judicata to the first administrative law judge's ultimate finding against disability.'' In addition, the court concluded that ''[t]he first administrative law judge's findings concerning the claimant's residual functional capacity, education, and work experience are entitled to some res judicata consideration in subsequent proceedings.''

Statement As To How Chavez Differs From Social Security Policy

Under SSA policy, if a determination or decision on a disability claim has become final, the Agency may apply administrative res judicata with respect to a subsequent disability claim under the same title of the Act if the same parties, facts and issues are involved in both the prior and subsequent claims. However, if the subsequent claim involves deciding whether the claimant is disabled during a period that was not adjudicated in the final determination or decision on the prior claim, SSA considers the issue of disability with respect to the unadjudicated period to be a new issue that prevents the application of administrative res judicata. Thus, when adjudicating a subsequent disability claim involving an unadjudicated period, SSA considers the facts and issues *de novo* in determining disability with respect to the unadjudicated period. SSA does not adopt findings from the final determination or decision on the prior disability claim in determining whether the claimant is disabled with respect to the unadjudicated period. Further, under SSA policy, a prior final determination or decision that a claimant is not disabled does not give rise to any presumption of a continuing condition of nondisability. When a subsequent claim involves an unadjudicated period, the determination or decision as to whether a claimant is disabled with respect to that period is made on a neutral basis, without any inference or presumption that a claimant remains ''not disabled.''

The United States Court of Appeals for the Ninth Circuit held that a final decision by an ALJ that a claimant is not disabled gives rise to a presumption that the claimant continues to be not disabled after the period adjudicated, and that this presumption of continuing nondisability applies when adjudicating a subsequent disability claim with an unadjudicated period arising under the same title of the Act as the prior claim. In order to rebut the presumption of continuing nondisability, a claimant must prove '''changed circumstances' indicating a greater disability.'' In addition, the court indicated that where the claimant rebuts the presumption by proving a ''changed circumstance,'' principles of res judicata require that certain findings contained in the final decision by the ALJ on the prior claim be given some res judicata consideration in determining whether the claimant is disabled with respect to the unadjudicated period involved in the subsequent claim. The court concluded that where the final decision by the ALJ on the prior claim, which found the claimant not disabled, contained findings of the claimant's residual functional capacity, education, and work experience, SSA may not make different findings in adjudicating the subsequent disability claim unless there is new and material evidence relating to the claimant's residual functional capacity, education or work experience.

Explanation of How SSA Will Apply The Chavez Decision Within The Circuit

This Ruling applies only to disability cases involving claimants who reside in Alaska, Arizona, California, Guam, Hawaii, Idaho, Montana, Nevada, Northern Mariana Islands, Oregon or Washington at the time of the determination or decision on the subsequent claim at the initial, reconsideration, ALJ hearing or Appeals Council level. It applies only to cases involving a subsequent disability claim with an unadjudicated period arising under the same title of the Act as a prior claim on which there has been a final decision by an ALJ or the Appeals Council that the claimant is not disabled.

When adjudicating the subsequent claim involving an unadjudicated period, adjudicators will apply a presumption of continuing nondisability and determine that the claimant is not disabled with respect to that period, unless the claimant rebuts the presumption. A claimant may rebut the presumption by showing a ''changed circumstance'' affecting the issue of disability with respect to the unadjudicated period, e.g., a change in the claimant's age category under 20 CFR 404.1563 or 416.963, an increase in the severity of the claimant's impairment(s), the alleged existence of an impairment(s) not previously considered, or a change in the criteria for determining disability.

If the claimant rebuts the presumption, adjudicators then must give effect to certain findings, as explained below, contained in the final decision by an ALJ or the Appeals Council on the prior claim, when adjudicating the subsequent claim. For this purpose, this Ruling applies only to a finding of a claimant's residual functional capacity, education, or work experience, or other finding required at a step in the sequential evaluation process for determining disability provided under 20 CFR 404.1520, 416.920 or 416.924, or a finding required under the evaluation process for determining disability provided under 20 CFR 404.1578, as appropriate, which was made in the final decision on the prior disability claim. Adjudicators must adopt such a finding from the final decision on the prior claim in determining whether the claimant is disabled with respect to the unadjudicated period unless there is new and material evidence relating to such a finding or there has been a change in the law, regulations or rulings affecting the finding or the method for arriving at the finding.

[FR Doc. 97–31591 Filed 12–2–97; 8:45am]

BILLING CODE 4190–29–F

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301–116]

Cancellation of Public Hearing in Section 302 Investigation: Honduran Protection of Intellectual Property Rights

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: On October 31, 1997, the United States Trade Representative (USTR) initiated an investigation under section 302(b) of the Trade Act of 1974 with regard to acts, policies, and practices of the Government of Honduras with respect to the protection of intellectual property rights, and proposed to determine that these acts, policies and practices are actionable under section 301(b) and that the appropriate response is a partial suspension of tariff preference benefits accorded to Honduras under the Generalized System of Preferences (GSP) and Caribbean Basin Initiative (CBI) programs (62 FR 60299 of November 7, 1997). The annex to that notice set forth a list of articles of Honduras which could be subject to the suspension of tariff preference benefits. The USTR also invited interested persons to submit written comments and to participate in a public hearing on December 4, 1997, concerning the proposed determinations and action. Due to a lack of response, the December 4, 1997 hearing is hereby canceled. Written comments are still due by December 10, 1997.

ADDRESSES: Office of the United States Trade Representative, 600 17th Street, NW, Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: David Morrissy, Office of Trade and Development, Office of the United States Trade Representative, (202) 395–6971, or William Busis, Office of the General Counsel, Office of the United States Trade Representative, (202) 395–3150.

Irving A. Williamson,

Chairman, Section 301 Committee.

[FR Doc. 97–31603 Filed 12–2–97; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application (97–03–C–00–BUF) To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Buffalo Niagara International Airport, Buffalo, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Buffalo Niagara International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before January 2, 1998.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Mr. Philip Brito, Manager, New York Airports District Office, 600 Old County Road, Suite 446, Garden City, New York 11530.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Ms. Carol J. Sampson, Senior Grants Specialist, for the Niagara Frontier Transportation Authority at the following address: Niagara Frontier Transportation Authority, 181 Ellicott Street, Buffalo, New York 14203.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Niagara Frontier Transportation Authority under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Philip Brito, Manager, New York Airports District Office, 600 Old County Road, Suite 446, Garden City, New York 11530 (Telephone 516–227–3800). The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Buffalo Niagara International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On November 20, 1997, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Niagara Frontier Transportation Authority was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than February 6, 1998.

The following is a brief overview of the application.

Application number: 97–03–C–00–BUF.

Level of the proposed PFC: $3.00.

Proposed charge effective date: May 1, 2006.

Proposed charge expiration date: March 31, 2011.

Total estimated PFC revenue: $6,509,194.

Brief description of proposed projects:

Use Only Projects

—Purchase One (1) Front End Loader
—Strengthen Pavement
—Taxiway C & Perimeter Road
—Overlay Taxiways D&F
—Conduct Pavement Study
—Rehabilitate and Overlay Runway 14/32

Impose & Use Projects

—Relocate Airport Beacon
—Construct Aircraft & Glycol Storage Facility
—Rehabilitate Aircraft Deicing Area
—Renovate Common-Use Gate Positions and Holdrooms
—Rehabilitate Storm Drain
—Purchase Snow Removal, Safety, Police and Aircraft Rescue and Fire Fighting (ARFF) Emergency Equipment

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi/Commercial Operators (ATCO) filing FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: Fitzgerald Federal Building, John F. Kennedy International Airport, Jamaica, New York, 11430.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the offices of the Niagara Frontier Transportation Authority.

Issued in Jamaica, New York, on November 25, 1997.

Thomas Felix,

Manager, Planning & Programming Branch, Eastern Region.

[FR Doc. 97–31699 Filed 12–2–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Announcing the Fifth Meeting of the Crashworthiness Subcommittee of the Motor Vehicle Safety Research Advisory Committee

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Meeting announcement.

SUMMARY: This notice announces the fifth meeting of the Crashworthiness Subcommittee of the Motor Vehicle Safety Research Advisory Committee (MVSRAC). MVSRAC established this Subcommittee at the April 1992 meeting to examine research questions regarding crashworthiness of vehicles under 10,000 pounds GVW.

DATES AND TIME: The meeting is scheduled for December 15, 1997, from 10:00 a.m. to 3:30 p.m.

ADDRESSES: The meeting will be held in room 9230 of the U.S. Department of Transportation building, which is located at 400 Seventh Street, SW., Washington, DC.

SUPPLEMENTARY INFORMATION: In May 1987, the Motor Vehicle Safety Research Advisory Committee was established. The purpose of the Committee is to provide an independent source of ideas for safety research. MVSRAC will provide information, advice, and recommendations to NHTSA on matters relating to motor vehicle safety research, and provide a forum for the development, consideration, and communication of motor vehicle safety research, as set forth in the MVSRAC Charter.

The topic of discussion for this meeting of the MVSRAC Crashworthiness Subcommittee is the agency's Advanced Air Bag Technology