response, including the time for reviewing instructions, and completing and reviewing and correcting the collection of information. Commerce also estimates that the average registered applicant will complete about 173 licenses per year each and an estimated total of 278,538 regular licenses and 50 low value licenses will be issued each year.

### *Paperwork Reduction Act Data:*

*OMB Number:* 0625-0279.

*ITA Number:* ITA-4142a (regular license); ITA-4142b (low-value license).

*Type of Review:* Regular Submission.

*Affected Public:* Business or other for-profit.

*Estimated Number of Registered Users:* 1,750.

*Estimated Time per Response:* less than 10.5 minutes.

*Estimated Total Annual Burden Hours:* 48,749 hours.

*Estimated Total Annual Costs:* \$0.00.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. As discussed above, after the AIM system is in place, Commerce will seek additional comment from parties on potential improvements or changes to the system in a subsequent notice. Parties may further comment on this collection of information at that time.

#### *Regulatory Flexibility Act*

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration at the proposed rule stage that this rule if adopted, would not have a significant economic impact on a substantial number of small entities as that term is defined in the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (RFA). The factual basis for the certification is found in the proposed rule and is repeated below. No comments were received on the certification or the economic impacts of this action. As a result, no final regulatory flexibility analysis is required and none was prepared.

This rule will not have a significant economic impact on a substantial number of small entities. This rule, if implemented, would: 1) require importers of covered aluminum products to apply for and obtain an import license from Commerce's online license application system; 2) for purposes of obtaining the license, require import license applicants to provide information that is largely already required for purposes of importation into the customs territory of the United States pursuant to CBP requirements; 3) for information that is not already required for entry purposes, require import license applicants to specify certain information including the

country where primary aluminum used in the manufacture of the imported aluminum product was smelted and where the product was most recently cast; and (4) cover the following HTS codes: 7601, 7604, 7605, 7606, 7607, 7608, 7609, 7616.99.51.60, and 7616.99.51.70, and any subsequent revisions to these HTS classifications.

The entities that would be impacted by this rule are importers and brokerage companies that import aluminum products. Based on statistics derived from current license applications for steel under the SIMA system, of the approximately 563,107 licenses (both regular and low-value licenses) issued each year, Commerce estimates that less than two percent (11,262) of steel license applications are filed by importers and brokerage companies considered to be small entities. Commerce estimates that the number of aluminum licenses issued under the AIM system will be about half of the number of steel licenses under the SIMA system, based on statistics for one month's entry information.<sup>33</sup> Therefore, our estimate for aluminum is that approximately 278,588 licenses (both regular and low-value licenses) will be issued each year, and of that figure, less than two percent (5,572) of the license applications will be filed by importers and brokerage companies considered to be small entities.

Based on the current usage of the SIMA system, Commerce does not anticipate that this rule will have a significant economic impact on a substantial number of small entities. The AIM system will mirror the SIMA system to the extent practicable. In most cases, brokerage companies will apply for the license on behalf of the aluminum importers. Many of the same brokerage firms that handle steel imports will likely handle aluminum imports, and, therefore, are familiar with the SIMA online license application system upon which the AIM system is based. Most brokerage companies that are currently involved in filing documentation for importing goods into the United States are accustomed to CBP's automated entry filing systems. Today, CBP's filings are handled electronically. Additionally, the regulated entities are already

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<sup>33</sup> This estimate is based on CBP data covering May 2019. Specifically, in May 2019 there were approximately 64,000 entries subject to the SIMA licensing requirement based on the covered HTS categories for SIMA. In that same month, approximately 31,000 entries entered under the covered HTS categories for AIM.

required to provide certain information required by the aluminum license application, including the name and address of the importer, type of aluminum product, and country of origin, along with additional information for purposes of filing the entry summary documentation required by CBP. For certain fields, in particular, the fields for the country where the largest and second largest volume of primary aluminum is smelted and the country where the aluminum product was most recently cast, the information requested is not already required by CBP. For the first two fields, Commerce recognizes that there may be some difficulty in reporting the requested information, and, therefore, is allowing parties to state “unknown” for one year from the publication of the final rule for these fields. In this one year time, Commerce anticipates that those parties will be able to obtain the requisite information. Additionally, Commerce believes that the country where the aluminum product was most recently cast is information that generally is readily available to the importer or its broker and is most likely to be identified in the import documentation accompanying the entry summary to be filed with CBP (invoices, lab reports, etc.). In some instances, the country of most recent cast may be identified as the country of origin. Therefore, the license application should not be a significant obstacle to any firm.

Further, should an importer or brokerage company need to register for an account or apply for a license non-electronically, an email/phone option is available at Commerce during regular business hours. There will be no cost to register for a company-specific aluminum license account and no cost to file for the license. Each license form is expected to take less than 10.5 minutes to complete and collects much of the same information required on the CBP entry summary documentation. The import license is the only additional U.S. entry requirement that the importers or their representatives must fulfill in order to import each covered product shipment under 19 CFR part 361.

Commerce does not charge fees for licenses. Similar to the estimates used for the steel license program, Commerce estimates that the likely aggregate license costs incurred by small entities in terms of the time to apply for licenses as a result of this rule would be less than two

percent, or an estimated \$19,500, of the estimated total \$974,980 cost to all aluminum importers to process the on-line automatic licenses. These calculations are based on an hourly pay rate of \$20.00 multiplied by the estimated 48,750 total annual burden hours. The average cost of a single license is less than \$4.17 based on the estimate that one license requires less than 10.5 minutes of the filer's time.

Therefore, the Department certified that the final rule will not have a significant economic impact on a substantial number of small business entities.

*List of Subjects in 19 CFR part 361*

Administrative practice and procedure, Business and industry, Imports, Reporting and recordkeeping requirements, Aluminum.

Dated: December 16, 2020.

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Assistant Secretary for Enforcement and Compliance.

For the reasons stated in the preamble, the Department of Commerce adds 19 CFR part 361 as follows:

## **PART 361 – ALUMINUM IMPORT MONITORING AND ANALYSIS SYSTEM**

Sec.	
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**Authority:** 13 U.S.C. 301(a) and 302.

### **§ 361.101 Aluminum import licensing.**

(a) *In general.* (1) All imports of basic aluminum products are subject to the import licensing requirements imposed by the U.S. Department of Commerce (Commerce). These products are listed on the Aluminum Import Monitoring and Analysis (AIM) system website (<https://www.trade.gov/aluminum>). Registered users will be able to obtain aluminum import licenses on the AIM system website. This website contains two sections related to import licensing—the online registration system and the automatic aluminum import license issuance system. Aluminum import licenses must be provided to U.S. Customs and Border Protection (CBP or Customs) as discussed in this section. Information gathered from these licenses will be aggregated and posted on the import monitoring section of the AIM system website.

(2) A single license may cover multiple products as long as certain information on the license (*e.g.*, importer, exporter, manufacturer and country of origin) remains the same. However, separate licenses for aluminum entered under a single entry will be required if the information differs. As a result, a single Customs entry may require more than one aluminum import license. The applicable license(s) must cover the total quantity of aluminum entered and should cover the same information provided on the Customs entry summary.

(b) *Entries for consumption.* All entries for consumption of covered aluminum products, other than the exceptions discussed in paragraphs (c) and (d) of this section, will require an import license prior to the filing of Customs entry summary documents, or its electronic equivalent. The license number(s) must be reported on the entry summary (Customs Form 7501), or its electronic equivalent, at the time of filing. There is no requirement to present physical copies of the license forms at the time of entry summary. However, copies must be maintained in accordance with Customs' normal requirements. Entry summaries submitted without the required license number(s) will be considered incomplete and will be subject to liquidated damages for violation of the bond condition requiring timely completion of entry.

(c) *Foreign Trade Zone admissions.* All shipments of covered aluminum products into a foreign trade zone (FTZ), known as FTZ admissions, will require an import license prior to the filing of FTZ admission documents, or its electronic equivalents. The license number(s) must be reported on the application for FTZ admission and/or status designation (Customs Form 214) at the time of filing. There is no requirement to present physical copies of the license forms at the time of FTZ admission; however, copies must be maintained in accordance with Customs' normal requirements. FTZ admission documents submitted without the required license number(s) will not be considered complete and will be subject to liquidated damages for violation of the bond condition requiring timely completion of admission. The aluminum license for FTZ admission does not expire, and a further aluminum license will not be required for shipments of entries for consumption from zones into the commerce of the United States.

(d) *Informal entries.* No import license shall be required on informal entries of covered aluminum products, such as merchandise valued at less than \$2,500. This exemption applies to informal entries only; imports of aluminum valued at less than \$2,500 that are part of a formal entry will require a license. For additional information, refer to 19 CFR 143.21 through 143.28.

(e) *Other non-consumption entries.* Import licenses are not required on temporary importation bond (TIB) entries, transportation and exportation (T&E) entries or entries into a bonded

warehouse. Covered aluminum products withdrawn for consumption from a bonded warehouse will require a license at the entry summary in accordance with paragraph (b) of this section.

**§ 361.102 Online registration.**

(a) *In general.* (1) Any importer, importing company, customs broker or importer's agent with a U.S. street address may register and obtain the username necessary to log on to the automatic aluminum import license issuance system. Foreign companies may obtain a username if they have a U.S. address through which they may be reached; P.O. boxes will not be accepted. A username will be issued within two business days. Companies will be able to register online through the AIM system website. However, should a company prefer to apply for a username non-electronically, a phone/email option will be available at Commerce during regular business hours.

(2) This username will be required in order to log on to the aluminum import license issuance system. A single username will be issued to an importer, customs broker or importer's agent. Operating units within the company (*e.g.*, individual branches, divisions or employees) will all use the same basic company username but can supply suffixes to identify the branches. The aluminum import license issuance system will be designed to allow multiple users of a single identification number from different locations within the company to enter information simultaneously.

(b) *Information required to obtain a username.* In order to obtain a username, the importer, importing company, customs broker or importer's agent will be required to provide general information. This information will include: The filer company name, employer identification number (EIN) or Customs ID number (the Customs-issued importer number) (where no EIN is available), U.S. street address, phone number, contact information and email address for both the company headquarters and any branch offices that will be applying for aluminum licenses. It is the responsibility of the applicant to keep the information up to date. This information will not be released by Commerce, except as required by U.S. law.

**§ 361.103 Automatic issuance of import licenses.**

(a) *In general.* Aluminum import licenses will be issued to registered importers, customs brokers or their agents through an automatic aluminum import licensing system. The licenses will be issued automatically after the completion of the form.

(b) *Customs entry number.* Filers are not required to report a Customs entry number to obtain an import license but are encouraged to do so if the Customs entry number is known at the time of filing for the license.

(c) *Information required to obtain an import license.* (1) The following information is required to be reported in order to obtain an import license (if using the automatic licensing system, some of this information will be provided automatically from information submitted as part of the registration process):

(i) Filer company name and address;

(ii) Filer contact name, phone number, email address;

(iii) Entry type (*i.e.*, Consumption, FTZ);

(iv) Importer name;

(v) Exporter name;

(vi) Manufacturer name (filer may state “unknown”);

(vii) Country of origin;

(viii) Country of exportation;

(ix) Expected date of export;

(x) Expected date of import;

(xi) Expected port of entry;

(xii) Current Harmonized Tariff Schedule (HTS) number (from Chapter 76);

(xiii) Country where the largest volume of primary aluminum used in the manufacture of the product was smelted (see paragraph (c)(3)(i) of this section);

(xiv) Country where the second largest volume of primary aluminum used in the manufacture of the product was smelted (see paragraph (c)(3)(ii) of this section);

(xv) Country where the product was most recently cast (see paragraph (c)(3)(iii) of this section);

(xvi) Quantity (in kilograms); and

(xvii) Customs value (US\$).

(2) Certain fields will be automatically filled out by the automatic license system based on information submitted by the filer (*e.g.*, product category, unit value). Filers should review these fields to help confirm the accuracy of the submitted data.

(3)(i) For purposes of paragraph (c)(1)(xiii) of this section:

(A) The field in the license application requiring identification of the country where the largest volume of primary aluminum used in the manufacture of the product was smelted applies to the country where the largest volume of new aluminum metal is produced from alumina (or aluminum oxide) by the electrolytic Hall–Héroult process.

(B) Filers may state “not applicable” for this field if the product contains only secondary aluminum and no primary aluminum. Secondary aluminum is defined as aluminum metal that is produced from recycled aluminum scrap through a re-melting process.

(C) For license applications up to December 23, 2021, filers may state “unknown” for this field. Effective December 24, 2021, filers may not state “unknown” for this field.

(ii) For purposes of paragraph (c)(1)(xiv) of this section:

(A) The field in the license application requiring identification of the country where the second largest volume of primary aluminum used in the manufacture of the product was smelted applies to the country where the second largest volume of new aluminum metal is produced from alumina (or aluminum oxide) by the electrolytic Hall–Héroult process.

(B) Filers may state “not applicable” for this field if the product does not contain a second largest volume of primary aluminum or if the product contains only secondary aluminum and no

primary aluminum. Secondary aluminum is defined as aluminum metal that is produced from recycled aluminum scrap through a re-melting process.

(C) For license applications up to December 23, 2021, filers may state “unknown” for this field. Effective December 24, 2021, filers may not state “unknown” for this field.

(iii) For purposes of paragraph (c)(1)(xv) of this section:

(A) The field in the license application requiring identification of the country where the product was most recently cast applies to the country where the aluminum (with or without alloying elements) was last liquified by heat and cast into a solid state. The final solid state can take the form of either a semi-finished product (slab, billets or ingots) or a finished aluminum product.

(B) Filers may not state “not applicable” for this field.

(C) Filers may not state “unknown” for this field.

(4) Upon completion of the form, the importer, customs broker or the importer’s agent will certify as to the accuracy and completeness of the information and submit the form electronically. After refreshing the page, the system will automatically issue an aluminum import license number. The refreshed form containing the submitted information and the newly issued license number will appear on the screen (the “license form”). Filers can print the license form themselves only at that time. For security purposes, users will not be able to retrieve licenses themselves from the license system at a later date for reprinting. If needed, copies of completed license forms can be requested from Commerce during normal business hours.(d)

*Duration of the aluminum import license.* The aluminum import license can be applied for up to 60 days prior to the expected date of importation and until the date of filing of the entry summary documents, or in the case of FTZ admissions, the filing of Customs Form 214, or their electronic equivalents. With the exception of the licenses for FTZ admission (*see* § 361.101(c)), the aluminum import license is valid for 75 days; however, import licenses that were valid on the date of importation but expired prior to the filing of entry summary data will be accepted.

(e) *Correcting submitted license information.* Users will need to correct licenses themselves if they determine that there was an error submitted. To access a previously issued license, a user must log on with his username and identify the license number and the volume (quantity in kilograms) for the first product shown on the license. The information on the license should match the information presented in the entry summary data as closely as possible. This includes the value and quantity of the shipment, the expected date of importation, and the Customs port of entry.

(f) *Low-value licenses.* There is one exception to the requirement for obtaining a unique license for each Customs entry. If the total value of the covered aluminum portion of an entry is less than \$5,000, applicants may apply to Commerce for a low-value license that can be used in lieu of a single-entry license for low-value entries.

#### **§ 361.104 Aluminum import monitoring.**

(a) Commerce will maintain an import monitoring system on the public AIM system website that will report certain aggregate information on imports of aluminum products obtained from the aluminum licenses and, where available, from publicly available U.S. import statistics.

Aggregate data will be reported, as appropriate, on a monthly basis by country of origin, country of smelt, country of last cast, relevant aluminum product grouping, etc., and will include import quantity (metric tons), import Customs value (U.S. \$), and average unit value (\$/metric ton).

The website will also contain certain aggregate data at the 6-digit Harmonized Tariff Schedule level and will also present a range of historical data for comparison purposes. Provision of aggregate data on the website may be revisited should concerns arise over the possible release of proprietary data.

(b) Reported monthly import data will be refreshed each week, as appropriate, with new data on licenses issued during the previous week. This data will also be adjusted periodically for

cancelled or unused aluminum import licenses, as appropriate. Additionally, outdated license data will be replaced, where available, with publicly available U.S. import statistics.

**§ 361.105 [Reserved]**

**§ 361.106 Fees.**

No fees will be charged for obtaining a username, issuing an aluminum import license or accessing the aluminum import monitoring system.

**§ 361.107 Hours of operation.**

The automatic licensing system will generally be accessible 24 hours a day, 7 days a week but may be unavailable at selected times for server maintenance. If the system is unavailable for an extended period of time, parties will be able to obtain licenses from Commerce directly via email (aluminum.license@trade.gov) during regular business hours. Should the system be inaccessible for an extended period of time, Commerce would advise CBP to consider this as part of mitigation on any liquidated damage claims that may be issued.

**§ 361.108 Loss of electronic licensing privileges.**

Should Commerce determine that a filer consistently files inaccurate licensing information or otherwise abuses the licensing system, Commerce may revoke its electronic licensing privileges without prior notice. The filer will then only be able to obtain a license directly from Commerce. Because of the additional time needed to review such forms, Commerce may require up to 10 working days to process such forms. Delays in filing caused by the removal of a filer's electronic filing privilege will not be considered a mitigating factor by CBP.