PART 102—RULES OF ORIGIN

1. The authority citation for Part 102 continues to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States), 1624, 3314, 3592.

§ 102.21 [Amended]

2. Section 102.21(b)(5) is amended by removing the listings ''7019.10.15'' and ''7019.10.28'' and ''7019.20'' and adding, in their place in numerical order, the listings ''7019.19.15'' and ''7019.19.28'' and ''7019.40–59''.

3. In § 102.21(e), the table is amended by removing the entries for HTSUS 7019.10.15 and HTSUS 7019.10.28 and HTSUS 7019.20 and adding, in their place, entries for HTSUS 7019.19.15 and HTSUS 7019.19.28 and HTSUS 7019.40–7019.59 to read as follows:

§ 102.21 Textile and apparel products.

* * * * *

(e) * * *

HTSUS	Tariff shift and/or other requirements
*	* * * * * *
7019.19.15	(1) If the good is of filaments, a change to subheading 7019.19.15 from any other heading, provided that the change is the result of an extrusion process. (2) If the good is of staple fibers, a change to subheading 7019.19.15 from any other subheading, except from subheading 7019.19.30 through 7019.19.90, 7019.31.00 through 7019.39.50, and 7019.90, and provided that the change is the result of a spinning process.
7019.19.28	(1) If the good is of filaments, a change to subheading 7019.19.28 from any other heading, provided that the change is the result of an extrusion process. (2) If the good is of staple fibers, a change to subheading 7019.19.28 from any other subheading, except from subheading 7019.19.30 through 7019.19.90, 7019.31.00 through 7019.39.50, and 7019.90, and provided that the change is the result of a spinning process.
7019.40–7019.59	A change to subheading 7019.40 through 7019.59 from any other subheading, provided that the change is the result of a fabric-making process.
*	* * * * * *

George J. Weise,
Commissioner of Customs.

Approved: June 17, 1996.

John P. Simpson,
Deputy Assistant Secretary of the Treasury.

[FR Doc. 96–18545 Filed 7–19–96; 8:45 am]

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INTERNATIONAL TRADE COMMISSION

19 CFR Parts 201 and 207

Amendments to Rules of Practice and Procedure

AGENCY: United States International Trade Commission.

ACTION: Final rulemaking.

SUMMARY: The United States International Trade Commission (the Commission) hereby amends its Rules of Practice and Procedure concerning antidumping and countervailing duty investigations and reviews in 19 CFR parts 201 and 207. The amendments have two purposes. First, they conform the Commission's rules, on a permanent basis, to the requirements of the Uruguay Round Agreements Act (URAA). Second, the amendments will improve the effectiveness and efficiency of the Commission's procedures in conducting antidumping and countervailing duty investigations and reviews.

DATES: In accordance with the 30-day advance publication requirement imposed by 5 U.S.C. 553(d), the effective date of these rules is August 21, 1996.[1]

FOR FURTHER INFORMATION CONTACT: Marc A. Bernstein, Office of General Counsel, United States International Trade Commission, telephone 202–205–3087. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION:

Background

The URAA was enacted on December 8, 1994. It contains provisions which, inter alia, amend Title VII of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1671 et seq.) concerning antidumping and countervailing duty investigations and reviews. Enactment of the URAA necessitated that the Commission amend its rules concerning Title VII practice and procedure.

Commission rules to implement new legislation ordinarily are promulgated in accordance with the rulemaking procedures of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 551 et seq.), which entails the following steps: (1) Publication of a notice of proposed rulemaking; (2) solicitation of public comment on the proposed rules; (3) Commission review of such comments prior to developing final rules; and (4) publication of final rules thirty days prior to their effective date. See 5 U.S.C. 553. That procedure could not be utilized in this instance because the new legislation was enacted on December 8, 1994, and became effective on January 1, 1995. Because it was not possible to complete the section 553 rulemaking prior to the effective date of the new legislation, the Commission adopted interim rules that came into effect at the same time as the URAA. These interim amendments to part 207 of the Commission's rules of practice and procedure were published in the Federal Register on January 3, 1995. 60 FR 18 (Jan. 3, 1995). The Commission additionally requested comment on the interim rules.

Both as a result of comments received in response to the notice of interim rulemaking and as a result of the Commission's own independent examination of its procedures in antidumping and countervailing duty investigations and reviews, the Commission decided to propose permanent changes to its part 201 and 207 rules. The Commission published a Notice of Proposed Rulemaking (NOPR) in the Federal Register on October 3, 1995. 60 FR 51748 (Oct. 3, 1995). In the NOPR, the Commission proposed to issue as final rules all but one of the interim rules that were published in the January 3, 1995, Federal Register notice; it further proposed changes to several of these rules. The Commission also proposed amendments to several rules

[1] Commissioner Newquist and Commissioner Bragg disapproved the issuance of these final rules. Their reasons for disapproval are set forth in Memorandum CO67– and 71–T–007, copies of which are available on request from the Office of the Secretary, 202–205–2000.

that were not the subject of the interim rulemaking procedure. Some of these changes were intended to implement the new requirements of the URAA, while others were intended to improve generally the efficiency and effectiveness of the Commission's investigative process. The Commission also described in its NOPR several changes to internal agency procedures which did not require rulemaking to implement. The Commission additionally requested comment on the proposed rules.

Comments on the proposed rules were submitted by Rep. Phil English of the U.S. House of Representatives, the American Iron and Steel Institute (AISI), the American Yarn Spinners Association (AYSA), the Customs and International Trade Bar Association (CITBA), the Korean Foreign Trade Association (KFTA), the Lawyers' Committee of the Fair Trade Forum (Fair Trade Forum), and the Union of Needletrade, Industrial and Textile Employees, AFL–CIO (UNITE). The following law firms also filed comments: Aitken Irvin Lewin Berlin Vrooman & Cohn, representing the Pro Trade Group (Pro Trade); Collier, Shannon, Rill & Scott, representing 15 clients (Collier);[2] Dewey Ballantine, representing the Coalition for Fair Lumber Imports (Lumber Coalition); a joint submission by Dewey Ballantine and Skadden, Arps, Slate, Meagher & Flom on behalf of six producers of flat-rolled steel (Flat-Rolled Steel);[3] Hale and Dorr, representing Micron Technology, Inc. (Micron); King & Spalding, representing the Cement Alliance for Free Trade (Cement Alliance); Ober, Kaler, Grimes & Shriver, on its own behalf (Ober); Pepper, Hamilton & Scheetz, representing Gouvernement du Quebec (Quebec); Schagrin Associates, representing Weirton Steel Corp. and Committee on Pipe and Tube Imports (Schagrin); Stewart and Stewart, representing the Timken Co. and the Torrington Co. (Stewart); and Wiley, Rein & Fielding, representing four domestic producers of carbon steel wire rod (Steel Wire Rod).[4] The Commission's response to those comments pertinent to the subjects addressed in this rulemaking notice is provided below in the section-by-section analysis of the rulemaking amendments. The Commission notes here that it carefully considered the comments it received and, partly in response to those comments, determined not to adopt certain proposed rules that were identified by commenters as being overly burdensome. The Commission stresses that it has sought to revise the Title VII investigative procedure to improve and streamline data collection and make better use of the limited time allotted by the statute. The Commission appreciates the time and effort taken by the commenters to share their experiences and views, and believes that those comments have contributed to improved final rules.

The Commission has determined that these rules do not meet the criteria described in section 3(f) of the Executive Order 12866 (58 FR 51735, Oct. 4, 1993) (EO) and thus do not constitute a significant regulatory action for purposes of the EO. In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 note), the Commission hereby certifies that pursuant to 5 U.S.C. 605(b) that the rules set forth in this notice are not likely to have a significant impact on a substantial number of small business entities. Moreover, the Commission maintains that the Regulatory Flexibility Act is inapplicable to this rulemaking, because it is not one for which a NOPR was required under 5 U.S.C. 553(b) or another statute. Although the Commission chose to publish such a notice on October 3, 1995, the amended rules are ''agency rules of procedure or practice'' and thus were exempt from the notice requirement imposed by 5 U.S.C. 553(b). Additionally, these rules do not contain any new reporting or recordkeeping requirements that would be subject to the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 et seq.

Overview of the Revised Rules

The amendments to the part 201 and 207 regulations change Commission practice in antidumping and countervailing duty investigations and reviews in four principal areas. This section will provide an overview of the most significant changes. A detailed analysis of each change and the Commission's responses to the comments it received to the NOPR are provided in the section-by-section analysis below.

First, under the revised regulations, the Commission will conduct a single, continuous antidumping or countervailing duty investigation, in contrast to the discrete preliminary and final investigations it currently conducts. The purpose of this change, and certain related changes discussed below, is to streamline the investigative procedure. The Commission will continue to reach separate preliminary and final determinations, as required by statute. The portion of the investigation preceding issuance of the preliminary determination will be called the preliminary phase of the investigation. Under new § 207.18, when the Commission publishes notice of an affirmative preliminary determination, it will announce commencement of the final phase of the investigation. (In the event of a preliminary negative determination or a preliminary determination of negligible imports, the investigation is terminated.) Pursuant to new § 201.11(a)(2), parties that entered appearances in the preliminary phase of the investigation will not need to enter new appearances in the final phase. However, under new § 201.11(a)(3) parties that did not appear in the preliminary phase of the investigation may enter an appearance in the final phase at any time up until 21 days before the scheduled hearing date.

Commission staff will prepare and circulate to the parties draft questionnaires for the final phase investigation between the time the Commission issues its preliminary determination and the time the Department of Commerce (Commerce) issues its preliminary determination. The revised rules, unlike the proposed rules, do not specify a particular date on which the draft questionnaires will be circulated to the parties, leaving that to the discretion of the Commission's Director of Operations. Parties' comments on draft questionnaires, if any, will have to be filed with the Secretary (instead of being submitted to the Commission's Office of Investigations) and served on the other parties to the investigation.

The Commission has determined not to implement its proposals for filing of issues briefs and conducting an issues conference between the time it issues its preliminary determination and Commerce issues its preliminary determination. The Commission strongly encourages parties to use the opportunity for filing comments on draft questionnaires to identify issues they believe warrant data collection. The earlier that such issues are identified in

[2] American Beekeeping Federation, Inc.; American Honey Producers Association; Bicycle Manufacturers Association of America; Coalition for Fair Atlantic Salmon Trade; Copper & Brass Fabricators Council; Footwear Industries of America; Fresh Garlic Producers Association; Leather Industries of America; Nacco Materials Handling Group, Inc.; National Pasta Association; National Pork Producers Council; Specialty Steel Industry of North America; Specialty Tubing Group; Tanners' Countervailing Duty Coalition; Vemco Corp; Verson Division of Allied Products Corp.

[3] AK Steel Corp., Bethlehem Steel Corp., Inland Steel Industries, Inc., LTV Steel Co., National Steel Corp., and U.S. Steel Group, a unit of USX Corp.

[4] GS Industries, Inc., Co-Steel Raritan, Inc., Atlantic Steel Co., and Connecticut Steel Corp.

the course of the investigation, the better able the Commission will be to take such issues fully into account. Because there will be no issues brief, the Commission has also determined not to implement its proposal to impose page limits on prehearing briefs.

If Commerce issues a preliminary affirmative determination, the Commission will publish in the Federal Register a Notice of Scheduling for the final phase investigation pursuant to new § 207.21(a). This Notice of Scheduling will contain the same information (e.g., the date of the hearing, deadlines for filing briefs) that the Commission furnishes in the notice of institution of final investigation that it currently publishes in the Federal Register.

The second principal area of change pertains to regulations concerning the filing of petitions. The Commission has amended § 207.10 to require petitioners to serve confidential versions of the petition more promptly on interested parties whose applications to enter an administrative protective order (APO) have been approved. The Commission has also amended § 207.11 to require that petitioners include in the petition, to the extent reasonably available to the petitioner: (1) Identification of the proposed domestic like product(s); (2) a listing of all U.S. producers of each proposed domestic like product, including street addresses, phone numbers, and contact persons for each producer; (3) a listing of all U.S. importers of the subject merchandise, including street addresses and telephone numbers; (4) identification of each product on which the petitioner requests the Commission to seek pricing information in its questionnaires; and (5) information concerning sales and revenues lost by each petitioning firm. The Commission has determined not to adopt other proposals made in the NOPR that would have required that petitions include several additional types of information.

The third principal area of change pertains to final comments submitted in final phase investigations. Under new § 207.30, the maximum length of such comments has been increased from 10 pages to 15 pages. Additionally, the amended rule eliminates the provision stating that the Commission will disregard comments addressing information disclosed prior to the filing of posthearing briefs.

The fourth principal area of change pertains to treatment of business proprietary information (BPI). Section 201.6 has been amended expressly to permit parties and the Commission to provide in public submissions in certain circumstances nonquantitative characterizations of quantitative BPI. Provisions in §§ 201.6 and 207.7 concerning treatment of BPI not subject to disclosure under APO have been amended.

Section-by-Section Analysis of the Revised Rules

Section 201.6

The Commission has made three principal changes to § 201.6. The first concerns nonnumerical characterization of certain BPI. The second concerns provisions governing the filing of BPI not subject to disclosure under APO. The third concerns appeals from approval by the Secretary of requests for confidential treatment of submissions to the Commission.

Nonnumerical Characterization of Numerical BPI. The Commission is amending § 201.6(a) to allow parties and the Commission publicly to use non-quantitative characterizations to discuss confidential statistics unless the submitter of confidential information provides good cause for confidential treatment of such characterizations. This revision would apply only to confidential business information (CBI) and BPI submitted in numerical form; textual CBI and BPI could not be disclosed in any form.

The amendment to § 201.6(a) is unchanged from that proposed in the NOPR, except for the addition of a parenthetical to subsection (a)(2). Nine commenters discussed this proposal. Seven—CITBA, Fair Trade Forum, KFTA, Quebec, Schagrin, Steel Wire Rod, and Stewart—stated that they supported the proposal as drafted. Another commenter, Collier, also expressed support for the proposal, but indicated that the Commission should clarify the regulation to indicate precisely what the term ''nonnumerical characterizations'' means, and to describe what, if any, ''nonnumerical characterizations'' may be made other than those pertaining to trends. The final commenter, Cement Alliance, opposed the proposal on the grounds that it would not provide adequate protection for BPI submitted by one or two parties.

With respect to Cement Alliance's position, the Commission notes that under the rule a submitter will be able to claim confidential treatment for good cause shown for nonnumerical characterizations, such as trend data, of numerical BPI. If such a claim is made, the information must be treated as confidential until or unless the Secretary rejects the claim of confidentiality. These provisions should provide adequate protection for CBI and BPI.

The Commission also wishes to provide, in this preamble, several examples of how the regulation is intended to operate. As the regulation states, discussion of trends is a permissible ''nonnumerical characterization.'' Therefore, if quantitative information such as the quantity of domestic industry shipments would be confidential, a party or the Commission may state in a public document whether the quantity of shipments rose or declined from one year to the next. However, the public document may not provide information as to the degree or the absolute level of the decline or the increase. Consequently, while under new § 201.6(a) a public submission may state that ''shipments rose from 1995 to 1996,'' the submission should not state that ''shipments increased by 30 percent from 1995 to 1996'' or that ''shipments increased sharply from 1995 to 1996.'' There are also limited circumstances where discussion of information other than trends would be a permissible ''nonnumerical characterization.'' Thus, a public submission may state whether or not an industry was profitable or unprofitable in a given year, but should avoid characterizing the degree of industry profitability.

Although the Commission hopes the examples above will provide guidance to parties, it acknowledges that it cannot generically address how the amended regulation will apply to every conceivable fact pattern. The Commission advises parties that are unsure whether § 201.6(a) permits a specific public disclosure of a ''nonnumerical characterization'' not to make the disclosure, because counsel who make a disclosure that is not permitted by the regulation could be liable for breach of the APO. Of course, parties also may seek the advice of the investigator or the Secretary.

In the preamble to the NOPR, the Commission requested comment concerning the practical effects of the amendment to § 201.6(a) in circumstances where some but not all firms request that nonnumerical characterizations of their numerical BPI or CBI not be permitted in public documents. CITBA, Fair Trade Forum, Quebec, and Schagrin, the commenters addressing this matter, stated the Commission should in such instances exercise its discretion to determine whether the aggregated data should be released. The Commission adopts this suggestion, and will in fact exercise its discretion on an investigation-specific basis in such circumstances.

BPI Not Subject to Disclosure under APO. The second change to § 201.6 concerns BPI not subject to disclosure under APO pursuant to 777(c)(1)(A) of the Act. Under new § 201.6(a)(2), such information is now defined as ''nondisclosable confidential business information.''

The only comment received with respect to this issue addressed § 201.6(b)(3)(iv), which concerned the manner in which documents containing BPI not subject to disclosure under APO should be filed with the Commission. Stewart expressed the concern that proposed § 201.6(b)(3)(iv)(C), insofar as it requires double bracketing of BPI not subject to APO, suggests that ordinary BPI should not be double-bracketed. It noted that several law firms routinely double bracket ordinary BPI to effect its redaction by word-processing software. The Commission believes that, although Stewart's concern is well-founded, it is nevertheless preferable to have an uniform means for identifying nondisclosable confidential business information. Accordingly, amended § 201.6(b)(3)(iv)(C) will require nondisclosable confidential business information to be identified as such by triple bracketing. In other respects, the Commission is adopting the proposals it made in the NOPR.

Appeals from approval of confidential treatment. The Commission is amending § 201.6(f) to revise the procedure for filing and handling appeals from approval by the Secretary of requests for confidential treatment so as to essentially parallel the procedure in § 201.6(e) for appeals from denials of such requests. This amendment is unchanged from that proposed in the NOPR and was not addressed by any commenter.

Section 201.11

The Commission has amended § 201.11 in two respects. The first amendment concerns participation of consumer organizations and industrial users in antidumping and countervailing duty investigations and reviews. The second amendment concerns the filing of entries of appearance.

Consumer Organizations and Industrial Users. The URAA added § 777(h) to the Act, which requires the Commission to provide an opportunity for industrial users of subject merchandise, and, if the merchandise is sold at the retail level, representative consumer organizations, to submit relevant information concerning material injury by reason of subject imports. In the NOPR, the Commission proposed adding a new § 207.9 to the regulations to implement the requirement of 777(h) that industrial users and consumer organizations be provided an opportunity to participate in Commission antidumping and countervailing duty investigations.

Five comments addressed proposed § 207.9. Cement Alliance and Micron stated that the proposed regulation should be modified so that it expressly includes the statement, made in the NOPR preamble, that the rule does not accord interested party status on consumer organizations and industrial users. The remaining three commenters requested that the proposal be modified to expand the procedural rights accorded to consumer organizations and industrial users. Quebec stated that the rule should accord these entities the right to participate in hearings. Fair Trade Forum and Pro Trade contended that these entities should be accorded the ability to obtain information pursuant to APO.

Upon further consideration and review of the comments, the Commission has determined that proposed § 207.9 is not the most effective way to implement new section 777(h). Accordingly, the Commission will not adopt proposed § 207.9. Instead, it is adding a sentence to § 201.11(a) expressly stating that industrial users and consumer organizations are entitled to appear in antidumping and countervailing duty investigations and reviews as ''parties.'' With party status, such entities are placed on the public service list pursuant to § 201.11(d), are entitled to participate in hearings pursuant to § 201.13(c) and in conferences pursuant to § 207.15, and are entitled to make written submissions pursuant to § 207.15 and renumbered § 207.23. It is the Commission's intention to publish in its Federal Register notices instituting and scheduling antidumping and countervailing duty investigations a statement informing consumer organizations and industrial users of their right to participate as parties in an investigation.

Section 777(h) does not, however, confer ''interested party'' status on industrial users and consumer organizations. Unless such entities qualify as interested parties under section 771(9) of the Act, they do not have the rights that the Act and the Commission regulations afford to interested parties. In particular, section 777(c) of the Act authorizes the Commission to make BPI available under APO only to ''interested parties.'' Accordingly, § 201.11(a) does not accord these additional rights to industrial users and consumer organizations.

Entries of Appearance. The Commission is amending § 201.7(b) concerning the filing of entries of appearance in several respects. The first sentence of the current rule, which governs the filing of entries of appearance in investigations other than antidumping and countervailing duty investigations, has been renumbered subsection (b)(1), and revised as proposed in the NOPR.

New § 201.7(b)(2), which governs the filing of entries of appearance during the preliminary phase of antidumping and countervailing duty investigations, is adopted as proposed in the NOPR, except for a technical wording change. This section states that a party that files an entry of appearance during the preliminary phase of the investigation need not file an additional entry of appearance during the final phase of the investigation. The four commenters who addressed the proposal (Collier, Micron, Quebec, and Steel Wire Rod) each supported it.

New § 201.7(b)(3) governs the filing of entries of appearance during the final phase of antidumping and countervailing duty investigations. It makes several changes to both current practice and the proposed § 201.7(b)(4) published in the NOPR. (The proposed § 201.7(b)(3) published in the NOPR has been deleted because it pertained to the proposed issues brief/issues conference requirement which the Commission has decided not to adopt.) Under the new rule, parties that did not file entries of appearance during the preliminary phase of the investigation may file an entry of appearance in the final phase of the investigation up until 21 days before the hearing date listed in Federal Register notice that the Commission will publish pursuant to § 207.24(b). (Because the final date for filing entries of appearance will be determined by reference to the hearing date published in the Federal Register Notice of Final Phase Scheduling, subsequent rescheduling of the hearing will not serve to adjust the deadline for filing entries of appearance.)

Section 201.13

The Commission is amending § 201.13(m) to revise a cross-reference to a regulation that has been renumbered. The amendment is identical to that proposed in the NOPR.

Section 207.1

In addition to issuing the interim rule in final form, the Commission is amending § 207.1 to eliminate a reference to former section 303 of the Act.

Section 207.2

The Commission is issuing the interim rule in final form.

Section 207.3

The Commission is amending the ''24-hour rule'' governing final bracketing of BPI in § 207.3(c) to clarify that the only changes that may be made in the 24-hour BPI version of documents are changes in bracketing and deletion of BPI. The Commission received three comments concerning the matter.

Collier requested that the Commission amend the 24-hour rule so that it is applicable to all submissions in antidumping and countervailing duty investigations, rather than those submitted pursuant to an established deadline. The Commission, however, believes that a submitter not facing a deadline should have ample time to review a document's bracketing before filing it.

Stewart requested that the Commission adopt some expedited procedural mechanism to permit parties to correct typographical errors in briefs, so that a party seeking to correct such errors does not need to submit a request to the Chairman to accept an untimely-filed document. However, in the Commission's experience, the burden imposed upon a party seeking leave to correct typographical errors under the current procedure has been quite small. Stewart's other comment on this section (shared by KFTA) requested that the proposed amendment be redrafted to avoid possible unintended ambiguities. The point is well-taken, and the Commission has accordingly relocated the parenthetical clause ''including typographical changes'' in the final rule.

The Commission is also amending § 207.3(b) to change cross-references to renumbered regulations.

Section 207.4

The Commission is amending § 207.4(a) to eliminate a reference to section 303 of the Act.

Section 207.7

The Commission is making several amendments to the portions of § 207.7 addressing BPI not subject to disclosure under APO. Sections 207.7(a)(1) and 207.7(g) have been amended to use the term ''nondisclosable confidential business information'' to refer to such material. Sections 207.7(f)(2) and 207.7(g) are amended to clarify the procedures for submitting such information. Each of these provisions, with the exception of § 207.7(f), which has been further amended to use the term ''nondisclosable confidential business information,'' follows the proposals made in the NOPR.

The Commission is also amending §§ 207.7(a)(2) and 207.7(a)(4) to refer to the ''preliminary phase'' of an investigation, reflecting its decision to conduct a single, continuous investigation in antidumping and countervailing duty proceedings. In the NOPR, the Commission proposed amending § 207.7(a)(2) to authorize the filing of additional applications for a party that has entered an APO at least five days before the deadline for filing an issues brief in an investigation. Because the Commission has determined not to have parties file issues briefs in investigations, this proposed amendment to § 207.7(a)(2) has not been adopted.

In their comments, KFTA and Fair Trade Forum requested that the Commission eliminate altogether the final sentence of § 207.7(a)(2), which establishes deadlines for the filing of additional applications for a party that has entered an APO. KFTA and Fair Trade Forum perceived no justification for this provision. The Commission disagrees, both because it is necessary to finalize service lists, and because the Commission requires a comprehensive list of all those persons having access to BPI in an investigation should a violation of APO occur. Quebec requested that § 207.7(f) be amended to require service of BPI submissions on each law firm representing a party in an investigation containing attorneys subject to APO, but the Commission believes that the costs of copying and distributing BPI submissions to more than one firm should be borne by the party deciding to retain them.

Section 207.8

In its interim rulemaking, the Commission amended § 207.8 to conform with the URAA. This provision states that the Commission may use ''facts otherwise available'' whenever any party or any other person fails to respond adequately to a subpoena or refuses or is unable to produce information in a timely manner and in the form required, or otherwise significantly impedes an investigation. In the NOPR, the Commission proposed issuing this rule in final form.

Pro Trade, in its comments to the NOPR, repeated a comment it made to the interim rulemaking that the Commission amend this regulation to limit the instances in which the Commission would use ''facts otherwise available.'' However, the proposed regulation conforms to the statute as drafted, so the Commission is not modifying it, although it is deleting a reference to former section 303 of the Act.

Section 207.10

The Commission is making several technical changes to § 207.10(a). These changes, which are identical to those proposed in the NOPR, conform the section's cross-references to the provisions of the URAA and refer to the ''preliminary phase of the investigation.''

Two commenters, Pro Trade and Fair Trade Forum, requested that the Commission amend its regulations to require expressly that complete copies of petitions be filed simultaneously with Commerce and the Commission. Although the Commission believes that current law and regulations already require simultaneous filing of the ''complete'' submission with Commerce and the Commission, it agrees with these commenters that the regulations should expressly state this requirement. Accordingly, the Commission is amending § 207.10(a) to make clear that the copy of the petition filed with the Commission should contain all exhibits, appendices, attachments, and other materials that are filed with Commerce.

The Commission is also amending § 207.10(b) concerning service of antidumping and countervailing duty petitions. In the NOPR, the Commission stated that trade practitioners expressed the concern that party representatives whose APO applications have been approved prior to establishment of a service list do not gain access to the confidential version of the petition quickly enough. The Commission therefore proposed amending § 207.10(b) to obligate petitioners to serve the confidential version of the petition more rapidly than under current practice.

The seven commenters who addressed this proposal were uniformly supportive of the Commission's stated objective of facilitating more rapid service of the confidential version of the petition. One commenter, KFTA, supported the proposal as drafted. The remaining commenters requested modification of the provision in the proposal stating that service must be within ''two calendar days.'' The commenters expressed divergent views on whether requiring holiday or weekend service would be appropriate, as the proposal would require when a notification of an approved APO application is sent out on a Thursday or Friday. Fair Trade Forum contended that requiring weekend service was appropriate, because counsel generally work on weekends during a preliminary Commission investigation. It requested

that the rule be modified to require service within one calendar day. It further suggested the rule be modified to require that service be by hand when petitioners' attorney and the attorney to be served are both located in Washington, DC and by overnight mail otherwise. Pro Trade also agreed that service should be effected within one calendar day. The remaining four commenters contended requiring weekend service was not appropriate. CITBA and Schagrin contended that such a provision could require petitioners' counsel to incur additional staffing costs and could inadvertently encourage service by mail. They requested that the proposal be modified to require service within two business days. Stewart also advocated such a modification. Quebec agreed that requiring weekend or holiday service was not appropriate, but requested that the proposal be amended to require service within one business day.

After reviewing the comments, the Commission has concluded that service should be made within two calendar days. Although this may require weekend service in certain instances, the Commission does not believe that this is inappropriate in the context of the preliminary phase of an antidumping or countervailing duty investigation, where counsel typically work over weekends. The Commission does not feel that requiring service by hand is appropriate given its cost, though parties may make any such arrangements among themselves. Of course, service by hand remains an option that fulfills the service requirement if it is accomplished within two calendar days.

The Commission has, however, made several changes to its proposed amendments to § 207.10(b). First, section (b)(1) has been subdivided into two subsections. Subsection (b)(1)(A) concerns service to parties whose APO applications have been approved before the Secretary establishes a service list in an investigation. The petitioner must serve a confidential version of the petition on these parties within two calendar days of the time the Secretary notifies it of approval of an APO application. This notification will be made by facsimile where practicable.

Subsection (b)(1)(B) concerns service on parties whose APO applications are approved at or after the time the service list is established. The petitioner must serve a confidential version of the petition on these parties within two calendar days of the time the service list including that party is established.

Section 207.10(b)(2), which is the same as that published in the NOPR, concerns service of public copies of the petition. The petitioner must serve public copies of the petition to parties on the public service list within two calendar days of the time that service list is established.

Section 207.10(b)(3) requires the petitioner to file a certificate of service with the Commission after serving the petition.

Section 207.11

The Commission is amending § 207.11 concerning the content of petitions. The amended regulation imposes several new requirements. In light of the comments received, the Commission decided to adopt considerably less extensive revisions than those proposed in the NOPR.

The first sentence of current § 207.11 will be redesignated § 207.11(a). It is unchanged except for the substitution of a gender-neutral pronoun for a gender-specific one.

The second sentence of current § 207.11 will be redesignated § 207.11(b)(1). There is in addition a minor wording change.

New § 207.11(b)(2) outlines specific information that the petition must contain. Subsection (b)(2)(i) requires identification of the domestic like product(s) proposed by petitioner. No commenter objected to this requirement when it was proposed in the NOPR.

Subsection (b)(2)(ii) is a modified version of the subsection that appeared in the NOPR. As adopted by the Commission, subsection (b)(2)(ii) requires a listing of all U.S. producers of each proposed domestic like product including a street address, phone number, and contact person for each producer. No commenter objected to these requirements when they were proposed in the NOPR. The Commission eliminated the requirement proposed in the NOPR that the petition contain the estimated share of U.S. production for each producer on the grounds that this information, unlike the other information that will be required under subsection (b)(2)(ii), is not needed to facilitate distribution of producers' questionnaires, and might be overly burdensome to petitioners, as urged by Collier, Schagrin, and Stewart. Subsection (b)(2)(iii) is also a modified version of the subsection that appeared in the NOPR. As adopted by the Commission, subsection (b)(2)(iii) requires a listing of all U.S. importers of the subject merchandise, including street addresses and phone numbers for each importer. Although one commenter, Lumber Coalition, criticized this requirement as excessively burdensome, the requirement that the petitioner provide a listing of all importers has long been included in the Department of Commerce's regulations. The Commission's regulation goes beyond this by also requiring that the petition provide the phone number and address of each importer. Having such information in the petition facilitates Commission staff's ability to mail importers' questionnaires promptly after a petition is received. Because such information can be obtained from such widely-available sources as business directories and nationwide CD-ROM telephone directories, the Commission believes that this requirement will not impose a substantial burden on petitioners.

The Commission has eliminated from this subsection the requirement proposed in the NOPR that petitioner provide an estimated share of U.S. imports for each importer. As Stewart, Collier, and Micron pointed out, this requirement might have imposed an excessive burden on petitioners and could be more readily generated by Commission staff during the course of the investigation. Moreover, Commission staff does not need market share information to circulate questionnaires promptly. Subsection (b)(2)(iv) is what appeared in the NOPR as subsection (b)(2)(v). This requires identification of each product on which the petitioner requests that the Commission seek pricing information in its questionnaires. Two comments specifically addressed this provision. KFTA proposed that the provision be amended to require that petitioner explain why the products on which it requests pricing data be collected are representative. The Commission believes this is unnecessary. Schagrin asserted that the entire provision be deleted in favor of the current practice whereby Commission staff informally consults with counsel to select products on which pricing information will be collected. Schagrin is correct that Commission staff confers with petitioner's counsel prior to the filing of the petition concerning selection of products on which pricing data will be sought when petitioner's counsel makes itself available for such consultations. However, in some cases the Commission staff has had to wait until after filing of the petition to conduct such consultations. The new provision will ensure that petitioner apprises the Commission of its views on the appropriate products no later than the time the petition is filed. This will facilitate the Commission staff's ability to prepare and circulate questionnaires promptly.

Subsection (b)(2)(v) is what appeared in the NOPR as subsection (b)(2)(vii). This requires listing all sales or revenues lost by each petitioning firm during the three years preceding filing of the petition. The term ''petitioning firm,'' means producers of the proposed domestic like product(s) that are either members of any petitioning entity (such as a trade association or ad hoc coalition) or are themselves petitioners. If a labor union is the sole petitioner, this requirement is inapplicable.

The Commission received six comments specifically addressing the lost sales and revenue requirement. Micron and Stewart, which opposed the proposal, questioned why it was necessary for the Commission to require that lost sales and revenue information be provided in the petition when such data have traditionally been sought in the producer's questionnaire, and would continue to be for non-petitioning domestic producers. The Commission feels that requiring petitioning firms to include lost sales and revenue information in the petition will improve its ability to investigate these firms' lost sales and revenue information immediately after filing of the petition, instead of having to wait until questionnaire responses are received, when staff is under more severe time pressure to analyze all the other information it is accumulating.

Schagrin stated that the proposed requirement should not serve to estop petitioners from providing lost sales and revenue information during the course of the investigation. Nothing in the rule stops petitioning firms from providing lost sales and revenue information after filing of the petition when such information was not ''reasonably available'' to the firms at the time the petition was filed, and the firms can establish why such information could not be included in the petition. However, if lost sales and revenue information is ''reasonably available'' to the petitioner when the petition is filed, it must be included in the petition.

KFTA, Lumber Coalition, and Micron each addressed the question of documentation in their comments. KFTA, which supported the proposal, requested that the regulation be amended to require petitioners to provide documentation corroborating lost sale and revenue allegations. Although the Commission encourages petitioners to provide all available documentation to support their lost sales and revenue claims, it does not believe that a requirement mandating petitioners document their claims, such as the one sought by KFTA, is appropriate.

Lumber Coalition and Micron asserted that the requirement should be eliminated because producers do not keep records of sales offers in many industries. The Commission acknowledges that in some industries producers may not retain records of offers to sell. In such instances, however, lost sales and revenue information will not be ''reasonably available'' to the petitioners and the petitioners need only provide a certification to this effect pursuant to section (b)(3). That offers to sell may not be retained in some industries, however, provides an insufficient basis for eliminating the requirement for information concerning lost sales and revenue claims with respect to all industries. When a petitioning firm does have lost sales and revenue information, it should provide that information.

Quebec, which otherwise supported the proposal, suggested that the Commission use the term ''sales and revenues claimed to have been lost'' in lieu of ''sales and revenues lost.'' The Commission opts for the shorter phrase as more concise.

The provisions that appeared in the NOPR as subsections (b)(2)(iv) and (b)(2)(vi) would have required a petition to include: (1) A table providing data pertinent to the condition of the proposed domestic industry; and (2) a listing of each petitioning firm's ten largest customers for each proposed domestic like product.

The Commission received a variety of comments on these proposals. KFTA and Quebec expressed general support. Twelve commenters objected to these proposals on the grounds that (1) they were not required by the URAA; (2) they misperceived the Commission's role in conducting antidumping and countervailing duty investigations, and improperly shifted the onus of conducting the investigation to petitioners; (3) they would impose an undue burden on petitioners; (4) they were vague; and (5) the additional information the Commission would receive would not reduce its investigative workload. Two commenters, Pro Trade and Fair Trade Forum, requested that § 207.11 be amended more closely to track provisions of the World Trade Organization (WTO) Agreements on Antidumping and Countervailing Measures.

After consideration of the comments, the Commission has concluded that the benefit it would obtain from the additional information it would receive pursuant to proposed subsections (b)(2)(iv) and (b)(2)(vi) is outweighed by the burden that petitioners would face in providing this information. The Commission further acknowledges that some of the types of information that would have been required by the proposed provisions, such as financial information concerning non-petitioning domestic producers, may not be obtainable by petitioning firms from their own files or readily accessible public sources. Accordingly, the Commission has determined not to adopt subsections (b)(2)(iv) and (b)(2)(vi) proposed in the NOPR. By contrast, for those new petition requirements that have been adopted, the Commission has found, as explained above, that the benefits to the Commission's investigative process will outweigh the generally modest additional burdens that petitioners will assume in satisfying the requirements.

Additionally, the Commission does not agree with Pro Trade and Fair Trade Forum that amendments to its regulations concerning the contents of petitions are required to satisfy United States obligations under the WTO Agreements. The amendments proposed and adopted by the Commission were made for the purpose of increasing the efficiency of Commission investigations, and not on the belief amendments were required to bring Commission regulations in conformance with either the URAA or the WTO Agreements.

New section (b)(3) requires that each petition contain a certification that each item of information specified in section (b)(2) that the petitioner does not provide was not reasonably available to it. This section is unchanged from the one proposed in the NOPR. Collier, Flat-Rolled Steel, Steel Wire Rod, Stewart and UNITE commented that the ''reasonably available'' standard provides inadequate guidance to petitioners concerning what efforts they must make to obtain information. These commenters' remarks focus on proposed provisions in section (b)(2) that arguably required petitioners to provide in the petition certain types of information that were neither publicly available nor in the possession of the petitioning firms themselves. The Commission has eliminated these provisions from the final rules and believes that the ''reasonably available'' standard, which has existed for many years in the Act, provides sufficient guidance to petitioners concerning the efforts they must undertake to provide the types of information the Commission will require in petitions. Nonetheless, the Commission wishes to assure prospective petitioners that whether certain information is ''reasonably available'' will depend on the facts in each case, including who the petitioner

is and the petitioner's resources. It is not the Commission's intention to require petitioners to expend significant resources collecting information called for in these new requirements. For purposes of meeting the petition requirements, information will be considered to be ''reasonably available'' if it is readily accessible from public sources or is maintained in the regular course of business by petitioner. Thus, for example, where the petitioner is a trade association comprised of domestic producers of the proposed domestic like product, the association likely maintains records that identify those producers. Such information would be required in the petition. Where, however, the petitioner is a labor union, detailed information concerning the location of some domestic producers or their lost sales and revenues very likely might not be ''reasonably available'' to the union, and therefore would not have to be provided. Finally, a petitioner would not be expected to contact domestic producers or importers to collect the information set forth in the requirements.

New section (b)(4) is the final sentence of current § 207.11. This has not been changed from the current rules.

Pro Trade requested that the Commission amend its regulations concerning petitions to include an express provision requiring that the Commission transmit all information it has received pertinent to the question of standing to Commerce before Commerce determines whether to initiate an investigation. The Commission is currently providing to Commerce, at its request, limited information pertinent to Commerce's standing determination.

Section 207.12

The Commission is amending § 207.12 to reflect the concept that the Commission will be conducting a single, continuous investigation in antidumping and countervailing duty proceedings, as opposed to discrete ''preliminary'' and ''final'' investigations. Each of the ten commenters that addressed the matter supported the Commission's proposal that it conduct a single, continuous investigation. The Commission will continue to render discrete preliminary and final determinations in its investigation, as required by the Act.

The amendments to § 207.12, which are identical to those proposed in the NOPR, state that the Commission will commence the preliminary phase of an investigation when it receives a petition for imposition of antidumping or countervailing duties. Additionally, a reference to former section 303 of the Act has been eliminated.

Section 207.13

The Commission is amending § 207.13 has been amended to incorporate the phrase ''preliminary phase of an investigation.'' Except for the substitution of a gender-neutral noun for a gender-specific pronoun, the amendment is identical to that proposed in the NOPR.

Section 207.14

The Commission is amending § 207.14 to eliminate references to former section 303 of the Act. Additionally, the last sentence of the section has been amended to eliminate a gender-specific pronoun.

Section 207.18

The Commission is amending § 207.18 to reflect the single, continuous investigation concept. The amendments to § 207.18 are identical to those proposed in the NOPR.

The amended provision provides that when the Commission makes an affirmative preliminary determination, the Federal Register notice of that determination will further announce commencement of the final phase of the investigation. Section 207.18 has also been amended to reflect that, under the URAA, the Commission's preliminary determination may be that imports are negligible. Additionally, the final two sentences of current § 207.18 have been relocated to new § 207.21.

Section 207.20

Section 207.20 is a new provision concerning investigative activity in which the Commission will engage between the time of its preliminary determination and the time of the Commerce preliminary determination. (Current §§ 207.20 through 207.29 have been renumbered §§ 207.21 through 207.30.) New § 207.20(a) states that, if the Commission has reached an affirmative preliminary determination in an antidumping or countervailing duty investigation, the Commission's Director of Operations will continue investigative activities pending notice by Commerce of its preliminary determination. Because, as discussed below, the Commission will not be receiving an issues brief or conducting an issues conference, there will be no need for the Commission to publish a schedule of investigative activities at the time it commences its final phase investigation. Consequently, the requirement that such a schedule be published included in § 207.20(a) as it was proposed in the NOPR has been deleted from the final rule.

New § 207.20(b) states that the Director shall circulate draft questionnaires for the final phase investigation to the parties to the investigation and that any party that desires to comment on the draft questionnaires shall submit comments in writing to the Commission within a time specified by the Director. This formalizes the current practice under which Commission staff circulates draft questionnaires for the final investigation to parties for comment. Under new § 207.20(b), however, parties' comments must be filed with the Commission rather than submitted to the Office of Investigations; consequently, comments must be filed with the Secretary pursuant to section § 201.8 and be served on all parties on the service list. The purpose of this change is to increase the transparency of the investigation.

In the NOPR, the Commission proposed to amend § 207.20(b) to require that the Director of Operations circulate to the parties draft questionnaires for the final phase investigation no later than 14 days after the Commission transmits to Commerce its facts and conclusions on which the Commission's preliminary determination is based. Although the commenters who addressed the issue uniformly supported the concept of distributing draft questionnaires before Commerce issues its preliminary determination, they expressed disparate views on when the drafts should be circulated and whether the Commission should formalize the comment process. KFTA proposed that Commission staff be provided at least 40 days after transmittal of the preliminary phase investigation opinion to draft final phase questionnaires; Flat-Rolled Steel suggested that the questionnaires be circulated six weeks before the Commerce preliminary determination. CITBA, Collier, and Schagrin supported retaining current practice with respect to questionnaire comments. By contrast, Fair Trade Forum, Pro Trade, and Stewart advocated that the Commission adopt more formalized procedures for the comment process, but opposed any provision precluding parties from subsequently making data collection requests not asserted in their comments on the questionnaires.

The Commission has decided not to issue a regulation specifying the time at which draft final phase questionnaires will be circulated to the parties. It has concluded that the scheduling of circulation of draft questionnaires is best handled as an internal matter on an

investigation-by-investigation basis. The Commission does anticipate, however, that draft questionnaires will be circulated several weeks before the Commerce preliminary determination and that parties will be afforded adequate time for comment.

The Commission further believes that the more formalized comment procedures that are contemplated by § 207.20(b) will improve the investigative process by ensuring that comment procedures are the same for each investigation and that each party's comments on the questionnaires are seen by the Commission and by all other parties. The Commission expects that the parties will use the comment process to make data collection requests to the Commission for the final phase of an investigation. At the time the draft questionnaire will be circulated, the parties should be able to identify the data they desire the Commission to generate during the final phase of the investigation. This is particularly true with respect to issues such as domestic like product and cumulation on which the parties typically will have asserted detailed arguments, and will have obtained considerable data, during the preliminary phase of the investigation. Consequently, parties should make data collection requests in their questionnaire comments rather than later in the investigation. It is often impracticable to satisfy new data collection requests made during the later stages of a final phase investigation, given the need to collect, verify, and analyze data, release data under APO, and receive comments from the parties concerning data before the record closes.

The Commission has not included in rule 207.20 the proposals made in the NOPR for an issues brief and issues conference. Comments concerning these proposals were almost uniformly negative. One commenter, KFTA, limited its remarks to opposing the proposed provision precluding a party from subsequently raising issues not asserted in the issues brief. The remaining 14 commenters to address the issues brief and issues conference proposal, representing both petitioner and respondent interests, opposed the proposals outright. These commenters complained that the proposed issues brief and issues conference were unlikely either to narrow issues or simplify the Commission's investigation but that they would impose considerable burdens on parties appearing before the Commission. After review of the comments, the Commission agrees that the burdens that would be imposed by the proposed issues brief and issues conference likely outweigh the benefits these additional procedures would confer on the investigative process. Moreover, as noted earlier, identification of issues and data collection needs may be accomplished through draft questionnaire comments.

Section 207.21

New § 207.21, which largely follows current § 207.20, concerns the Final Phase Notice of Scheduling that the Commission will issue upon receipt of an affirmative preliminary determination by Commerce. Section 207.21(a) is identical to current § 207.20(a), except that references to former section 303 of the Act have been deleted.

Section 207.21(b) states that the Commission will publish in the Federal Register a Final Phase Notice of Scheduling at the time it receives notice of a Commerce affirmative preliminary determination, or of a Commerce affirmative final determination in an investigation where the Commerce preliminary determination was negative. The Final Phase Notice of Scheduling will contain the same information that the Commission currently provides in the notices of institution of final investigations that it publishes in the Federal Register.

Sections 207.21 (c) and (d) carry forward provisions codified in current § 207.18. New § 207.21(d) is the last sentence of § 207.21(c) as it was proposed in the NOPR; there has been no change in wording.

Section 207.23

New § 207.23, concerning prehearing briefs, contains several technical amendments from current § 207.22. These amendments add a reference to the final phase Notice of Scheduling and delete a reference to former section 303 of the Act.

In the NOPR, the Commission proposed amending § 207.23 to impose a 50-page limit on prehearing briefs. The Commission received 14 comments on this proposal, none of which supported the proposal as drafted. All commenters said a 50-page limit was insufficient. Several commenters suggested longer page limits; several stated that page limits should be higher in multiple-country investigations than in single-country investigations; several said the Commission should continue not to impose any page limits on prehearing briefs.

The Commission's proposal to impose page limits on prehearing briefs was premised largely on its belief that the proposed issues brief would serve to reduce the number of arguments that would need to be addressed in the prehearing brief. Because the Commission has determined not to implement its proposal concerning issues briefs, however, it will continue its current practice of not imposing page limits on prehearing briefs. Nevertheless, the Commission encourages parties to keep their prehearing briefs as concise as possible. As stated in the NOPR, parties should not submit lengthy attachments to briefs that merely restate arguments presented in the main brief.

Section 207.24

Renumbered § 207.24 is identical to current § 207.23 except that references to former section 303 of the Act have been deleted, cross-references to renumbered regulations have been changed, and gender-specific pronouns have been modified.

Although the Commission did not propose any substantive changes to renumbered § 207.24, two commenters did request substantive amendments to this provision. Stewart proposed that the third sentence of subsection (b), limiting presentation at the hearing to a summary of the information and arguments presented in the prehearing briefs, and information not available at the time the prehearing brief is filed, be stricken. Because the Commission believes that the prehearing brief should be a party's principal vehicle for asserting its arguments, and that the hearing functions primarily as a means for each party to elaborate upon the arguments it has previously asserted in writing, it will retain this provision.

Quebec requested that the regulation be amended to formalize the practice of providing petitioners and respondents equal aggregate time allocations at the hearing. Although Quebec's characterization of Commission practice is accurate, the Commission does not believe codification of the practice in the regulations is necessary. Instead, Commission staff will continue to apprise parties of this practice during the prehearing conference.

Section 207.25

Renumbered § 207.25 is identical to current § 207.24 except for two nonsubstantive changes in wording that will conform this regulation with others. The changes are identical to those proposed in the NOPR.

Section 207.29

Renumbered § 207.29 is identical to current § 207.28 except for deletion of a reference to former section 303 of the Act and a nonsubstantive change in

wording. The changes are identical to those proposed in the NOPR.

Section 207.30

Renumbered § 207.30 contains four amendments to current interim § 207.29. The first change increases from ten to 15 pages the maximum length of the final comments that parties may submit pursuant to § 207.30(b), as the Commission proposed in the NOPR.

Four commenters addressed the page limits for final comments. Cement Alliance requested that the 15-page limit be increased by five pages per additional subject country in multiple-country investigations. CITBA and Schagrin requested that the page limit be established as 15 pages per subject country. Quebec requested that the Commission retain the flexibility to increase the 15-page limit where appropriate.

The Commission reiterates that the final comments are very limited in scope, and are meant to enable the parties to address information released to the parties subsequent to the filing of the posthearing brief. Because the Commission intends to release factual information under APO very promptly after receipt, it anticipates that the parties will receive only a limited amount of information subsequent to filing of the posthearing brief, whether an investigation involves one or multiple countries. The Commission therefore concludes that the 15-page limit for final comments is justified.

The second change is the deletion of the portion of the fourth sentence of current § 207.29(b) stating that final comments that contain information disclosed prior to the filing of the posthearing brief will be disregarded. This provision is being deleted because it is not statutorily required. Moreover, the Commission believes that ascertaining precisely at what point in the investigation information discussed in the comments was released would impose excessive administrative burdens on it and its staff.

The Commission nevertheless emphasizes that the purpose of the final comments is to provide an opportunity for parties to comment on information that they have not previously had an opportunity to discuss. As previously stated, the strict page limits that are being imposed on such comments is a reflection of the limited function final comments serve. The Commission strongly discourages parties from using the final comments solely or primarily as a device to reiterate arguments that they have already made in their prehearing briefs, hearing testimony, and posthearing submissions.

New § 207.30(b) will state, as does current § 207.29(b), that final comments containing new factual information will be disregarded. This restriction is required by section 782(g) of the Act. Examples of ''new factual information'' that will not be permitted in comments submitted pursuant to § 207.30(b) include the following:

- New affidavits.
- Press clippings, unless the press clipping was submitted previously for the record.
- Information or documentation concerning commercial transactions, unless the material was submitted previously for the record.
- Updates to charts or tables previously included in the record that contain information not already in the record.

By contrast, the following examples illustrate information that would be permitted in final comments pursuant to § 207.30(b).

- Example 1. A party submits an affidavit in connection with its posthearing brief providing new information. Another party may identify in its final comments material previously submitted into the record which rebuts or corroborates the assertions in the affidavit.
- Example 2. New questionnaire responses are released to the parties after the posthearing briefs are filed. A party may include in its final comments tabular material aggregating the data in the newly-released questionnaire responses with data in previously-released questionnaire responses. A compilation of previously-released information is not ''new information'' for purposes of either section 782(g) of the Act or § 207.30(b).

The third change is the addition of a provision to new § 207.30(b) clarifying that the ''24-hour rule'' governing final bracketing of BPI pertains to comments filed under § 207.30. This change is identical to the one proposed in the NOPR.

The fourth set of changes are technical changes. These include changing cross-references to renumbered provisions, and inserting a reference to the ''final phase'' of an investigation.

The Commission has decided not to make several changes to new rule 207.30 requested by commenters. Cement Alliance, Quebec, and Steel Wire Rod requested that the Commission include in the regulation a provision requiring that the Commission release all information a specific number of days before the final comments are due. As the Commission stated in the NOPR in responding to similar comments made with respect to the interim rulemaking, the Commission does not believe that promulgating regulations requiring release of material to parties at a specific date is necessary or appropriate.

Cement Alliance, CITBA, and Schagrin asserted that the Commission should release economic and variance memoranda, as well as the staff report, to parties before final comments are due. The economic and variance memoranda are now incorporated into the staff report, the confidential version of which is released to the parties several days before the final comments are due. Flat-Rolled Steel contended that § 207.30 should be amended to require disclosure of methodologies used in compiling and analyzing questionnaire data, and in accepting or rejecting lost sales or revenue allegations. However, section 782(g) of the Act requires only disclosure of ''[i]nformation that is submitted on a timely basis to the * * * Commission during the course of a proceeding. * * *'' It does not require the Commission to disclose every compilation it makes, or methodology it uses. The Commission will continue to release to the parties in the staff report certain compilations or explanations of methodology used to compile information, and to explain its determinations in its written opinions. Accordingly, the Commission has not made the amendment requested by Flat-Rolled Steel.

Section 207.40

The Commission is issuing the interim rule in final form.

List of Subjects

19 CFR Part 201

Administrative practice and procedure, Investigations, Imports.

19 CFR Part 207

Administrative practice and procedure, Antidumping, Countervailing duties, Investigations.

For the reasons stated in the preamble, 19 CFR parts 201 and 207 are amended as set forth below:

PART 201—[AMENDED]

1. The authority citation for part 201 continues to read as follows:

Authority: Sec. 335 of the Tariff Act of 1930 (19 U.S.C. 1335) and sec. 603 of the Trade Act of 1974 (19 U.S.C. 2482), unless otherwise noted.

2. Paragraphs (a), (b), and (f) of § 201.6 are revised to read as follows:

§ 201.6 Confidential business information.

(a) *Definitions.* (1) Confidential business information is information which concerns or relates to the trade

secrets, processes, operations, style of works, or apparatus, or to the production, sales, shipments, purchases, transfers, identification of customers, inventories, or amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation, or other organization, or other information of commercial value, the disclosure of which is likely to have the effect of either impairing the Commission's ability to obtain such information as is necessary to perform its statutory functions, or causing substantial harm to the competitive position of the person, firm, partnership, corporation, or other organization from which the information was obtained, unless the Commission is required by law to disclose such information. The term ''confidential business information'' includes ''proprietary information'' within the meaning of section 777(b) of the Tariff Act of 1930 (19 U.S.C. 1677f(b)). Nonnumerical characterizations of numerical confidential business information (e.g., discussion of trends) will be treated as confidential business information only at the request of the submitter for good cause shown.

(2) Nondisclosable confidential business information is privileged information, classified information, or specific information (e.g., trade secrets) of a type for which there is a clear and compelling need to withhold from disclosure. Special rules for the handling of such information are set out in § 207.7 of this chapter.

(b) *Procedure for submitting business information in confidence.* (1) A request for confidential treatment of business information shall be addressed to the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436, and shall indicate clearly on the envelope that it is a request for confidential treatment.

(2) In the absence of good cause shown, any request relating to material to be submitted during the course of a hearing shall be submitted at least three (3) working days prior to the commencement of such hearing.

(3) With each submission of, or offer to submit, business information which a submitter desires to be treated as confidential business information, under paragraph (a) of this section, the submitter shall provide the following, which may be disclosed to the public:

(i) A written description of the nature of the subject information;

(ii) A justification for the request for its confidential treatment;

(iii) A certification in writing under oath that substantially identical information is not available to the public;

(iv) A copy of the document

(A) Clearly marked on its cover as to the pages on which confidential information can be found;

(B) With information for which confidential treatment is requested clearly identified by means of brackets; and

(C) With information for which nondisclosable confidential treatment is requested clearly identified by means of triple brackets (except when submission of such document is withheld in accord with paragraph (b)(4) of this section); and

(v) A nonconfidential copy of the documents as required by § 201.8(d).

(4) The submission of the documents itemized in paragraph (b)(3) of this section will provide the basis for rulings on the confidentiality of submissions, including rulings on the confidentiality of submissions offered to the Commission which have not yet been placed under the possession, control, or custody of the Commission. The submitter has the option of providing the business information for which confidential treatment is sought at the time the documents itemized in paragraph (b)(3) of this section are provided or of withholding them until a ruling on their confidentiality has been issued.

* * * * *

(f) *Appeals from approval of confidential treatment.* (1) For good cause shown, the Commission may grant an appeal from an approval by the Secretary of a request for confidential treatment of a submission. Any appeal filed shall be addressed to the Chairman, United States International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, shall show that a copy thereof has been served upon the submitter, and shall clearly indicate that it is a confidential submission appeal. An appeal may be made within twenty (20) days of the approval by the Secretary of a request for confidential treatment or whenever the approval or denial has not been forthcoming within ten (10) days (excepting Saturdays, Sundays, and Federal legal holidays) of the receipt of a confidential treatment request, unless an extension notice in writing with the reasons therefor has been provided the person requesting confidential treatment.

(2) An appeal will be decided within twenty (20) days of its receipt (excepting Saturdays, Sundays, and Federal legal holidays) unless an extension notice, in writing with the reasons therefor, has been provided the person making the appeal.

* * * * *

3. Paragraphs (a) and (b) of § 201.11 are revised to read as follows:

§ 201.11 Appearance in an investigation as a party.

(a) *Who may appear as a party.* Any person may apply to appear in an investigation as a party, either in person or by representative, by filing an entry of appearance with the Secretary. Each entry of appearance shall state briefly the nature of the person's reason for participating in the investigation and state the person's intent to file briefs with the Commission regarding the subject matter of the investigation. The Secretary shall promptly determine whether the person submitting the entry of appearance has a proper reason for participating in the investigation. In any investigation conducted under part 207 of this chapter, industrial users, and if the merchandise under investigation is sold at the retail level, representative consumer organizations, will be deemed to have a proper reason for participating in the investigation. If it is found that a person does not have a proper reason for participating in the investigation, that person shall be so notified by the Secretary and shall not be entitled to appear in the investigation as a party. A person found to have a proper reason for participating in the investigation shall be permitted to appear in the investigation as a party, and acceptance of such person's entry of appearance shall be signified by the Secretary's inclusion of such person on the service list established pursuant to paragraph (d) of this section.

(b) *Time for filing.* (1) Except in the case of investigations conducted under part 207 of this chapter, each entry of appearance shall be filed with the Secretary not later than twenty-one (21) days after publication of the Commission's notice of investigation in the Federal Register.

(2) In the case of investigations conducted under subpart B of part 207 of this chapter, each entry of appearance shall be filed with the Secretary not later than seven (7) days after publication of the Commission's notice of investigation in the Federal Register. A party that files a notice of appearance during such time need not file an additional notice of appearance during the portion of the investigation conducted under subpart C of part 207 of this chapter.

(3) Notwithstanding paragraph (b)(2) of this section, a party may file an entry of appearance during the final phase of an investigation conducted under part

207 of this chapter no later than twenty-one (21) days prior to the hearing date listed in the Federal Register notice published pursuant to § 207.24(b) of this chapter.

* * * * *

4. Paragraph (m) of § 201.13 is revised to read as follows:

§ 201.13 Conduct of nonadjudicative hearings.

* * * * *

(m) *Closed sessions.* (1) Upon a request filed by a party to the investigation no later than seven (7) days prior to the date of the hearing (or three (3) days prior to the date of a conference conducted under § 207.15 of this chapter) that

(i) Identifies the subjects to be discussed;

(ii) Specifies the amount of time requested; and

(iii) Justifies the need for a closed session with respect to each subject to be discussed, the Commission (or the Director, as defined in § 207.2(c) of this chapter, for a conference under § 207.15 of this chapter) may close a portion of a hearing (or conference under § 207.15 of this chapter) held in any investigation in order to allow such party to address confidential business information, as defined in § 201.6, during the course of its presentation.

(2) In addition, during each hearing held in an investigation conducted under section 202 of the Trade Act, as amended, or in an investigation under title VII of the Tariff Act as provided in § 207.24 of this chapter, following the public presentation of the petitioner(s) and that of each panel of respondents, the Commission will, if it deems it appropriate, close the hearing in order to allow Commissioners to question parties and/or their representatives concerning matters involving confidential business information.

PART 207—[AMENDED]

5. The authority citation for part 207 is revised to read as follows:

Authority: 19 U.S.C. 1336, 1671–1677n, 2482, 3513.

6. Section 207.1 is revised to read as follows:

§ 207.1 Applicability of part.

Part 207 applies to proceedings of the Commission under section 516A and title VII of the Tariff Act of 1930 (19 U.S.C. 1303, 1516A and 1671–1677n) (the Act), other than investigations under section 783 (19 U.S.C. 1677n), which will be conducted pursuant to procedures specified by the Office of the United States Trade Representative.

7. The interim rule amending § 207.2 published in the Federal Register issue of January 3, 1995 at 60 FR 18 is adopted as a final rule without change.

8. Paragraphs (b) and (c) of § 207.3 are revised to read as follows:

§ 207.3 Service, filing, and certification of documents.

* * * * *

(b) *Service.* Any party submitting a document for inclusion in the record of the investigation shall, in addition to complying with § 201.8 of this chapter, serve a copy of each such document on all other parties to the investigation in the manner prescribed in § 201.16 of this chapter. If a document is filed before the Secretary's issuance of the service list provided for in § 201.11 of this chapter or the administrative protective order list provided for in § 207.7, the document need not be accompanied by a certificate of service, but the document shall be served on all appropriate parties within two (2) days of the issuance of the service list or the administrative protective order list and a certificate of service shall then be filed. Notwithstanding § 201.16 of this chapter, petitions, briefs, and testimony filed by parties pursuant to §§ 207.10, 207.15, 207.23, 207.24, and 207.25 shall be served by hand or, if served by mail, by overnight mail or its equivalent. Failure to comply with the requirements of this rule may result in removal from status as a party to the investigation. The Commission shall make available to all parties to the investigation a copy of each document, except transcripts of conferences and hearings, business proprietary information, privileged information, and information required to be served under this section, placed in the record of the investigation by the Commission.

(c) *Filing.* Documents to be filed with the Commission must comply with applicable rules, including § 201.8 of this chapter. If the Commission establishes a deadline for the filing of a document, and the submitter includes business proprietary information in the document, the submitter is to file and, if the submitter is a party, serve the business proprietary version of the document on the deadline and may file and serve the nonbusiness proprietary version of the document no later than one business day after the deadline for filing the document. The business proprietary version shall enclose all business proprietary information in brackets and have the following warning marked on every page: ''Bracketing of BPI not final for one business day after date of filing.'' The bracketing becomes final one business day after the date of filing of the document, *i.e.*, at the same time as the nonbusiness proprietary version of the document is due to be filed. Until the bracketing becomes final, recipients of the document may not divulge any part of the contents of the document to anyone not subject to the administrative protective order issued in the investigation. If the submitter discovers it has failed to bracket correctly, the submitter may file a corrected version or portion of the business proprietary document at the same time as the nonbusiness proprietary version is filed. No changes, including typographical changes, to the document other than bracketing and deletion of business proprietary information are permitted after the deadline unless an extension of time is granted to file an amended document pursuant to § 201.14(b)(2) of this chapter. Failure to comply with this paragraph may result in the striking from the record of all or a portion of a submitter's document.

9. Paragraph (a) of § 207.4 is revised to read as follows:

§ 207.4 The record.

(a) *Maintenance of the record.* The Secretary shall maintain the record of each investigation conducted by the Commission pursuant to title VII of the Act. The record shall be maintained contemporaneously with each actual filing in the record. It shall be divided into public and nonpublic sections. The Secretary shall also maintain a contemporaneous index of all materials filed in the record. All material properly filed with the Secretary shall be placed in the record. The Commission need not consider in its determinations or include in the record any material that is not filed with the Secretary. All material which is placed in the record shall be maintained in the public record, with the exception of material which is privileged, or which is business proprietary information submitted in accordance with § 201.6 of this chapter. Privileged and business proprietary material shall be maintained in the nonpublic record.

* * * * *

10. Paragraphs (a), (f)(2), (f)(3), and (g) of § 207.7 are revised to read as follows:

§ 207.7 Limited disclosure of certain business proprietary information under administrative protective order.

(a)(1) *Disclosure.* Upon receipt of a timely application filed by an authorized applicant, as defined in paragraph (a)(3) of this section, which describes in general terms the information requested, and sets forth the reasons for the request (*e.g.*, all business

proprietary information properly disclosed pursuant to this section for the purpose of representing an interested party in investigations pending before the Commission), the Secretary shall make available all business proprietary information contained in Commission memoranda and reports and in written submissions filed with the Commission at any time during the investigation (except nondisclosable confidential business information) to the authorized applicant under an administrative protective order described in paragraph (b) of this section. The term ''business proprietary information'' has the same meaning as the term ''confidential business information'' as defined in § 201.6 of this chapter.

(2) *Application.* An application under paragraph (a)(1) of this section must be made by an authorized applicant on a form adopted by the Secretary or a photocopy thereof. An application on behalf of a petitioner, a respondent, or another party must be made no later than the time that entries of appearance are due pursuant to § 201.11 of this chapter. In the event that two or more authorized applicants represent one interested party who is a party to the investigation, the authorized applicants must select one of their number to be lead authorized applicant. The lead authorized applicant's application must be filed no later than the time that entries of appearance are due. Provided that the application is accepted, the lead authorized applicant shall be served with business proprietary information pursuant to paragraph (f) of this section. The other authorized applicants representing the same party may file their applications after the deadline for entries of appearance but at least five (5) days before the deadline for filing posthearing briefs in the investigation, or the deadline for filing briefs in the preliminary phase of an investigation, and shall not be served with business proprietary information.

(3) *Authorized applicant.* (i) Only an authorized applicant may file an application under this subsection. An authorized applicant is:

(A) An attorney for an interested party which is a party to the investigation;

(B) A consultant or expert under the direction and control of a person under paragraph (a)(3)(i)(A) of this section;

(C) A consultant or expert who appears regularly before the Commission and who represents an interested party which is a party to the investigation; or

(D) A representative of an interested party which is a party to the investigation, if such interested party is not represented by counsel.

(ii) In addition, an authorized applicant must not be involved in competitive decisionmaking for an interested party which is a party to the investigation. Involvement in ''competitive decisionmaking'' includes past, present, or likely future activities, associations, and relationships with an interested party which is a party to the investigation that involve the prospective authorized applicant's advice or participation in any of such party's decisions made in light of similar or corresponding information about a competitor (pricing, product design, etc.).

(4) *Forms and determinations.* (i) The Secretary may adopt, from time to time, forms for submitting requests for disclosure pursuant to an administrative protective order incorporating the terms of this rule. The Secretary shall determine whether the requirements for release of information under this rule have been satisfied. This determination shall be made concerning specific business proprietary information as expeditiously as possible but in no event later than fourteen (14) days from the filing of the information, or seven (7) days in the preliminary phase of an investigation, except if the submitter of the information objects to its release or the information is unusually voluminous or complex, in which case the determination shall be made within thirty (30) days from the filing of the information, or ten (10) days in the preliminary phase of an investigation. The Secretary shall establish a list of parties whose applications have been granted. The Secretary's determination shall be final for purposes of review by the U.S. Court of International Trade under section 777(c)(2) of the Act.

(ii) Should the Secretary determine pursuant to this section that materials sought to be protected from public disclosure by a person do not constitute business proprietary information or were not required to be served under paragraph (f) of this section, then the Secretary shall, upon request, issue an order on behalf of the Commission requiring the return of all copies of such materials served in accordance with paragraph (f) of this section.

(iii) The Secretary shall release business proprietary information only to an authorized applicant whose application has been accepted and who presents the application along with adequate personal identification; or a person described in paragraph (b)(1)(iv) of this section who presents a copy of the statement referred to in that paragraph along with adequate personal identification.

(iv) An authorized applicant granted access to business proprietary information in the preliminary phase of an investigation may, subject to paragraph (c) of this section, retain such business proprietary information during any final phase of that investigation, provided that the authorized applicant has not lost his authorized applicant status (*e.g.,* by terminating his representation of an interested party who is a party). When retaining business proprietary information pursuant to this paragraph, the authorized applicant need not file a new application in the final phase of the investigation.

* * * * *

(f) *Service.* * * *

(2) If a party's request under paragraph (g) of this section is granted, the Secretary shall accept the nondisclosable confidential business information into the record. The party shall serve the submission containing such information in accordance with the requirements of § 207.3(b) and paragraph (f)(1) of this section, with the information redacted from the copies served.

(3) The Secretary shall not accept for filing into the record of an investigation submissions filed without a proper certificate of service. Failure to comply with paragraph (f) of this section may result in denial of party status and such sanctions as the Commission deems appropriate. Business proprietary information in submissions must be dealt with as required by § 207.3(c).

(g) *Exemption from disclosure.*—(1) *In general.* Any person may request exemption from the disclosure of business proprietary information under administrative protective order, whether the person desires to include such information in a petition filed under § 207.10, or any other submission to the Commission during the course of an investigation. Such a request shall only be granted if the Secretary finds that such information is nondisclosable confidential business information as defined in § 201.6(a)(2) of this chapter. The request will be granted or denied not later than thirty (30) days (ten (10) days in a preliminary phase investigation) after the date on which the request is filed.

(2) *Request for exemption.* A request for exemption from disclosure must be filed with the Secretary in writing with the reasons therefor. At the same time as the request is filed, one copy of the business proprietary information in question must be lodged with the

Secretary solely for the purpose of obtaining a determination as to the request. The business proprietary information for which exemption from disclosure is sought shall remain the property of the requester, and shall not become or be incorporated into any agency record until such time as the request is granted. A request should, when possible, be filed two business days prior to the deadline, if any, for filing the document in which the information for which exemption from disclosure is sought is proposed to be included. If the request is denied, the copy of the information lodged with the Secretary shall promptly be returned to the requester. Such a request shall only be granted if the Secretary finds that such information is privileged information, classified information, or specific information of a type for which there is a clear and compelling need to withhold from disclosure. The Secretary shall promptly notify the requester as to whether the request has been approved or denied.

(3) *Procedure if request is approved.* If the request is approved, the person shall file three versions of the submission containing the nondisclosable confidential business information in question. One version shall contain all business proprietary information, bracketed in accordance with § 201.6 of this chapter and § 207.3. The other two versions shall conform to and be filed in accordance with the requirements of § 201.6 of this chapter and § 207.3, except that the specific information as to which exemption from disclosure was granted shall be redacted from the submission.

(4) *Procedure if request is denied.* If the request is denied, the copy of the information lodged with the Secretary shall promptly be returned to the requester. The requester may file the submission in question without that information, in accordance with the requirements of § 207.3.

11. Section 207.8 is revised to read as follows:

§ 207.8 Questionnaires to have the force of subpoenas; subpoena enforcement.

Any questionnaire issued by the Commission in connection with any investigation under title VII of the Act may be issued as a subpoena and subscribed by a Commissioner, after which it shall have the force and effect of a subpoena authorized by the Commission. Whenever any party or any other person fails to respond adequately to such a subpoena or whenever a party or any other person refuses or is unable to produce information requested in a timely manner and in the form required, or otherwise significantly impedes an investigation, the Commission may:

(a) Use the facts otherwise available in making its determination;

(b) Seek judicial enforcement of the subpoena pursuant to 19 U.S.C. 1333;

(c) Make inferences adverse to such person's position, if such person is an interested party that has failed to cooperate by not acting to the best of its ability to comply with a request for information; and

(d) Take such other actions as necessary to obtain needed information.

12. Section 207.10 is revised to read as follows:

§ 207.10 Filing of petition with the Commission.

(a) *Filing of the petition.* Any interested party who files a petition with the administering authority pursuant to section 702(b) or section 732(b) of the Act in a case in which a Commission determination under title VII of the Act is required, shall file copies of the petition, including all exhibits, appendices, and attachments thereto, pursuant to § 201.8 of this chapter, with the Secretary on the same day the petition is filed with the administering authority. If the petition complies with the provisions of § 207.11, it shall be deemed to be properly filed on the date on which the requisite number of copies of the petition is received by the Secretary. The Secretary shall notify the administering authority of that date. Notwithstanding § 201.11 of this chapter, a petitioner need not file an entry of appearance in the investigation instituted upon the filing of its petition, which shall be deemed an entry of appearance.

(b) *Service of the petition.* (1)(i) The Secretary shall promptly notify a petitioner when, before the establishment of a service list under § 207.7(a)(4), he or she approves an application under § 207.7(a). When practicable, this notification shall be made by facsimile transmission. A copy of the petition including all business proprietary information shall then be served by petitioner on those approved applicants in accord with § 207.3(b) within two (2) calendar days of the time notification is made by the Secretary.

(ii) The petitioner shall serve persons enumerated on the list established by the Secretary pursuant to § 207.7(a)(4) that have not been served pursuant to paragraph (b)(1)(i) of this section within two (2) calendar days of the establishment of the Secretary's list.

(2) A copy of the petition omitting business proprietary information shall be served by petitioner on those persons enumerated on the list established by the Secretary pursuant to § 201.11(d) of this chapter within two (2) calendar days of the establishment of the Secretary's list.

(3) Service of the petition shall be attested by filing a certificate of service with the Commission.

(c) *Amendments and withdrawals; critical circumstances.* (1) Any amendment or withdrawal of a petition shall be filed on the same day with both the Secretary and the administering authority, without regard to whether the requester seeks action only by one agency.

(2) When not made in the petition, any allegations of critical circumstances under section 703 or section 733 of the Act shall be made in an amendment to the petition and shall be filed as early as possible. Critical circumstances allegations, whether made in the petition or in an amendment thereto, shall contain information reasonably available to petitioner concerning the factors enumerated in sections 705(b)(4)(A) and 735(b)(4)(A) of the Act.

13. Section 207.11 is revised to read as follows:

§ 207.11 Contents of petition.

(a) The petition shall be signed by the petitioner or its duly authorized officer, attorney, or agent, and shall set forth the name, address, and telephone number of the petitioner and any such officer, attorney, or agent, and the names of all representatives of petitioner who will appear in the investigation.

(b)(1) The petition shall allege the elements necessary for the imposition of a duty under section 701(a) or section 731(a) of the Act and contain information reasonably available to the petitioner supporting the allegations.

(2) The petition shall also include the following specific information, to the extent reasonably available to the petitioner:

(i) Identification of the domestic like product(s) proposed by petitioner;

(ii) A listing of all U.S. producers of the proposed domestic like product(s), including a street address, phone number, and contact person(s) for each producer;

(iii) A listing of all U.S. importers of the subject merchandise, including street addresses and phone numbers for each importer;

(iv) Identification of each product on which the petitioner requests the Commission to seek pricing information in its questionnaires; and

(v) A listing of all sales or revenues lost by each petitioning firm by reason of the subject merchandise during the

three years preceding filing of the petition.

(3) The petition shall contain a certification that each item of information specified in paragraph (b)(2) of this section that the petition does not include was not reasonably available to the petitioner.

(4) Petitioners are also advised to refer to the administering authority's regulations concerning the contents of petitions.

14. Section 207.12 is revised to read as follows:

§ 207.12 Notice of preliminary phase of investigation.

Upon receipt by the Commission of a petition under § 207.10 or receipt of notice that the administering authority has commenced an investigation under section 702(a) or section 732(a) of the Act, the Director shall, as soon as practicable after consultation with the administering authority, institute an investigation and commence the preliminary phase of the investigation under section 703(a) or section 733(a) of the Act and shall publish a notice to that effect in the Federal Register.

15. Section 207.13 is revised to read as follows:

§ 207.13 Cooperation with administering authority; preliminary phase of investigation.

Subsequent to institution of an investigation pursuant to section 207.12, the Director shall conduct such investigation as the Director deems appropriate. Information adduced in the investigation shall be placed on the record. The Director shall cooperate with the administering authority in its determination of the sufficiency of a petition and in its decision whether to permit any proposed amendment to a petition. Notwithstanding §§ 201.11(c) and 201.14(b) of this chapter, late filings in the preliminary phase of an investigation shall be referred to the Director, who shall determine whether to accept such filing for good cause shown by the person making the filing.

16. Section 207.14 is revised to read as follows:

§ 207.14 Negative petition determination.

Upon receipt by the Commission of notice from the administering authority under section 702(d) or section 732(d) of the Act that the administering authority has made a negative petition determination under section 702(c)(3) or section 732(c)(3) of the Act, the investigation begun pursuant to § 207.12 shall terminate. All persons who have received requests for information from the Director shall be notified of the termination.

17. Section 207.18 is revised to read as follows:

§ 207.18 Notice of preliminary determination.

Whenever the Commission makes a preliminary determination, the Secretary shall serve copies of the determination and a public version of the staff report on the petitioner, other parties to the investigation, and the administering authority. The Secretary shall publish a notice of such determination in the Federal Register. If the Commission's determination is negative, or that imports are negligible, the investigation shall be terminated. If the Commission's determination is affirmative, the notice shall announce commencement of the final phase of the investigation.

§§ 207.20 through 207.29 [Redesignated as §§ 207.21 through 207.30]

18. Sections 207.20 through 207.29 are redesignated as follows:

Old section	New section
207.20	207.21
207.21	207.22
207.22	207.23
207.23	207.24
207.24	207.25
207.25	207.26
207.26	207.27
207.27	207.28
207.28	207.29
207.29	207.30

19. A new § 207.20 is added to read as follows:

§ 207.20 Investigative activity following preliminary determination.

(a) If the Commission's preliminary determination is affirmative, the Director shall continue investigative activities pending notice by the administering authority of its preliminary determination under section 703(b) or section 733(b) of the Act.

(b) The Director shall circulate draft questionnaires for the final phase of an investigation to parties to the investigation for comment. Any party desiring to comment on draft questionnaires shall submit such comments in writing to the Commission within a time specified by the Director.

20. Redesignated § 207.21 is revised to read as follows:

§ 207.21 Final phase notice of scheduling.

(a) Notice from the administering authority of an affirmative preliminary determination under section 703(b) or section 733(b) of the Act and notice from the administering authority of an affirmative final determination under section 705(a) or section 735(a) of the Act shall be deemed to occur on the date on which the transmittal letter of such determination is received by the Secretary from the administering authority or the date on which notice of such determination is published in the Federal Register, whichever shall first occur.

(b) Upon receipt of notice from the administering authority of an affirmative preliminary determination under section 703(b) or section 733(b) of the Act or, if the administering authority's preliminary determination is negative, notice of an affirmative final determination under section 705(a) or section 735(a) of the Act, the Commission shall publish in the Federal Register a Final Phase Notice of Scheduling.

(c) If the administering authority's preliminary determination is negative, the Director shall continue such investigative activities as the Director deems appropriate pending a final determination by the administering authority under section 705(a) or section 735(a) of the Act.

(d) Upon receipt by the Commission of notice from the administering authority of its final negative determination under section 705(a) or section 735(a) of the Act, the corresponding Commission investigation shall be terminated.

21. Redesignated § 207.23 is revised to read as follows:

§ 207.23 Prehearing brief.

Each party who is an interested party shall submit to the Commission, no later than four (4) business days prior to the date of the hearing specified in the notice of scheduling, a prehearing brief. Prehearing briefs shall be signed and shall include a table of contents. The prehearing brief should present a party's case concisely and shall, to the extent possible, refer to the record and include information and arguments which the party believes relevant to the subject matter of the Commission's determination under section 705(b) or section 735(b) of the Act. Any person not an interested party may submit a brief written statement of information pertinent to the investigation within the time specified for filing of prehearing briefs.

22. Redesignated § 207.24 is revised to read as follows:

§ 207.24 Hearing.

(a) *In general.* The Commission shall hold a hearing concerning an investigation before making a final

determination under section 705(b) or section 735(b) of the Act.

(b) *Procedures.* Any hearing shall be conducted after notice published in the Federal Register. The hearing shall not be subject to the provisions of 5 U.S.C. subchapter II, chapter 5, or to 5 U.S.C. 702. Each party shall limit its presentation at the hearing to a summary of the information and arguments contained in its prehearing brief, an analysis of the information and arguments contained in the prehearing briefs described in § 207.23, and information not available at the time its prehearing brief was filed. Unless a portion of the hearing is closed, presentations at the hearing shall not include business proprietary information. Notwithstanding § 201.13(f) of this chapter, in connection with its presentation a party may file witness testimony with the Secretary no later than three (3) business days before the hearing. In the case of testimony to be presented at a closed session held in response to a request under § 207.24(d), confidential and non-confidential versions shall be filed in accordance with § 207.3. Any person not a party may make a brief oral statement of information pertinent to the investigation.

(c) *Hearing Transcripts*—(1) *In general.* A verbatim transcript shall be made of all hearings or conferences held in connection with Commission investigations conducted under this part.

(2) *Revision of transcripts.* Within ten (10) days of the completion of a hearing, but in any event at least one (1) day prior to the date for disclosure of information set pursuant to § 207.30(a), any person who testified at the hearing may submit proposed revisions to the transcript of his or her testimony to the Secretary. No substantive revisions shall be permitted. If in the judgment of the Secretary a proposed revision does not alter the substance of the testimony in question, the Secretary shall incorporate the revision into a revised transcript.

(d) *Closed sessions.* Upon a request filed by a party to the investigation no later than seven (7) days prior to the date of the hearing that identifies the subjects to be discussed, specifies the amount of time requested, and justifies the need for a closed session with respect to each subject to be discussed, the Commission may close a portion of a hearing to persons not authorized under § 207.7 to have access to business proprietary information in order to allow such party to address business proprietary information during the course of its presentation. In addition, during each hearing held in an investigation conducted under section 705(b) or section 735(b) of the Act, following the public presentation of the petitioner(s) and that of each panel of respondents, the Commission will, if it deems it appropriate, close the hearing to persons not authorized under section 207.7 to have access to business proprietary information in order to allow Commissioners to question parties and/or their representatives concerning matters involving business proprietary information.

23. Redesignated § 207.25 is revised to read as follows:

§ 207.25 Posthearing briefs.

Any party may file a posthearing brief concerning the information adduced at or after the hearing with the Secretary within a time specified in the notice of scheduling or by the presiding official at the hearing. No such posthearing brief shall exceed fifteen (15) pages of textual material, double spaced and single sided, on stationery measuring 8½ × 11 inches. In addition, the presiding official may permit persons to file answers to questions or requests made by the Commission at the hearing within a specified time. The Secretary shall not accept for filing posthearing briefs or answers which do not comply with this section.

24. Redesignated § 207.29 is revised to read as follows:

§ 207.29 Publication of notice of determination.

Whenever the Commission makes a final determination, the Secretary shall serve copies of the determination and the nonbusiness proprietary version of the final staff report on the petitioner, other parties to the investigation, and the administering authority. The Secretary shall publish notice of such determination in the Federal Register.

25. Redesignated §207.30 is revised to read as follows:

§ 207.30 Comment on information.

(a) In any final phase of an investigation under section 705 or section 735 of the Act, the Commission shall specify a date on which it will disclose to all parties to the investigation all information it has obtained on which the parties have not previously had an opportunity to comment. Any such information that is business proprietary information will be released to persons authorized to obtain such information pursuant to § 207.7. The date on which disclosure is made will occur after the filing of posthearing briefs pursuant to §207.25.

(b) The parties shall have an opportunity to file comments on any information disclosed to them after they have filed their posthearing brief pursuant to § 207.25. Comments shall only concern such information, and shall not exceed 15 pages of textual material, double spaced and single-sided, on stationery measuring 8½ × 11 inches. A comment may address the accuracy, reliability, or probative value of such information by reference to information elsewhere in the record, in which case the comment shall identify where in the record such information is found. Comments containing new factual information shall be disregarded. The date on which such comments must be filed will be specified by the Commission when it specifies the time that information will be disclosed pursuant to paragraph (a) of this section. The record shall close on the date such comments are due, except with respect to investigations subject to the provisions of section 771(7)(G)(iii) of the Act, and with respect to changes in bracketing of business proprietary information in the comments permitted by § 207.3(c).

26. The interim rule amending § 207.40 published in the Federal Register issue of January 3, 1995 at 60 FR 18 is adopted as a final rule without change.

Issued: July 15, 1996.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–18334 Filed 7–19–96; 8:45 am]

BILLING CODE 7020–02–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[LA–34–1–7300a, FRL–5531–4]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of Louisiana; Correction of Classification; Approval of the Maintenance Plan; Redesignation of Pointe Coupee Parish to Attainment for Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This document announces the Administrator's decision to remove Pointe Coupee Parish (Pointe Coupee), Louisiana, from the Baton Rouge serious ozone nonattainment area, to reclassify Pointe Coupee from serious to marginal, and to redesignate Pointe Coupee to attainment for ozone. Pointe Coupee