§ 71.1 [Amended]

40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959±

Cincinnati Municipal Airport-Lunken Field

Covington, Cincinnati/Northern Kentucky

ASO KY E5 Covington, KY [Revised]

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more

September 16, 1997, is amended as
dated September 10, 1997, and effective

Designations and Reporting Points,
Administration Order 7400.9E, Airspace

---

AIRWAYS; ROUTES; AND REPORTING
CLASS B, CLASS C, CLASS D, AND
NAVIGATION (air).

List of Subjects in 14 CFR part 71
Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment
In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A,
CLASS B, CLASS C, CLASS D, AND
CLASS E AIRSPACE AREAS;
AIRWAYS; ROUTES; AND REPORTING
POINTS

1. The authority citation for part 71 continues to read as follows:

§ 71.1 [Amended]
2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:
Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * *

A50 KY E5 Covington, KY [Revised]

Covington, Cincinnati/Northern Kentucky International Airport KY
(lat. 39°09′33″ N, long. 84°25′06″ W)

Cincinnati Municipal Airport-Lunken Field
(lat. 39°09′33″ N, long. 84°20′32″ W)

Clermont Country Airport, Batavia, OH
(lat. 39°04′42″ N, long. 84°12′38″ W)

Cincinnati-Blue Ash Airport, OH
(lat. 39°14′48″ N, long. 84°23′21″ W)

That airspace extending upward from 700 feet above the surface, and within a 10.5-mile radius of Cincinnati/Northern Kentucky International Airport, and within a 10.5-mile radius of Cincinnati Airport-Lunken Filed and within 2.6 miles each side of the 044° bearing from Cincinnati NDB and extending from the 10.5-mile radius to 7.4 miles, northeast of the NDB, and within a 6.8-mile radius of Clermont County Airport, Batavia, OH, and within a 6.3-mile radius of Cincinnati-Blue Ash Airport, OH.

* * * *

Issued in College Park, Georgia, on September 4, 1997.

Nancy B. Shelton,
Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 97-28102 Filed 10-22-97; 8:45 am]
BILLING CODE 4910-13-M

INTERNATIONAL TRADE COMMISSION

19 CFR Parts 201 and 207
Notice of Proposed Amendments to Rules of Practice and Procedure

ACTION: Notice of Proposed rulemaking.

SUMMARY: The United States International Trade Commission (the Commission) proposes to amend its Rules of Practice and Procedure concerning antidumping and countervailing duty investigations and reviews in 19 CFR parts 201 and 207. The proposed amendments will establish procedures for five-year reviews of antidumping and countervailing duty orders and suspension agreements that the Commission will begin to conduct in 1998 pursuant to the provisions of section 751(c) of the Tariff Act of 1930, as amended (the Act).

DATES: To be assured of consideration, written comments must be received not later than December 22, 1997. Rebuttal comments must be received not later than January 21, 1998.

ADDRESSES: A signed original and 14 copies of each set of comments, along with a cover letter, should be submitted to the Secretary, U.S. International Trade Commission, 500 E Street, SW, Washington, D.C. 20436.

FOR FURTHER INFORMATION CONTACT: Marc A. Bernstein, Office of General Counsel, U.S. International Trade Commission (telephone: 202–205–3087, e-mail: mberstein@usitc.gov), or Vera A. Libeau, Office of Investigations, U.S. International Trade Commission (telephone 202–205–3176, e-mail: vlibeau@usitc.gov). 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 Uruguay Round Agreements Act (URAA) fundamentally revised the Act by requiring that antidumping and countervailing duty orders and suspension agreements be revoked after five years unless revocation would be likely to lead to a continuation or recurrence of (1) dumping or a countervailing subsidy, and (2) material injury to the domestic industry. The URAA assigns to the Commission the responsibility of determining whether revocation of an antidumping or countervailing duty order, or termination of a suspension agreement, is likely to lead to the continuation or recurrence of material injury. The URAA requires that the Department of Commerce (Commerce) begin initiating five-year reviews in July 1998, that all five-year reviews of “transition orders”—those antidumping and countervailing duty orders and suspension agreements in effect on January 1, 1995, when the United States acceded to the Uruguay Round Agreements—be initiated by December 31, 1999, and that all reviews of transition orders be completed by June 30, 2001. The URAA further requires that Commerce initiate a five-year review of each order or agreement that is not a “transition order” no later than 30 days before the fifth anniversary of publication of the order or agreement in the Federal Register.

This notice proposes new procedures for five-year reviews. As described below, some of the proposed procedures will be reflected in changes to the Commission’s Rules of Practice and Procedure. Other proposed procedures, such as scheduling, relate to internal agency practices and do not require regulations. Nevertheless, this notice describes several of these proposals and invites public comment on all proposed regulations and procedures.

The Commission has determined that these proposed regulations 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. The
Regulatory Flexibility Act (5 U.S.C. 601
note) is inapplicable to this rulemaking,
because it is not one for which a Notice
of Proposed Rulemaking (NPRM) is
required under 5 U.S.C. 553(b) or any
other statute. Although the Commission
has chosen to publish an NPRM, these
proposed regulations are "agency rules
of procedure and practice," and thus are
exempt from the notice requirement
imposed by 5 U.S.C. 553(b).
The draft notice of institution
reproduced in Annex A to this Notice
consists of an information collection
request subject to the provisions of the
Paperwork Reduction Act, 44 U.S.C.
3501 et seq. After consultation with the
Office of Management and Budget
(OMB), the Commission believes that
the contemplated collection of
information pursuant to the draft notice
of institution is encompassed within a
clearance OMB has given the
Commission under the Paperwork
Reduction Act to collect information
for antidumping and countervailing duty
investigations and reviews, including
those undertaken pursuant to section
751 of the Act. This clearance has been
assigned OMB Control Number 3117-
0016.

Request for Comment
The Commission solicits comments
pertaining to its proposals concerning
five-year reviews. The Commission will
conduct a two-step comment process.
Initial comments should be received by
the Commission Secretary not later than
December 22, 1997. Rebuttals to the
initial comments may also be filed. Any
rebuttal comments should be received by
the Commission Secretary not later than
January 21, 1998. All comments
will be available for public inspection in
the Commission's Public Docket Room
between the hours of 8:45 am and 5:15
pm, Monday through Friday (except
Federal Holidays).
Commenters are invited to address
several distinct matters in their
comments and rebuttal comments. The
Commission requests that, to facilitate
its review, commenters organize their
comments as follows:
Section I of the comments should
address the proposed amendments to the
part 201 and 207 regulations
presented in this notice.
Section II of the comments should
address proposed procedures for five-
year reviews that the Commission has
discussed in this notice, but has not
incorporated into the proposed
amendments to the part 201 and part
207 regulations. The comments should
include, for example, comments on the format or
specific questions of the sample notice
of institution appearing as Annex A to
this notice, or comments on the
proposed schedule appearing as Annex
B to this notice.
Section III of the comments should
address any other issues commenters
desire to raise pertaining to five-
year reviews. The regulations proposed
below solely concern the procedures
that the Commission intends to use in
carrying out five-year reviews. The
proposed regulations do not address
what methodology the Commission, or
individual Commissioners, may use to
determine whether revocation of an
order, or termination of a suspended
investigation, would be likely to lead to
continuation or recurrence of material
injury within a reasonably foreseeable
time. Nor do the proposed regulations
address how the Commission, or
individual Commissioners, will analyze
the various factors specified in section
752(a) of the Act in making
determinations in five-year reviews.
Although the Commission does not
intend to issue regulations pertaining to
methodological or empirical issues in
five-year reviews, many private
practitioners may desire the opportunity
to address the Commission about such
issues before the reviews begin. The
Commission therefore invites persons to
dispose of comments on such issues in
conjunction with their comments on the
procedural matters discussed in this
NPRM.

Hearing
The Commission also intends to hold
a public hearing at which interested
persons will be invited to present their
views regarding the procedural matters
discussed in this NPRM as well as
methodological and analytical issues
relating to five-year reviews. The
Commission will issue a notice in
advance of the hearing setting forth the
date of the hearing and the procedures
that will be followed at the hearing. The
hearing will be held after the
submission of the rebuttal comments.

Overview of the Proposed Regulations
The Commission is proposing to
promulgate a series of new regulations,
to be codified in Subpart F of Part 207,
establishing procedures for five-year
reviews. Several of the proposed
regulations closely resemble current
regulations in Subpart C of Part 207
concerning final phase antidumping and
countervailing duty investigations. Others
establish new procedures that
address unique aspects of the five-year
review mechanism created by the
URAA.

The statute requires Commerce to
initiate all five-year reviews
automatically. As part of the initiation,
Commerce and the Commission are
authorized to request that interested
parties submit certain information
needed to conduct the review.
Accordingly, one of the proposed
regulations describes the information
that the Commission will request from
interested parties upon initiation of the
review. Each interested party will be
requested to state its willingness to
participate in the review, and describe
the likely effects of revocation of the
order or termination of the suspended
investigation under review. In addition,
the Commission will request that each
interested party provide other
information or industry data, including
a statement concerning conditions of
competition in the pertinent domestic
industry, a listing of U.S. producers of
the domestic like product and importers
and foreign producers of the subject
merchandise, and certain quantitative
data concerning its operations. All
interested parties will be requested to
furnish this information to the
Commission within 30 days. (Interested
parties that desire to participate as
parties in the Commission review must
also file entries of appearance with the
Commission within 21 days.) These
provisions will aid the Commission in
ascertaining whether interested parties
have sufficient willingness to
participate in a five-year review. They
will also provide the Commission with
record information for use in an
expedited determination, if appropriate.
Section 751(c)(3)(B) of the Act
authorizes the Commission to make an
expedited determination without further
investigation when interested party
responses to the notice of initiation are
inadequate. Interested parties that have
entered appearances in the review and
have responded to the notice of
institution and other parties that have
entered appearances in the review will
be permitted to file a brief submission
concerning whether an expedited
determination is appropriate based on
the adequacy of interested party
responses to the notice of institution.

The Commission will consider these
comments and the responses to the
notice of institution and determine
whether the review should be expedited
approximately 95 days after publication
of the notice of institution. Should the
Commission determine to expedite the
review, interested parties that have
entered appearances in the review and
have responded adequately to the notice
of institution and other parties that have
entered appearances in the review will
be permitted to comment on the
merits of the review before the Commission's
determination on the merits. The record evidence in the expedited review will be limited to that already available to the Commission.

Should the Commission determine not to expedite the review, the review will proceed in a manner closely resembling a final phase antidumping or countervailing duty investigation. Several of the proposed regulations apply existing procedures to five-year reviews. For example, parties that have entered appearances in the review will have the opportunity to submit written comments on draft questionnaires. They will receive prehearing and final reports from the Commission staff, and will have the opportunity to present testimony at a hearing before the Commission and to file prehearing and posthearing briefs and final comments.

Section-by-Section Analysis of the Proposed Regulations

Section 201.11

Section 201.11 concerns the filing of entries of appearance in Commission investigations and reviews. The Commission is proposing to add new paragraphs (b)(4) and (b)(5) to this section to govern the filing of entries of appearance in five-year reviews. Under proposed section 201.11(b)(4), a party will have 21 days from publication of the Commission's notice of institution of five-year review to file an entry of appearance.

If the Commission determines not to expedite the review, it will issue a notice of scheduling approximately 95 days after institution of the review. (See proposed section 207.62.) Under proposed section 201.11(b)(5), a party will have an additional 45 days after publication of this notice to file an entry of appearance.

Section 207.3

Section 207.3(b) requires parties to provide hand or overnight service of, inter alia, prehearing briefs, hearing testimony, and posthearing briefs filed in antidumping and countervailing duty investigations. The proposed amendment adds cross-references to several of the new provisions in Subpart F to existing requirements regarding service.

Section 207.45

Section 207.45 concerns changes in circumstances reviews pursuant to section 751(b) of the Act. The proposed amendment changes the statutory cross-reference in section 207.45(a) so it specifically cites section 751(b). No substantive change is intended.

Section 207.46

Section 207.46 is an interim regulation that establishes procedures for investigations under section 753 of the Act, which concerns countervailing duty orders issued under former section 303 of the Act without an injury determination by the Commission. The proposed regulation contains three changes from the interim regulation. First, in the caption for subsection 207.46(g) and in the first sentence of section 207.46(g)(1), the word "expedited" has been deleted to avoid any confusion between simultaneous reviews conducted pursuant to section 753(e) of the Act and five-year reviews that are expedited pursuant to section 751(c)(3)(B) of the Act. Second, the second sentence of section 207.46(g)(1) has been deleted as unnecessary. This sentence requires that requests for simultaneous five-year reviews under section 753(e) of the Act contain a statement why revocation of the order to be reviewed would lead to continuation or recurrence of material injury. Should a simultaneous five-year review be conducted, a similar statement will be requested in the notice of institution. Third, the final sentence in section 207.46(g)(2) has been amended to refer to the new Subpart F governing five-year reviews.

Section 207.60

Proposed section 207.60 defines certain terms used in Subpart F of Part 207 concerning five-year reviews. The first three definitions, "five-year review," "expedited determination," and "notice of institution," are proposed to promote economy of wording. "Five-year review" is a five-year review conducted under section 751(c) of the Act. "Expedited determination" is a determination made under section

---

1Section 207.46 became effective on January 1, 1995, together with several other interim regulations that were designed to conform the Commission's Rules of Practice and Procedure to the URAA pending adoption of final regulations. See 60 Fed. Reg. 18 (Jan. 3, 1995). When the Commission proposed adopting its other interim regulations as final regulations, it did not do so with respect to section 207.46, because it perceived section 207.46 to relate to the general question of five-year reviews and stated that: "the Commission is not prepared to address the question of "sunset" reviews at this time." 60 Fed. Reg. 51748, 51753 (Oct. 3, 1995). Now that the Commission is establishing procedures for five-year reviews, it believes that proposing to adopt section 207.46 as a final regulation is appropriate. (The Commission contemplates that it will be conducting investigations under section 753, pursuant to pending requests, during 1997-98. Additionally, there is a theoretical possibility that future requests for section 753 investigations may be filed if additional countries become Subsidies Agreement countries.)
subject country in any five-year review. Persons who are not interested parties will also be provided an opportunity to respond under proposed § 207.61(e), as discussed below.

Proposed paragraphs (b) and (c) describe what interested parties will be requested to submit to the Commission in response to the notice of institution. Sections 751(c)(2)(A), (B), and (C) of the Act expressly direct the Commission and Commerce to request interested parties to submit: (1) A statement expressing their willingness to participate in the review by providing information requested by the agencies, (2) a statement regarding the likely effects of revocation of the order or termination of the suspension agreement under review, and (3) such other information or industry data as the agencies may specify. The URAA’s legislative history specifically contemplates that the Commission may seek detailed quantitative data from interested parties upon initiation of a five-year review, such as “certain key data regarding sales, prices, imports, and market conditions.”

The Commission has two reasons for requesting the submission of certain information and quantitative data from interested parties upon initiation of a five-year review. First, the Commission must determine whether there is sufficient willingness among interested parties to participate in the review and adequate indication that parties will submit requested information throughout the proceeding. The Commission could not effectively ascertain whether such willingness exists—and whether any future investigations are likely to be fruitful—if interested parties were permitted merely to submit pro forma statements of intent to participate. When such willingness does not exist or is limited, an expedited review will be more efficient for both the parties and the Commission than conducting a full review.

Second, the responses to the notice of institution will provide the Commission with information for the record it can use in making a determination, particularly an expedited determination pursuant to section 751(c)(3)(B) of the Act. Section 752(a) of the Act requires the Commission to consider a number of factors when it makes its determination, including an expedited determination, in a five-year review. Additionally, the Commission’s expedited determinations are subject to review by U.S. courts, NAFTA Chapter 19 panels, and/or the WTO Dispute Settlement Body.

As a practical matter, the Commission’s sole opportunity in expedited reviews to obtain information that will enhance its ability to reach a defensible determination—beyond what is available from the original record—is to request such information in the notice of institution. Thus, because of the possibility of an expedited determination in any five-year review, there is a certain amount of information gathering at the initiation stage that is simply unavoidable and any resulting burden on interested parties is inherent in the statutory scheme. Moreover, the information to be submitted is the same type of information that the Commission necessarily would seek at some point in the review. At most, therefore, the proposed regulations request interested parties to submit information earlier in the review process. The Commission nevertheless solicits comments addressing what amount and type of information should be requested in the notice of institution that will enable the Commission to assess the willingness of interested parties to participate in a full five-year review and to make an expedited determination when such a determination is appropriate, while minimizing burdens on interested parties.

Interested party responses to the notice of institution will be in two parts. One part will be filled with the Secretary. The other will be submitted to the Office of Investigations. The Commission believes that such a bifurcated filing process will reduce the burdens to interested parties in submitting business proprietary information (BPI), because, as explained below, the parties need not justify proprietary treatment for information they submit to the Office of Investigations or prepare and file a public version of this submission. The evaluation of whether the response of an individual interested party is adequate will be based on that party’s response to both parts of the notice.

The first part of the response, which proposed section 207.61(b) addresses, will be filed with the Secretary pursuant to the requirements of Commission rules 201.8 and 207.3. This submission will include the material specified in section 751(c)(2)(A) and (B) of the Act: a statement that the submitter is willing to participate in the review by providing requested information and a statement regarding the likely effects of revocation of the order or termination of the suspended investigation. Production, consumption, commercial requirements are set forth in proposed sections 207.61(b)(1) and (b)(2). The submission will also provide identifying information: the submitter’s name, address, telephone number, facsimile number, electronic mail address and (if applicable) World Wide Web site address, and a statement indicating whether it is a producer of the domestic like product, a U.S. importer of subject merchandise, a foreign producer or exporter of subject merchandise, or another type of interested party.

Interested parties will also be asked to list all known and currently operating U.S. producers of the domestic like product, all known and currently operating U.S. importers of subject merchandise, and all known and currently operating producers of the subject merchandise in each subject country that currently export or have exported subject merchandise to the United States or to any other country during the period specified in the notice of institution. This material will aid the Commission in determining the adequacy of interested party responses to the notice of institution. Interested parties will be required only to furnish information in their possession to compile these lists. If this information is not in the interested party’s possession, however, it must expressly so indicate in its response to the Commission pursuant to proposed section 207.61(d).

Additionally, each interested party will be provided the option of stating whether it agrees with the definitions of the domestic like product and domestic industry that the Commission adopted in its original investigation(s). Interested parties that respond that they disagree with an original definition will be requested to explain why and to provide an alternative definition. This information will assist the Commission to ascertain the like product and domestic industry issues that may arise in each review, and the extent and nature of any future investigative activity it may conduct.

First, the parties must indicate whether it is a producer of the domestic like product, a U.S. importer of subject merchandise, or U.S. importers of subject merchandise and, U.S. importers of subject merchandise will be requested to furnish certain quantitative data to the Office of Investigations concerning their operations. Each domestic producer will be asked to provide information about the domestic like product(s) defined by the Commission in the original investigation(s) giving rise to the review, including information on capacity, production, exports, foreign shipments, inventories, employment, financial performance, and prices. Each
importer of subject merchandise will be
asked to provide information about its
import volumes, commercial shipments,
inventory, and prices for the subject
merchandise. Each foreign producer of
subject merchandise will be asked to
provide information about its capacity,
production, home market shipments,
export shipments, and inventories of the
subject merchandise. The Commission
will request each party to submit actual
data for the most recently completed
calendar year, and projections for the
succeeding calendar year (which will
generally be the calendar year in which
the notice of institution is published) in
accordance with generally accepted
accounting principles. The notice of
institutions for each review will specify
the particular data that interested
parties are to furnish.

Each interested party will also be
requested to provide certain narrative
information to the Office of
Investigations. First, each interested
party will be requested to identify
significant changes in the supply of and
demand for the like products that have
occurred since the order(s) or agreement(s)
under review became effective. This will
provide the Commission with information
concerning conditions of competition
that it can use in making a
determination. Additionally, interested
parties in grouped reviews involving
multiple subject countries will be asked
to explain the extent to which the
domestic like product competes or is
likely to compete with subject
merchandise from each subject country,
and the degree to which merchandise
from each subject country competes or
is likely to compete with merchandise
from each other subject country. This
will provide the Commission with
information pertinent to its
determination on cumulation.

Finally, under proposed section
207.61(c)(2), interested parties will be
free to furnish any other information or
data relevant to the Commission's
determination. For example, interested
parties may desire to provide
information not specifically requested
in the notice of institution pertinent to
one or more of the factors that the
Commission is to consider under
section 752(a) of the Act in rendering a
determination in a five-year review.
Interested parties may also desire to
indicate which domestic producers are
related parties under section 771(4)(B)
of the Act.

Any submission that interested
parties make pursuant to section
207.61(c) will be submitted to the Office
of Investigations and will not be subject
to the filing requirements of section
201.8. Instead, only a single copy of the
submission need be filed with the Office
of Investigations. The Commission
contemplates that substantially all of the
information contained in this
submission will be business proprietary.
Consequently, the Commission will
automatically accord such submissions
proprietary treatment, except to the
test the information is otherwise
publicly available. A submitter need not
submit the justification for proprietary
information or conduct other
investigative activity thereafter unless it
decides to proceed to a full review. This
notification procedure is intended to
apply the provisions of section 782(d) of
the Act in the context of responses to
notices of institution.

The Act provides the Commission
with several potential courses of action
when interested parties fail to provide
responses to the notice of institution or
provide responses that are deficient.
Under section 782(d) of the Act, when
a person fails to respond in a
satisfactory or timely manner to a
request to remedy or explain a
deficiency in a submission, the
Commission may disregard all or part of
the submission. Under section 776(b)
of the Act, when an interested party fails
to cooperate by not acting to the best of
its ability to comply with a Commission
request for information, the Commission
may take an adverse inference against
the party in reaching a determination.
Consequently, when an interested party
neither provides the information
requested in the notice of institution nor
provides an acceptable explanation of
its inability to provide such
information, the Commission may take
an adverse inference against that party
in reaching any determination in a
five-year review, including an expedited
determination.

Proposed section 207.61(e) provides
an opportunity for those persons that
are not interested parties as defined by
the Act (such as industrial users, and, if
merchandise under investigation is sold
at the retail level, representative
consumer groups) to submit information
they consider relevant to the
Commission's five-year review. Such
information must be filed with the
Commission Secretary in accordance
with the provisions of section 201.8
within the 30-day period applicable to
interested party responses to the notice
of institution.
Section 207.62

Section 751(c)(3)(B) of the Act permits the Commission to make expedited determinations in five-year reviews when "interested parties provide inadequate responses to a notice of initiation." Proposed section 207.62 describes the procedures for issuing expedited determinations under section 751(c)(3)(B).

Proposed section 207.62(a) authorizes certain parties to file brief comments to the Commission within a time specified in the notice of institution, which will generally be no later than 60 days after publication of the notice. Parties authorized to file comments are: (1) Interested parties that have entered appearances in the review and have responded to the notice of institution; and (2) all parties that have entered appearances in the review that are not interested parties. The sole issue these comments may address is whether an expedited determination under section 751(c)(3)(B) of the Act is appropriate. These comments may not include any new factual information (such as supplementation of the response to the notice of institution) and will be limited to five pages.

Representatives of interested parties that have entered into a Commission APO will have access to other parties' proprietary responses to the notice of institution well before these comments are due. Under section 207.3(b), responses to the notice of institution submitted by parties that have entered appearances in the investigation must be served on all other parties on the service list. The Commission will release under APO responses to the notice of institution filed by interested parties that have not entered appearances in the investigation approximately two weeks before the section 207.62(a) comments are due. At approximately the same time, the Commission intends to release confidential versions of the Commission's opinion(s) in the original investigation and staff reports and non-privileged memoranda prepared in connection with that investigation (where available) to representatives under the APO. Public versions of these documents (where available) will also be released. The Commission will also release official import statistics and estimates of domestic and foreign industry production compiled by Commission staff, where such information is available.

After all comments are received, the Commission will determine whether interested party responses are adequate. The SAA provides that the purpose of the expedited review mechanism is to promote administrative efficiency by eliminating needless reviews. The SAA also states that the determination of adequacy is committed to the Commission's (and, separately, Commerce's) discretion. Responses will be evaluated for adequacy on both an individual and an aggregate basis. In assessing the adequacy of responses in the aggregate, the Commission will consider only those responses that individually are considered adequate. The Commission will separately determine the adequacy of response in the aggregate of: (1) Interested parties described in sections 771(9)(C), (D), (E), (F), and (G) of the Act (a group that consists of, inter alia, U.S. producers of the domestic like product and labor unions or groups of workers which are representative of an industry producing the domestic like product; this group will be referred to as "domestic producers/unions"), and (2) interested parties described in sections 771(9)(A) and (B) of the Act (a group that consists of, inter alia, U.S. importers and foreign exporters or producers of subject merchandise and subject country governments; this group will be referred to as "foreign producers/importers").

The Commission will make the determination of adequacy on a case-by-case basis taking several factors into account. One factor the Commission will consider in determining adequacy is the responding parties' likely share of domestic production (for domestic producers/unions) or of subject imports or production of the subject merchandise (for foreign producers/importers). The Commission does not intend to apply strict numerical tests to determine adequacy of interested party responses. Nevertheless, to provide some guidance to interested parties, the Commission can tentatively identify certain circumstances in which it will consider that response rates are sufficiently high or low to provide a strong indication that interested party responses are either adequate or inadequate. Specifically, responses from parties accounting for more than 50 percent of domestic production will normally be considered to be a strong indication of an adequate response from domestic producers/unions. Responses from parties accounting for more than 50 percent of subject imports or production of subject merchandise will normally be considered to be a strong indication of an adequate response from foreign producers/importers. Consequently, a sufficient response by either U.S. importers or foreign producers of the subject merchandise may constitute an adequate response from foreign producers/importers. By contrast, responses accounting for less than 25 percent of domestic production, on the one hand, or subject imports or production of subject merchandise, on the other, will normally be considered to be a strong indication of inadequate responses by domestic producers/unions and foreign producers/importers, respectively.

The Commission will not rely solely on numerical tests and will take other factors into account in determining whether interested party responses are adequate. For example, a response rate that may seem to be inadequate for a highly concentrated industry may be adequate for a highly fragmented industry.

Additional factors that the Commission intends to consider include the structure of the pertinent domestic industry and industry producing the subject merchandise, the potential of particular foreign producers to export to the United States, the extent to which subject imports are effectively excluded from the U.S. market by the order or suspension agreement under review, and, for domestic producers/unions, the prevalence of related party producers. The Commission invites parties to comment on the appropriateness of relying on these factors to determine whether interested party responses are adequate, and whether there are additional or different factors that the Commission should consider in making such a determination. The Commission also invites parties to comment on the appropriateness of making expedited determinations in grouped reviews involving subject merchandise from several countries, if responses from the foreign producers/importers are adequate with respect to some of the subject countries within the group but inadequate with respect to others.

Pursuant to proposed section 207.62(b), if the Commission determines that interested party responses are adequate, it will conduct a full five-year review. In such cases, the Commission will publish its schedule of the remaining procedures in the Federal Register. (A sample schedule appears as Annex B to this notice.) Under proposed section 201.11(b)(5), parties will have 45 days after publication of this Federal Register notice to file additional entries of appearance and APO applications. By contrast, proposed section 207.62(c) describes procedures that apply when the Commission concludes that interested party responses are
inadequate and an expedited determination is appropriate. In such circumstances, the Secretary will notify all parties that submitted timely entries of appearance in the Commission review that the Commission has decided to make an expedited determination. The notice will invite interested parties that responded adequately to the notice of institution and all parties that are not interested parties to submit comments on the merits of the review by a specific deadline (which will generally be approximately 30–35 days from issuance of the notice). Other persons who are not interested parties will have the opportunity to submit a brief written statement on the merits of the review by the same deadline.

The comments to be filed under proposed section 207.62(c), which will satisfy the requirements of section 782(g) of the Act, give parties their sole opportunity to submit comments to the Commission on the merits of an expedited determination. These comments may not contain new factual information and may not exceed 25 pages. Consistent with Commission practice under section 207.30(b), comments containing new factual information will be accepted into the record, but new factual information and arguments based on that new factual information will be disregarded. Any compilations by the Commission of information collected and not previously released to representatives under APO will be released under APO approximately 20 days before these comments are due. The information released will include a staff report that will compile information obtained in response to the notice of institution as well as official import statistics, and, where available, estimates of domestic and foreign industry production compiled by the Commission staff. A public version of the staff report will also be released.

Proposed section 207.62(d) allows the Commission to delegate to a senior member of the staff, such as the Director of Operations or the Director of Investigations, authority to make decisions concerning whether interested party responses to the notice of institution are adequate or inadequate. Initially, the Commission will itself make all such decisions. Should the Commission decide to delegate decision-making authority concerning whether interested party responses are inadequate, it will retain sole authority to issue the expedited determination in any particular review.

Proposed section 207.63 concerns circulation of draft questionnaires in five-year reviews. As stated in proposed section 207.63(a), when the Commission does not issue an expedited determination in a five-year review, it will circulate draft questionnaires to the parties that have entered appearances in the review. The Commission anticipates sending questionnaires to U.S. producers of the domestic like product, foreign producers of subject merchandise, U.S. importers of subject merchandise, and U.S. purchasers. Questionnaires will commonly seek data in more detail (particularly with respect to financial performance and pricing), for additional periods of time, and, when warranted, for additional products than will the notice of institution. The Commission anticipates that draft questionnaires will be circulated to the parties to the review approximately 150 days after initiation. The Commission invites comment on the content and format of questionnaires in five-year reviews.

Parties that desire to comment on the draft questionnaires may submit written comments to the Commission, as indicated by proposed section 207.63(b). The Commission anticipates that such comments will be due approximately 30 days after circulation of the draft questionnaires.

Proposed section 207.63(b) requires each party to present all data collection requests in its questionnaire comments. The Commission will disregard any subsequent arguments that are premised on the collection of new data if the data collection request was not asserted in the questionnaire comments. Thus, if the draft questionnaires in a review propose collecting data for only one product, and a party believes that data should be collected for two products, it must request data collection for two products, and provide a legal basis for its request, in its comments on the questionnaire. It may not request collection of such data for the first time, for example, in its prehearing brief or at the hearing.

The Commission believes this procedure is necessary to focus its data collection efforts. In original antidumping and countervailing duty investigations, the Commission has found issuing supplemental questionnaires in the late stages of an investigation to be impractical because of time and staffing constraints. These problems will be exacerbated in five-year reviews. Therefore, any data collected in a five-year review must be collected pursuant to the notice of institution and in the questionnaires. It is imperative that the Commission be apprised of all data collection issues before questionnaires are issued. The Commission believes that this procedure will impose no hardship on representatives of interested parties who have entered an APO, who will have the benefit of pertinent portions of the record of the original investigation, as well as access under APO to all information collected in response to the notice of institution, before they are to file comments on the questionnaires. This material should allow interested party representatives ample time to determine what information they believe the Commission should seek and consider. Likewise, parties to the review that are not interested parties will have ample notification and access to the public record to provide an informed basis for comment.

Proposed section 207.64 concerns staff reports in five-year reviews. It tracks current section 207.22 concerning staff reports in final phase antidumping and countervailing duty investigations.

Proposed section 207.65 concerns prehearing briefs. It is adapted from current section 207.23. In a five-year review, every party to the review is to submit a prehearing brief on the date specified in the scheduling notice.

Proposed section 207.66 concerns hearings in five-year reviews. The Commission will conduct a hearing in each five-year review in which it does not render an expedited determination. Hearing procedures will conform to those established in current section 207.24 concerning final phase antidumping and countervailing duty investigations.

Proposed section 207.67 concerns posthearing briefs and statements. It is based on current sections 207.25 and 207.26.

Proposed section 207.68 concerns final comments on information in five-year reviews. It is based on the final comment procedure in section 207.30 currently used in final phase antidumping and countervailing duty investigations.

The procedures in section 207.68 will be used in five-year reviews where the determination is not expedited. In five-year reviews where the determination is
expedited, the final comment procedure is specified in proposed section 207.62(c).

Section 207.69

Proposed section 207.69 requires the Commission to publish and serve its determinations in five-year reviews. It tracks current section 207.29.

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 proposed to be amended as set forth below:

PART 201—[AMENDED]

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

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

2. New paragraphs (b)(4) and (b)(5) are added to § 201.11 to read as follows:

§ 201.11 Appearance in an investigation as a party.

* * * * *

(b) Time for filing. * * * *

(4) In the case of reviews conducted under subpart F of part 207 of this chapter, each entry of appearance shall be filed with the Secretary not later than twenty-one (21) days after publication in the Federal Register of the notice of institution described in § 207.60(c).

(5) Notwithstanding paragraph (b)(4) of this section, a party may file an entry of appearance in a review conducted under subpart F of part 207 of this chapter for a period of 45 days after publication in the Federal Register of the notice specified under § 207.62(b).

* * * * *

PART 207—[AMENDED]

3. The authority citation for part 207 continues to read as follows:


4. Paragraph (b) of § 207.3 is 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, 207.25, 207.65, 207.66, and 207.67 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.

* * * * *

5. Paragraph (a) of § 207.45 is revised to read as follows:

§ 207.45 Investigation to review outstanding determination

(a) Request for review. Any person may file with the Commission a request for the institution of a review investigation under section 751(b) of the Act. The person making the request shall also promptly serve copies of the request on the parties to the original investigation upon which the review is to be based. All requests shall set forth a description of changed circumstances sufficient to warrant the institution of a review investigation by the Commission.

* * * * *

6. Paragraph (g) of § 207.46 is revised to read as follows:

§ 207.46 Investigations concerning certain countervailing duty orders.

* * * * *

(g) Request for simultaneous section 751(c) review. (1) A requesting party who requests a section 753 review may at the same time request from the Commission and the administering authority a review under section 751(c) of the Act of a countervailing or antidumping duty order involving the same or comparable subject merchandise.

(2) Should the administering authority, after consulting with the Commission, determine to initiate a section 751(c) review, the Commission shall conduct a consolidated review under sections 751(c) and 753 of the Act of the orders involving the same or comparable subject merchandise. Any such consolidated review shall be conducted under the applicable procedures set forth in subparts A and F of this part.

(3) Should the administering authority, after consulting with the Commission, determine not to initiate a section 751(c) review, the Commission will consider the request for a section 753 review pursuant to the procedures established in this section.

7. A new subpart F is added to read as follows:

Subpart F—Five-Year Reviews

207.60 Definitions.

207.61 Responses to notice of institution.

207.62 Adequacy of responses to notice of institution.

207.63 Circulation of draft questionnaires.

207.64 Staff reports.

207.65 Prehearing briefs.

207.66 Hearing.

207.67 Posthearing briefs and statements.

207.68 Final comments on information.

207.69 Publication of determinations.

§ 207.60 Definitions.

For purposes of this subpart:

(a) The term five-year review means a five-year review investigation conducted pursuant to section 751(c) of the Act.

(b) The term expedited determination means a determination issued by the Commission pursuant to section 751(c)(3)(B) of the Act.

(c) The term notice of institution shall refer to the notice of institution of five-year review that the Commission shall publish in the Federal Register requesting that interested parties provide information to the Commission upon initiation of a five-year review.

(d) The term domestic like product means a product produced in the United States which is like, or in the absence of like, most similar in characteristics and uses with, the articles subject to a five-year review.

(e) The term domestic industry means the producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.

(f) The term subject merchandise means the class or kind of merchandise
that is within the scope of the five-year review.

§ 207.61 Responses to notice of institution.

(a) When information must be filed. Responses to the notice of institution shall be submitted to the Commission not later than 30 days after its publication in the Federal Register.

(b) Information to be filed with the Secretary. The notice of institution shall direct each interested party to make a filing pursuant to §§ 201.8 and 207.3 of this chapter containing the following:

(1) A statement expressing its willingness to participate in the review by providing information requested by the Commission;

(2) A statement regarding the likely effects of revocation of the order(s) or termination of the suspended investigation(s) under review;

(3) Other information requested in the notice of institution.

(c) Information to be submitted to the Office of Investigations. The notice of institution shall further direct each interested party to submit the following material to the Commission's Office of Investigations:

(1) Such information or industry data as the Commission may specify in the notice of institution;

(2) Any other information or data the party considers relevant to the Commission's determination.

(d) When requested information cannot be supplied. Any interested party that cannot furnish the information requested by the notice of institution shall explain in its response(s) why it is unable to provide the information and indicate alternative forms in which it can provide equivalent information.

(e) Submissions by persons other than interested parties. Any person who is not an interested party may submit to the Commission, in a filing satisfying the requirements of § 201.8 of this title, information relevant to the Commission's review no later than 30 days after publication of the notice of institution in the Federal Register.

§ 207.62 Adequacy of responses to notice of institution.

(a) Comments to the Commission. (1) Comments to the Commission concerning whether the Commission should make an expedited determination in that review may be submitted by:

(i) Any interested party that is a party to the investigation and that has responded to the notice of institution; and

(ii) Any party, other than an interested party, that is a party to the investigation.

(2) Comments shall be submitted within the time specified in the notice of institution. Comments shall not exceed five (5) pages of textual material, double-spaced and single-sided, on stationery measuring 8½ x 11 inches. Comments containing new factual information shall be disregarded.

(b) Determination that responses are adequate. If the Commission concludes that interested parties' responses to the notice of institution are adequate, investigative activities pertaining to that review will continue. The Commission will publish in the Federal Register a notice of scheduling pertaining to subsequent procedures in the review.

(c) Determination that responses are inadequate. (1) If the Commission concludes that interested parties' responses to the notice of institution are inadequate, it may decide to issue an expedited determination. In that event, the Commission shall direct the Secretary to issue a notice stating that the Commission has made an expedited determination and inviting those parties to the review described in paragraph (c)(2) of this section to file written comments with the Secretary on what determination the Commission should reach in the review. The date on which such comments must be filed will be specified in the notice to be issued by the Secretary. Comments shall not exceed twenty-five (25) pages of textual material, double-spaced and single-sided, on stationery measuring 8½ x 11 inches. Comments containing new factual information shall be disregarded.

(2) The following parties may file the comments described in paragraph (c)(1) of this section:

(i) Any interested party that is a party to the investigation and that has filed an adequate response to the notice of institution; and

(ii) Any party, other than an interested party, that is a party to the investigation.

(3) Any person who is neither a party to the investigation nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the review within the time specified for the filing of written comments.

(d) Delegation of responsibilities. Notwithstanding any other provision of this part, the Commission may delegate its responsibilities pursuant to this section to a member of the Commission staff.

§ 207.63 Circulation of draft questionnaires.

(a) In each five-year review in which the Commission has not issued an expedited determination, the Director shall circulate draft questionnaires to the parties for comment.

(b) Any party desiring to comment on the draft questionnaires shall submit such comments in writing to the Commission within a time specified by the Director. All requests for collecting new data must be presented at this time. The Commission will disregard subsequent arguments that are premised on requests for collection of new data if such requests were not included in the comments on the draft questionnaires.

§ 207.64 Staff reports.

(a) Prehearing staff report. The Director shall prepare and place in the record, prior to the hearing, a prehearing staff report containing information concerning the subject matter of the five-year review. A version of the staff report containing business proprietary information shall be placed in the nonpublic record and made available to persons authorized to receive business proprietary information under § 207.7, and a nonbusiness proprietary version of the staff report shall be placed in the public record.

(b) Final staff report. After the hearing, the Director shall revise the prehearing staff report and submit it to the Commission, prior to the Commission's determination, a final version of the staff report. The final staff report is intended to supplement and correct the information contained in the prehearing staff report. A public version of the final staff report shall be made available to the public and a business proprietary version shall also be made available to persons authorized to receive business proprietary information under § 207.7.

§ 207.65 Prehearing briefs.

Each party to a five-year review may submit a prehearing brief to the Commission on the date specified in the scheduling notice. A prehearing brief 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.

§ 207.66 Hearing.

(a) In general. The Commission shall hold a hearing in each five-year review in which it does not make an expedited determination. The date of the hearing
shall be specified in the scheduling notice.

(b) Procedures. Hearing procedures in five-year reviews will conform to those for final phase antidumping and countervailing duty investigations set forth in §207.24.

§207.67 Posthearing briefs and statements.

(a) Briefs from parties. Any party to a five-year review may file a posthearing brief with the Secretary. The brief shall not 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.

(b) Statements from nonparties. Any person other than a party may submit a brief written statement of information pertinent to the review within the time specified for the filing of posthearing briefs.

§207.68 Final comments on information.

(a) The Commission shall specify a date after the filing of posthearing briefs on which it will disclose to all parties to the five-year review 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.

(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 §207.67. 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 changes in bracketing of business proprietary information in the comments permitted by §207.3(c).

§207.69 Publication of determinations.

Whenever the Commission makes a determination concluding a five-year review, the Secretary shall serve copies of the determination and, when applicable, the nonbusiness proprietary version of the final staff report on all parties to the review, and on the administering authority. The Secretary shall publish notice of such determination in the Federal Register. By order of the Commission.

Issued: October 20, 1997.
Donna R. Koehneke,
Secretary.

Note: The following annexes would not appear in the Code of Federal Regulations.

Annex A—Notice of Institution of Five-Year Review

Definitions

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year review. In this review, the Department of Commerce has defined the Subject Merchandise as DEFINE.

(2) The Subject Country in this review is COUNTRY.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics or uses with, the Subject Merchandise. In its original determination, the Commission defined the Domestic Like Product as DEFINE. One Commissioner/certain Commissioners defined the Domestic Like Product differently.

(4) The Domestic Industry is the producers as a whole of a Domestic Like Product, or those producers whose collective output of a Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission defined the Domestic Industry as producers of DEFINE.

(5) The Order Date is the date that the countervailing duty order/antidumping duty order/suspension agreement became effective. In this review, the Order Date is DATE.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Certification

In accordance with Commission rule 207.3, any person submitting information to the Commission in connection with this investigation must certify that the information is accurate and complete to the best of the submitter’s knowledge. This certification must be included in both the information to be submitted to the Commission’s Secretary and the information to be submitted to the Commission’s Office of Investigations specified below. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Information to be Submitted to the Secretary

Responses filed with the Secretary must conform with the provisions of section 201.8 of the Commission’s rules. If business proprietary treatment is desired for portions of a response, submitters must follow the requirements set forth in sections 201.6, 207.3, and 207.7 of the Commission’s rules. Also, in accordance with sections 201.16(c) and 207.3 of the Commission’s rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the investigation you do not need to serve your response). Any interested party that cannot furnish the information requested should explain why it is unable to do so and indicate alternative forms in which it can provide equivalent information. (Added if more than one country is involved) If you are a domestic producer, import/export Subject Merchandise from more than one Subject Country, or produce Subject Merchandise in more than one Subject Country, you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent Subject Country. The response to the Secretary should include:

(1) The name and address of your firm (including World Wide Web address if available) and name, telephone number,
fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm is a U.S. producer of the Domestic Like Product, a U.S. importer of the Subject Merchandise, a foreign producer/exporter of the Subject Merchandise, or another interested party (including an explanation).

(3) A statement indicating whether your firm is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the countervailing duty order/antidumping duty order/termination of the suspension agreement on the Domestic Industry in general and/or your firm specifically.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product.

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in COUNTRY that currently export or have exported Subject Merchandise to the United States or other countries since YEAR OF PETITION.

(7) OPTIONAL. A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Information To Be Submitted to the Office of Investigations

Responses filed with the Office of Investigations will be treated as business proprietary unless the information is otherwise publicly available and should be submitted to INVESTIGATOR, Office of Investigations, U.S. International Trade Commission, Room 615, 500 E Street, SW, Washington, DC 20436. Only one copy of the response needs to be submitted to the Office of Investigations, but each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the BPI service list), and a certificate of service must accompany the document (if you are not a party to the investigation you do not need to serve your response). Any interested party that cannot furnish the information requested should explain why it is unable to do so and indicate alternative forms in which it can provide equivalent information. (Added if more than one country is involved) If you are a domestic producer, import/export Subject Merchandise from more than one Subject Country, or produce Subject Merchandise in more than one Subject Country, you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent Subject Country.

The response to the Office of Investigations should include:

(1) The name and address of your firm (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) If your firm is a U.S. producer of PRODUCT, provide the following information on your firm's operations on that product during calendar year PRECEDING YEAR and your projections, in accordance with Generally Accepted Accounting Principles (GAAP), for calendar year CURRENT YEAR (report quantity data in UNITS and value data in thousands of dollars):

(a) Annual production capacity (quantity) (report the practical capacity of your plant(s) using the machinery and equipment in place at the end of the year and specify that the capacity reported is based on operating ______ hours per week, _______ weeks per year);

(b) end-of-year inventories (quantity);

(c) production (quantity) (including, if known, an estimate of the percentage of total U.S. production of PRODUCT accounted for by your firm's production in PRECEDING YEAR);

(d) the quantity and value of U.S. commercial shipments of product produced in your U.S. plant(s) that you consumed internally or transferred within your company;

(e) the quantity and value of exports of product produced in your U.S. plant(s) that you sold to ultimate customers nonsubject countries;

(f) the average number of production workers;

(g) your firm's net sales and operating income or (loss); and

(i) average prices for SPECIFIC PRODUCT.

(3) If your firm is a U.S. importer of the Subject Merchandise, provide the following information on your firm's operations on that product FOR EACH COUNTRY SUBJECT TO THIS REVIEW INVESTIGATION during calendar year PRECEDING YEAR and your projections, in accordance with GAAP, for calendar year CURRENT YEAR (report quantity data in UNITS and value data in thousands of dollars):

(a) The quantity and value of U.S. imports (including, if known, an estimate of the percentage of total U.S. imports of PRODUCT from COUNTRY accounted for by your firm's imports in PRECEDING YEAR);

(b) end-of-year inventories (quantity);

(c) the quantity and value of U.S. commercial shipments of imported product; and

(d) average prices for SPECIFIC PRODUCT.

(4) If your firm is a producer of the Subject Merchandise in COUNTRY, provide the following information on your firm's operations on that product during calendar year PRECEDING YEAR and your projections, in accordance with GAAP, for calendar year CURRENT YEAR (report quantity data in UNITS and value data in thousands of dollars):

(a) Annual production capacity (quantity) (report the practical capacity of your plant(s) using the machinery and equipment in place at the end of the year and specify that the capacity reported is based on operating ______ hours per week, _______ weeks per year);

(b) end-of-year inventories (quantity);

(c) production (quantity) (including, if known, an estimate of the percentage of total U.S. production of PRODUCT accounted for by your firm's production in PRECEDING YEAR);

(d) the quantity and value of home market shipments of product produced in your plant(s) (including any internal consumption and company transfers);

(e) the quantity and value of your firm's exports to the United States of product produced in your plant(s) (including, if known, an estimate of the percentage of total exports to the United States of PRODUCT from COUNTRY accounted for by your firm's exports in PRECEDING YEAR); and

(f) the quantity and value of your firm's exports to all other countries of product produced in your plant(s).

(5) Identify any significant changes in the supply of and demand for the Domestic Like Product that have occurred in the United States since the Order Date. A address changes in factors such as technology; production methods; the availability and price of major production inputs; consumption patterns; new alternative products that compete for sales; availability of imports from nonsubject countries; the degree of interchangeability between the Domestic Like Product, Subject Merchandise, and nonsubject imports; and demand for U.S. products in export markets.

(6) (Asked in reviews involving multiple subject countries) Explain (a) whether the Domestic Like Product and Subject Merchandise from each Subject Country compete or are likely to compete with each other in the United States and (b) whether Subject Merchandise from each individual Subject Country competes or is likely to
compete in the United States with Subject Merchandise from each other Subject Country. In determining whether (likely) competition exists between two products, you may consider such factors as (i) the degree of (likely) fungibility between the products, (ii) whether the products are (likely to be) sold in the same geographic markets in the United States, (iii) whether the products are (likely to be) sold in common channels of distribution, and (iv) whether the products are (likely to be) sold in the U.S. market simultaneously.

(7) (OPTIONAL) Provide any other information or data that you consider relevant to the Commission’s determination.

Annex B—Proposed Schedule for Sunset Reviews

<table>
<thead>
<tr>
<th>Action/Event</th>
<th>Day</th>
</tr>
</thead>
<tbody>
<tr>
<td>Notice of Institution (Published in the FEDERAL REGISTER)</td>
<td>0</td>
</tr>
<tr>
<td>Entries of Appearance/APO Applications Due</td>
<td>21</td>
</tr>
<tr>
<td>Responses to Notice of Institution Due</td>
<td>30</td>
</tr>
<tr>
<td>Comments on Appropriateness of Expedited Review Due</td>
<td>60</td>
</tr>
<tr>
<td>Notice of Inadequacy/Expedited Review or Adequacy/Full Review</td>
<td>95</td>
</tr>
</tbody>
</table>

1 The Commission may extend its deadline by up to 90 days in all transition reviews and other extraordinarily complicated cases.

INADEQUATE RESPONSES/EXPEDITED REVIEW

<table>
<thead>
<tr>
<th>Action/Event</th>
<th>Day</th>
</tr>
</thead>
<tbody>
<tr>
<td>Staff Report/Data Compilation to Commission and Parties</td>
<td>110</td>
</tr>
<tr>
<td>Commerce Expedited Determination (If Issued)</td>
<td>120</td>
</tr>
<tr>
<td>Written Submission on Merits (&quot;Final Comments&quot;) by Parties Due</td>
<td>130</td>
</tr>
<tr>
<td>Commission Vote</td>
<td>140</td>
</tr>
<tr>
<td>Commission Determination and Views to Commerce</td>
<td>150</td>
</tr>
</tbody>
</table>

ADEQUATE RESPONSES/FULL REVIEW—Continued

<table>
<thead>
<tr>
<th>Action/Event</th>
<th>Day</th>
</tr>
</thead>
<tbody>
<tr>
<td>Final Comments Due</td>
<td>340</td>
</tr>
<tr>
<td>Commission Vote</td>
<td>348</td>
</tr>
<tr>
<td>Commission Determination and Views to Commerce</td>
<td>360</td>
</tr>
</tbody>
</table>

[FR Doc. 97–28257 Filed 10–22–97; 8:45 am]

BILLING CODE 7820–02–P

RAILROAD RETIREMENT BOARD

20 CFR Part 216

RIN 3220–AB27

Eligibility for an Annuity

AGENCY: Railroad Retirement Board.

ACTION: Proposed rule.

SUMMARY: The Railroad Retirement Board proposes to amend its regulation under the Railroad Retirement Act concerning when a child of a railroad employee is considered a full-time elementary or secondary student. The proposed changes reflect the current trend in most States and jurisdictions to recognize home schooling and independent study programs as comparable to traditional education.

DATES: Comments must be received on or before December 22, 1997.

ADDRESSES: Secretary to the Board, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611.


SUPPLEMENTARY INFORMATION: Section 2(d)(4) of the Railroad Retirement Act (45 U.S.C. 231a(d)(4)) provides, in pertinent part, that an annuity is payable to a child of a deceased employee until such child attains age 18 or 19 if such child is in full-time attendance at an elementary or secondary school. Section 2(d)(4) of the Act incorporates the provisions of section 202(d)(7) of the Social Security Act (42 U.S.C. 402(d)(7)), which defines the terms full-time elementary or secondary student. Section 202(d)(7) of the Social Security Act in turn provides that a full-time elementary or secondary student is an individual who is in full-time attendance as a student at an elementary or secondary school, as determined by the Commissioner of the Social Security Administration (by regulations prescribed by the Commissioner).

Before July 24, 1996, section 404.367 of the Social Security Administration’s regulations under the Social Security Act (20 CFR 404.367) defined a full-time student as an individual enrolled in an educational institution including public, private, and religious schools. The Social Security Administration’s previous policy, as reflected in its regulation, was aligned with the traditional definition of educational programs. However, recently most States and other jurisdictions have broadened the definition of education programs to include home schooling and independent study programs.

Because of this trend, the Social Security Administration revised section 404.367 to include such types of schooling in the definition of elementary and secondary schools. See, 61 FR 38363 (1996). The Board, therefore, proposes to revise its regulations to include students enrolled in home schooling or independent study programs authorized by a State or other jurisdiction within the definition of a full-time elementary or secondary school student.

The Board, with the concurrence of the Office of Management and Budget, has determined that this is not a significant regulatory action under Executive Order 12866. There are no information collections associated with this rule.

List of Subjects in 20 CFR Part 216

Railroad employees, Railroad retirement.

For the reasons set out in the preamble, section 2 of title 20 of the Code of Federal Regulations is proposed to be amended as follows:

PART 216—ELIGIBILITY FOR AN ANNUITY

1. The authority citation for part 216 continues to read as follows:

Authority: 45 U.S.C. 231f.

2. Section 216.74 is revised to read as follows:

§ 216.74 When a child is a full-time elementary or secondary school student.

(a) A child is a full-time elementary or secondary school student if he or she meets all of the following conditions:

(1) The child is in full-time attendance at an elementary or secondary school;

(2) The child is instructed in elementary or secondary education at home in accordance with a home school