

submission of the information or in the form and manner requested, subject to subsections c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding under this title; or (D) provides such information but the information cannot be verified as provided in section 782(i) of the Act, the Department shall, subject to section 782(d) of the Act, use the facts otherwise available in reaching the applicable determination under this title.⁵ Section 776(b) of the Act further provides that adverse inferences may be used when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information.

With respect to cost respondent 2, this producer chose not to respond to the Department's questionnaire. As a result, use of facts available is appropriate pursuant to section 776(a)(2)(A) of the Act. In accordance with section 776(b) of the Act, if the Department finds that "an interested party failed to cooperate by not acting to the best of its ability to comply with a request for information," an adverse inference may be used in determining the facts otherwise available. In the instant case, cost respondent 2 did not cooperate to the best of its ability by failing to provide any of the information requested in the section D cost questionnaire with no rationale for why it could not provide such information when other producers could. Therefore, as adverse facts available for the preliminary determination on HRS wheat for this cost respondent, we used the higher of the COP from the petition for the same province and soil type or the highest reported cost for other cost respondents within the same stratum. Based on our comparison of the two amounts we found that the reported cost for the other cost respondents within the same

stratum was higher. As a result, we used the other respondent's COP within the same stratum as the surrogate cost for cost respondent 2.

Both cost respondents 10 and 27 did not respond to the Department's cost questionnaire based on extenuating circumstances. With respect to cost respondent 10, the CWB explained that this farmer had deliveries of HRS wheat to the CWB during the POI, but did not produce HRS wheat during the 2001 growing season. However, cost respondent 10 did have affiliated parties that produced HRS wheat during the cost reporting period. Therefore, as a surrogate, cost respondent 10 reported its affiliate's COP for the cost reporting period. We note that this affiliate was not considered a cost respondent in the sample selection and, as such, we determined it would not be appropriate to include the affiliate's COP in our overall calculation of COP.

Similar to cost respondent 10, cost respondent 27 did not provide cost data for the 2001 growing season because the information was not available. Specifically, cost respondent 27 sold its farming operations and ceased farming. Because neither cost respondent 10 nor 27 had information available that would enable them to respond to the Department's cost questionnaire and—in the case of cost respondent 10—they attempted to provide some cost information, we applied neutral facts available for the HRS wheat preliminary determination pursuant to sections 776(a)(2)(A) and (B) of the Act. As neutral facts available, we have relied on the cost data submitted by the other cost respondents within the same stratum. Therefore, we have not included an amount for these cost respondents in the simple average calculation within their respective strata.

With respect to cost respondent 19, we note that, unlike the farmers discussed above, it submitted COP information for the cost reporting period. However, due to extenuating circumstances during the 2001 cost reporting period, this cost respondent received insurance proceeds that exceeded its total cost incurred. In addition, due to the extenuating circumstances, the yield per acre of wheat was aberrant compared to the other cost respondents. As a result, we determined that neutral facts available was warranted pursuant to section 776(a)(2)(B) of the Act. As neutral facts available we have relied on the cost data submitted by the other cost respondents within the same stratum. Therefore, we have not included an amount for this

cost respondent in the simple average calculation within its stratum.

1. Calculation of COP

As noted above, the sole respondent, the CWB, was an exporter of the subject merchandise, not the producer of subject merchandise. Therefore, consistent with our practice regarding the cost of resales of subject merchandise, we requested COP data from a sample of the CWB's wheat suppliers. *See* Cost Respondent Selection Memorandum. In accordance with section 773(b)(3) of the Act, we calculated a single weighted-average COP based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for general and administrative (G&A) expenses, interest expenses, and home market packing costs for all wheat producers selected. *See* the "Test of Comparison Market Sales Prices" section below for treatment of home market selling expenses. To calculate the weighted average COP, we first simple averaged the COPs within each stratum, then weight averaged the results based on each stratum's delivered tons.

2. Common and Individual Cost Respondent Adjustments

We relied on the COP data submitted by each cost respondent in its cost questionnaire response, except in specific instances where the submitted costs were not appropriately quantified or valued, or where the costs otherwise required adjustment, as discussed below:

(A) Common Cost Respondent Adjustments

1. We adjusted the reported labor costs for cost respondents 1, 3–9, 11–16, 18, 20–22, and 24–26. Virtually all of the labor provided on these farms was performed by the owners. For reporting purposes, the cost respondents relied on labor hours and rates from a study performed by Professor Schoney of the University of Saskatchewan. However, because this data was self-selected by the cost respondents and only represented data collected from a single province (Saskatchewan), we relied instead on the per acre labor rates published in the provincial crop guides.

2. We disallowed a reported offset to the COP for insurance proceeds received during the year by cost respondents 7, 8, 11, 15, 17, 22, 23, 25, and 26. These cost respondents failed to provide any explanation describing the facts surrounding these insurance payments. For example, it is unclear to which year's harvest the payments relate, what crops are affected, or whether the

⁵ Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party the opportunity to remedy or explain the deficiency. If the party fails to remedy the deficiency within the applicable time limits, the Department may, subject to section 782(e) of the Act, disregard all or part of the original and subsequent responses, as appropriate. Section 782(e) of the Act provides that the Department "shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all the applicable requirements established by the administering authority" if the information is timely, can be verified, and is not so incomplete that it cannot be used, and if the interested party acted to the best of its ability in providing the information. Where all of these conditions are met, the statute requires the Department to use the information, if it can do so without undue difficulties.