for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for FRSS will be that established in the final results of this review, except if the rate is less than 0.50 percent, and therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 4.48 percent, the ''All Others'' rate made effective by the LTFV investigation. These requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221.

Dated: December 30, 2003.

James J. Jochum,

Assistant Secretary for Import Administration.

[FR Doc. 04–331 Filed 1–6–04; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-533–821]

Notice of Preliminary Results of Countervailing Duty Administrative Review: Certain Hot-Rolled Carbon Steel Flat Products from India

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Countervailing Duty Administrative Review.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the countervailing duty (CVD) order on certain hot-rolled carbon steel flat products from India for the period April 20, 2001, through December 31, 2002,[1] the period of review (POR). For information on the net subsidy rate for the reviewed company, see the ''Preliminary Results of Review'' section of this notice. If the final results remain the same as the preliminary results of this review, we will instruct the U.S. Customs and Border Protection (CBP) to assess countervailing duties as detailed in the ''Preliminary Results of Administrative Review'' section of this notice. Interested parties are invited to comment on these preliminary results. (*See* the ''Public Comment'' section of this notice).

DATES: EFFECTIVE DATE: January 7, 2004.

FOR FURTHER INFORMATION CONTACT: Tipten Troidl at (202) 482–1767, Maura Jeffords at (202) 482–3146 or Cindy Robinson at (202) 482–3797, Office of AD/CVD Enforcement VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On December 3, 2001, the Department published in the **Federal Register** the CVD order on certain hot-rolled carbon steel flat products from India. *See Notice of Amended Final Determination and Notice of Countervailing Duty Orders: Certain Hot-Rolled Carbon Steel Flat Products from India and Indonesia*, 66 FR 60198 (December 3, 2001) (Hot-Rolled Amended Final). On December 2, 2002, the Department published a notice of opportunity to request an administrative review of this CVD order. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 67 FR 71533 (December 2, 2002). On December 30, 2002, we received a timely request for review from Essar Steel Ltd. (Essar), an Indian producer and exporter of subject merchandise. On January 15, 2003, the Department initiated an administrative review of the CVD order on certain hot-rolled carbon steel flat products from India, covering POR April 20, 2001 through December 31, 2002. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 68 FR 3009 (January 22, 2003).

On February 11, 2003, the Department issued a questionnaire to the Government of India (GOI) and Essar. We received questionnaire responses from Essar on April 7, 2003, and from the GOI on April 17 and April 28, 2003. On June 3, 2003, we issued a supplemental questionnaire to the GOI; the response was received on August 5, 2003. On July 14 and September 5, 2003, we issued supplemental questionnaires to Essar, which submitted its responses on August 5, September 20, October 14, and October 16, 2003. On July 30, 2003, the Department published in the **Federal Register** an extension of the deadline for the preliminary results. *See Certain Hot-Rolled Carbon Steel Flat Products from India: Extension of Preliminary Results of Countervailing Duty Administrative Review*, 68 FR 44744 (July 30, 2003).

On May 19, 2003, petitioners submitted new subsidy allegations. These allegations covered the following programs: unequityworthiness in 2001 and 2002, uncreditworthiness in 2001 and 2002, forgiveness of debt obligations in 2002 restructuring, suspension and restructuring of interest payments, debt-to-equity conversions, preferential restructuring of loans and guarantee and repayment of debt. On September 12, 2003, the Department initiated a review of the new subsidy allegations. *See* Memorandum to Melissa G. Skinner regarding ''Administrative Review of the Countervailing Duty Order on Certain Hot-Rolled Carbon Steel Flat Products from India, New Subsidy Allegations''

[1] For the purposes of these preliminary results, we have analyzed data for the period January 1, 2001 through December 31, 2001 to determine the subsidy rate for exports of subject merchandise made during the period in 2001 when liquidation of entries was suspended. In addition, we have analyzed data for the period January 1, 2002 through December 31, 2002 to determine the subsidy rate for exports during that period. Further, we are using the 2002 subsidy rate to establish the cash deposit rate for exports of subject merchandise subsequent to the issuance of the final results of this administrative review.

(New Subsidy Allegation Memorandum). On September 15, 2003, additional supplemental questionnaires were issued to the GOI and Essar. The responses were received on October 14, 2003. On October 17, 2003, we issued a supplemental questionnaire to Essar. We received Essar's response on October 24, 2003. On October 29 through November 7, 2003, we conducted verification of the responses of Essar and the GOI.

In accordance with 19 CFR 351.213(b), this review covers only those producers or exporters for which a review was specifically requested. The only company subject to this review is Essar. This review covers eleven programs.

Scope of Order

The merchandise subject to this order is certain hot-rolled flat-rolled carbon-quality steel products of a rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with plastics or other non-metallic substances, in coils (whether or not in successively superimposed layers), regardless of thickness, and in straight lengths, of a thickness of less than 4.75 mm and of a width measuring at least 10 times the thickness. Universal mill plate (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm, but not exceeding 1250 mm, and of a thickness of not less than 4 mm, not in coils and without patterns in relief) of a thickness not less than 4.0 mm is not included within the scope of this order.

Specifically included within the scope of this order are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels, high strength low alloy (HSLA) steels, and the substrate for motor lamination steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium or niobium (also commonly referred to as columbium), or both, added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro-alloying levels of elements such as silicon and aluminum.

Steel products included in the scope of this order, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTS), are products in which: I) iron predominates, by weight, over each of the other contained elements; ii) the carbon content is 2 percent or less, by weight; and iii) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

1.80 percent of manganese, or
2.25 percent of silicon, or
1.00 percent of copper, or
0.50 percent of aluminum, or
1.25 percent of chromium, or
0.30 percent of cobalt, or
0.40 percent of lead, or
1.25 percent of nickel, or
0.30 percent of tungsten, or
0.10 percent of molybdenum, or
0.10 percent of niobium, or
0.15 percent of vanadium, or
0.15 percent of zirconium.

All products that meet the physical and chemical description provided above are within the scope of this order unless otherwise excluded. The following products, by way of example, are outside or specifically excluded from the scope of this order:

- Alloy hot-rolled steel products in which at least one of the chemical elements exceeds those listed above (including, *e.g.*, ASTM specifications A543, A387, A514, A517, A506).
- SAE/AISI grades of series 2300 and higher.
- Ball bearings steels, as defined in the HTS.
- Tool steels, as defined in the HTS.
- Silico-manganese (as defined in the HTS) or silicon electrical steel with a silicon level exceeding 2.25 percent.
- ASTM specifications A710 and A736.
- USS Abrasion-resistant steels (USS AR 400, USS AR 500).
- All products (proprietary or otherwise) based on an alloy ASTM specification (sample specifications: ASTM A506, A507).
- Non-rectangular shapes, not in coils, which are the result of having been processed by cutting or stamping and which have assumed the character of articles or products classified outside chapter 72 of the HTS.

The merchandise subject to this order is classified in the HTS at subheadings: 7208.10.15.00, 7208.10.30.00, 7208.10.60.00, 7208.25.30.00, 7208.25.60.00, 7208.26.00.30, 7208.26.00.60, 7208.27.00.30, 7208.27.00.60, 7208.36.00.30, 7208.36.00.60, 7208.37.00.30, 7208.37.00.60, 7208.38.00.15, 7208.38.00.30, 7208.38.00.90, 7208.39.00.15, 7208.39.00.30, 7208.39.00.90, 7208.40.60.30, 7208.40.60.60, 7208.53.00.00, 7208.54.00.00, 7208.90.00.00, 7211.14.00.90, 7211.19.15.00, 7211.19.20.00, 7211.19.30.00, 7211.19.45.00, 7211.19.60.00, 7211.19.75.30, 7211.19.75.60, and 7211.19.75.90. Certain hot-rolled flat-rolled carbon-quality steel covered by this order, including: vacuum degassed fully stabilized; high strength low alloy; and the substrate for motor lamination steel may also enter under the following tariff numbers: 7225.11.00.00, 7225.19.00.00, 7225.30.30.50, 7225.30.70.00, 7225.40.70.00, 7225.99.00.90, 7226.11.10.00, 7226.11.90.30, 7226.11.90.60, 7226.19.10.00, 7226.19.90.00, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.00.00. Subject merchandise may also enter under 7210.70.30.00, 7210.90.90.00, 7211.14.00.30, 7212.40.10.00, 7212.40.50.00, and 7212.50.00.00. Although the HTS subheadings are provided for convenience and CBP purposes, the Department's written description of the merchandise subject to this order is dispositive.

Subsidies Valuation Information

Equityworthiness:

As discussed above, petitioners alleged that Essar was unequityworthy in 2001 and 2002. On September 12, 2003, the Department initiated a review of Essar's equityworthiness for 2001 and 2002. *See* New Subsidy Allegation Memorandum. We preliminarily find that it is not necessary for the Department to conduct such an analysis, as Essar did not receive any equity infusion or conduct any debt-to-equity conversions during calendar years 2001 and 2002.

Creditworthiness:

On May 19, 2003, petitioners alleged that Essar was uncreditworthy in 2001 and 2002.[2] Based on an analysis of the information provided by petitioners, including detailed data regarding Essar's financial health in 2001 and 2002, we initiated a review of Essar's creditworthiness during calendar years 2001 and 2002. See New Subsidy Allegation Memorandum.

Pursuant to section 351.505(a)(4)(I) of the Department's Regulations, the Department will generally consider a firm to be uncreditworthy if, based on information available at the time of the government-provided loan, the firm could not have obtained long-term loans from conventional commercial sources. To make this determination, the

[2] In our New Subsidy Allegations Memorandum, we erroneously stated 2000 and 2001 were the periods in which petitioners alleged that Essar was uncreditworthy. Petitioners actually alleged that Essar was uncreditworthy in 2001 and 2002.

Department may examine, among other factors, the following:

(A) The receipt by the firm of comparable commercial long-term loans;

(B) The present and past financial health of the firm, as reflected in various financial indicators calculated from the firm's financial statements and accounts;

(C) The firm's recent past and present ability to meet its costs and fixed financial obligations with its cash flow; and

(D) Evidence of the firm's future financial position, such as market studies, country and industry economic forecasts, and project and loan appraisals prepared prior to the agreement between the lender and the firm on the terms of the loan.

The Department found that Essar did not receive commercial loans during 2001 or 2002, as set forth in factor (A). *See* Memorandum to the File from the Team, Regarding: Creditworthiness Allegation (Creditworthiness Memorandum) dated December 31, 2003. In addition, we analyzed factors (B) and (C) and we compared Essar's financial ratios to those of the U.S. steel and iron industry, as reported in Standard & Poor's Industry Surveys, Metals: Industrial, dated July 3, 2003. We found that Essar's ratios do not appear to indicate any potential short-term problems with respect to the company's ability to meet its debt obligations in 2001. However, Essar's current and quick ratios show a decline in 2002 while its current liability/net worth ratio became negative as Essar's net worth fell below zero. Essar's debt/equity, total liabilities/net worth and fixed assets/net worth ratios indicate that its financial health was declining in 2001 and the company moved into default status, which ultimately caused its net worth to fall below zero in 2002.

Also, during 2001, Essar defaulted on a long-term loan to a group of noteholders. *See* Essar's October 2, 2003, submission at page 17. When the lenders threatened to take action against the company, Essar applied for protection under the Bombay Relief Undertaking (BRU) Act, which prevented Essar's creditors from taking action against the company. *Id* at 12. The BRU is important for this analysis, because this program is designed to assist companies in poor financial conditions whose failure would exacerbate the unemployment situation in the State of Gujarat. Part D of section 351.505(a)(4)(I) of the Department's Regulations also directs that we review Essar's future financial position. In 2001, Essar was in default status on interest and principal payments and the company confirmed this fact during verification (*see* the December 8, 2003, Memorandum to Melissa Skinner, Director, Office of AD/CVD Enforcement VI, from Tipten Troidl, Cindy Robinson, and Maura Jeffords, Case Analysts, Regarding: Countervailing Duty Administrative Review of Certain Hot-Rolled Carbon Steel Flat Products from India, at page 12 (Essar Verification Report). As a result in August 2001, the company entered into one-on-one negotiations with individual lenders, which led to a formalized restructuring plan drafted in 2002 and finalized in 2003.

Based on our analysis of Essar's financial ratios, its financial statements, its history of missed principal and interest payments, Essar's negotiations of a restructuring package of its outstanding debt obligations, and its application for protection under the BRU, we preliminarily find that Essar was uncreditworthy during fiscal years 2001 and 2002.

Benchmarks for Loans and Discount Rate

Benchmark for Short-Term loans

In accordance with section 351.505(a)(3)(I) of the Department's Regulations, for those programs requiring the application of a short-term benchmark interest rate, we used company-specific, short-term interest rates on commercial loans as reported by Essar. With respect to the rupee-denominated, short-term benchmark used in calculating the benefit for pre-shipment export financing, we used the weighted-average rate of the company's cash credit loans. Cash credit loans are the most comparable type of short-term loan to use as a benchmark because, like the pre- shipment export financing, cash credit loans are denominated in rupees and take the form of a line of credit which can be drawn down by the recipient. *See Notice of Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products from India*, 66 FR 49635 (September 28, 2001) (HRC Final) and the accompanying Decision Memorandum, at Section II.C. ''Benchmark for Loans and Discount Rates'' and *Notice of Final Affirmative Countervailing Duty Determination: Polyethylene Terephthalate Film, Sheet, and Strip from India*, 67 FR 34905 (May 16, 2002) (*PET Film*) and accompanying Decision Memorandum, at section II.A.2. ''Benchmark for Loans and Discount Rates'' (PET Film Decision Memorandum).

Benchmark for Loans issued up to 2000

For those programs requiring a rupee-denominated discount rate or the application of a rupee-denominated, long-term benchmark interest rate, we used, where available, company-specific, weighted-average interest rates on commercial long-term, rupee-denominated loans. We note, however, that Essar did not have rupee-denominated, long-term loans from commercial banks for all required years. Therefore, for those years for which we did not have company- specific information, we relied on a rupee-denominated, long-term benchmark interest rate from the immediately preceding year as directed by section 351.505(a)(2)(iii) of the Department's regulations.

Benchmark for loans issued in 2001 and 2002

As discussed in the ''Creditworthiness'' section of this preliminary results, we have preliminarily determined that Essar was uncreditworthy during 2001 and 2002. In these preliminary results for years 2001 and 2002, where Essar received benefits that were treated as fixed, long-term loans, we used as our long-term benchmark interest rate India's Prime Lending Rate (PLR), as published by the Reserve Bank of India (RBI). *See* GOI Verification Exhibit 1. We note that we converted the PLR into a benchmark interest rate for uncreditworthy companies using the formula set forth in section 351.505(a)(3)(iii) of the Department's Regulations.

Programs Preliminarily Determined To Confer Subsidies

1. Pre-shipment Export Financing

The RBI, through commercial banks, provides short-term pre-shipment financing to exporters. Upon presentation of a confirmed export order or letter of credit to a bank, companies may receive pre-shipment loans for working capital purposes. Exporters may also establish pre-shipment credit lines upon which they may draw as needed.

We determined in *HRC Final* that the pre-shipment export financing program constitutes a financial contribution pursuant to section 771(5)(D)(I) of the Tariff Act of 1930, as amended (the Act), as a direct transfer of funds. *See* HRC Decision Memorandum at Section III. I.A. ''Pre-Shipment and Post-Shipment Export Financing.'' This program also confers a benefit to the company under section 771(5)(E)(ii) of the Act, to the extent that interest payments under the program are less than the amount the

company would pay on a comparable commercial loan that the company could actually obtain on the market. This program is also contingent on export performance and is therefore specific under section 771(5A) of the Act. No new information or evidence of changed circumstances have been presented to warrant reconsideration of this finding; therefore, for the purpose of these preliminary results we continue to find this program countervailable.

Essar did not use this program in 2001. To calculate the benefit conferred by these pre-shipment loans taken out by Essar in 2002, we compared the actual interest paid on the loans with the amount of interest that would have been paid at the benchmark interest rate. Where the benchmark interest exceeds the actual interest paid, the difference constitutes the benefit. We then divided the total amount of benefit by Essar's 2002 total exports. On this basis, we preliminarily determine the net countervailable subsidy under the pre-shipment export financing program in 2002 to be less than 0.005 percent ad valorem for Essar.

2. Export Promotion Capital Goods Scheme (EPCGS)

The EPCGS provides for a reduction or exemption of customs duties and an exemption from excise taxes on imports of capital goods. Under this program, producers may import capital equipment at reduced rates of duty by undertaking to earn convertible foreign exchange equal to

five times the CIF value of capital goods to be fulfilled over a period of eight years (12 years in the case where the CIF value is Rs. 100 Crore [3] or more). For failure to meet the export obligation, a company is subject to payment of all or part of the duty reduction, depending on the extent of the export shortfall, plus penalty interest. During verification, we found that in April 2003, after the POR, there was a change to the EPCGS with respect to export obligation commitment. The export earning commitment, which was five times the CIF value of the imported capital goods, was changed to eight times the CIF value of the imported capital good.

In *PET Film*, we determined that import duty reductions provided under the EPCGS constituted a countervailable export subsidy. *See* PET Film Decision Memorandum, at section II.A.4. ''EPCGS.'' Specifically, the Department found that under the EPCGS program, the GOI provides a financial contribution under section 771(5)(D)(ii) of the Act in the form of revenue foregone that otherwise would be due, that a benefit is thereby conferred, as defined by section 771(5)(E) of the Act, and that this program is specific under section 771(5A)(B) of the Act because it is contingent upon export performance. No new information or evidence of changed circumstances has been provided to warrant a reconsideration of this determination. Therefore, we continue to find that import duty reductions provided under the EPCGS are countervailable export subsidies.

We have determined the benefit under this program in accordance with our findings and treatment of benefit in *HRC Final* and *PET Film. See* HRC Decision Memorandum, at Analysis of Programs I.E. ''Export Promotion of Capital Goods Scheme (EPCGS)'' and PET Film Decision Memorandum, at section II.A.4. ''EPCGS'', and *Pet Film*, 66 FR at 53394. Specifically, there are two potential benefits under the EPCGS program. The first benefit is the amount of unpaid duties that would have to be paid to the GOI if the export requirements are not met. The repayment of this liability is contingent on subsequent events, and in such instances it is the Department's practice to treat any balance on an unpaid liability as an interest-free loan. *See* section 351.505(d)(1) of the Department's regulations. Because Essar had not yet met its export obligation, we preliminarily determine that the company has an outstanding contingent liability during the POR. We further determine that the amount of the contingent liability to be treated as an interest-free loan is the amount of the import duty reduction or exemption for those EPCGS licenses which Essar applied but, as of the end of the POR, had not received a waiver of its obligation to repay the duties from the GOI.

Accordingly, for those unpaid duties for which Essar has yet to fulfill its export obligations, we determine the benefit to be the interest that Essar would have paid during the POR had they borrowed the full amount of the duty reduction at the time of import. Pursuant to section 351.505(d)(1) of the Department's regulations, we used a long-term interest rate as our benchmark to calculate the benefit of a contingent liability interest-free loan because the event upon which repayment of the duties depends (*i.e.*, the date of expiration of the time period for Essar to fulfill its export commitments) occurs at a point in time more than one year after the date the capital goods were imported. Specifically, we used the calculated long-term benchmark interest rate for Essar, as described in the ''Subsidies Valuation'' section above. The rate used corresponded to the year in which Essar imported the item under the program.

The second potential benefit is the waiver of import duty on imports of capital equipment covered by those EPCGS licenses for which export requirements have been met. Essar reported that it imported machinery under the EPCGS in the years prior to the POR and during the POR. Upon importation under these licenses Essar received reduced import duty liabilities and agreed to the export obligations prescribed under the program, as noted above. For some of its licenses, Essar reported to the GOI that it met its export requirements and requested waiver of the obligation to repay the duties otherwise due for importation of the equipment. However, Essar did not provide evidence that the GOI has granted these waivers during the POR. Consistent with our policy, absent acknowledgment from the GOI that the liability has been eliminated, we continue to treat benefits of these licenses as contingent liabilities. *See* ''Export Promotion of Capital Goods Scheme (EPCGS)'' section from the HRC Final Decision Memoradnum.

Essar reported that it paid application fees in order to obtain its EPCGS license. We preliminarily determine that the application fees paid by Essar qualify as an ''application fee, deposit, or similar payment paid in order to qualify for, or to receive, the benefit of the countervailable subsidy.'' *See* section 771(6)(A) of the Act. As a result, we have offset the benefit in an amount equal to the fees paid.

To calculate the subsidy rate, we summed the benefits conferred on Essar in the form of contingent liability loans. We note, that for some licenses related to imports of capital goods during 2001 and 2002, we prorated the contingent liability by the actual number of days. We then divided Essar's total benefit under the program by its respective total export sales during years 2001 and 2002. On this basis, we preliminarily determine the net countervailable subsidy from this program to be 1.69 percent *ad valorem* for 2001 and 1.16 percent *ad valorem* for 2002.

In addition, we found that Essar had taken out EPCGS licenses for the importation of capital goods equipment used for making iron ore pellets. At the time that Essar took out these licenses, it wholly-owned Hy-Grade Pallets Ltd. (Hy-Grade), an iron ore pellet manufacturer. In September 2000, subsequent to the issuance of the EPCG licenses, Essar divested itself of its

[3] A crore is equal to 10,000,000 rupees.

majority ownership in Hy-Grade. At that time, Essar also transferred the EPCGS licenses connected to the iron ore pellet equipment to Hy-Grade. During Essar's verification, we reviewed certain selected EPCG licenses and noted that the licenses specify the name of the company and the product. *See* Essar's Verification Report at 15. Thus, in order for Hy-Grade to receive a permanent waiver on the import duties incurred on the importation of the iron ore pellet equipment, Hy-Grade must export a certain amount of pellets within a given period of time.

With respect to the EPCGS licenses that were transferred from Essar to Hy-Grade, we preliminarily determine that 1) the license can be tied to Hy-Grade, the transferee, and 2) the license is tied to a product, which in this case are iron ore pellets (*i.e.*, pellets must be exported by Hy-Grade in order for the duties to be permanently waived). By legally transferring the licence to Hy-Grade, Essar is relieved of its potential obligation to repay the import duties. That obligation now lies with Hy-Grade. Therefore, we preliminarily find that the EPCGS licenses are the liability of Hy-Grade and are tied to iron ore pellets.

3. Bombay Relief Undertaking Act

In their May 19, 2003 submission, petitioners alleged that the State Government of Gujarat conferred a countervailable benefit upon Essar under the Bombay Relief Undertaking Act (BRU). As explained in our New Subsidy Allegation Memorandum, we initiated an investigation of this program.

Enacted in 1958 and later amended in 1974, the BRU is a provincial law enacted by the State of Gujarat that is intended to safeguard employment. Under the BRU, companies designated as a relief undertakings have all litigation against them stayed for a period of one year. In disputes between companies and their creditors, the effect is that principal and interest payments are also put on hold, as a creditor is unable to sue for collection. During the time in which litigation is stayed, the company has the opportunity to become current on its financial debts. Subsequent BRU declarations are allowable after the initial declaration. A company can be protected under the BRU for up to ten years. To be designated as a relief undertaking, a company must submit an application. The State Government of Gujarat evaluates applications according to three criteria: (1) whether the company's balance sheet indicates a loss, (2) whether there is an allegation that unemployment will occur if the applicant is not declared a relief undertaking, and (3) whether there is information demonstrating that the company has the potential to turn itself around. While the BRU is specific to Gujarat, most other states in India have similar legislation.

Essar applied for BRU protection in late 2001. Essar stated that its application was prompted by a group of foreign lenders that refused to agree to the terms of the company's debt restructuring package.[4] The foreign lenders' share of Essar's total debt was sufficient to block the company's corporate restructuring from going forward. According to Essar, the corporate restructuring was essential to its financial well-being. Essar further claimed that without a declaration under the BRU, the company's lenders would file a petition declaring that the company was insolvent, an action that Essar claimed would cause it to eliminate jobs.

Upon review of Essar's application, the State Government of Gujarat granted Essar protection under the BRU in order to ''serve as a measure of preveningt unemployment.'' *See* Exhibit 11 of the GOI's October 14, 2003, questionnaire response. The State Government of Gujarat further promulgated that, rights, privileges, obligations, and liabilities incurred by Essar would be suspended and that proceedings relating thereto pending before any court, Tribunal or Authority would be stayed for one year beginning on March 19, 2002. *Id.* Upon receiving protection under the BRU, Essar ceased making principal and interest payments on some of its loans. During this time, which included the period covered by the POR, Essar's creditors were prohibited from taking any legal action against the company.

In determining whether a program is countervailable, the Department must conclude that the program constitutes a financial contribution by the government, confers a benefit, and is specific pursuant to the criteria enumerated under the Act. For purposes of these preliminary results, we find that the State Government of Gujarat's protection of Essar from litigation under the BRU constitutes a financial contribution under section 771(5)(B)(iii) of the Act. Specifically, we find that by granting Essar protection under the BRU, the State Government of Gujarat, by prohibiting Essar's creditors from pursuing any pending litigation against the company, directed the creditors to not collect principal and interest payments on loans that otherwise would be due. For purposes of these preliminary results, we further determine that the limitations imposed on the creditors by the State Government of Gujarat conferred a benefit upon Essar, under section 771(E)(ii) of the Act, in an amount equal to the principal and interest it would have had to pay absent the legal protection afforded under the BRU.

Regarding the criterion of specificity, as defined by section 771(5A) of the Act, in our new subsidies allegations questionnaire, we asked the GOI and the State Government of Gujarat to provide information regarding how companies are granted BRU status. *See* the ''Bombay Relief Undertakings (Special Act) 1956 (BRU)'' section of the September 15, 2003, questionnaire. In particular, we asked the governments to discuss the application/petition process companies undergo when they seek treatment under the BRU as well as a description of the types of documents that applicants are required to submit. In addition, we asked the GOI and the State Government of Gujarat to provide information concerning the distribution of the recipients of BRU protection (*i.e.*, specificity information). *Id.*

In its response, the GOI provided the legislation for the BRU program. *See* Exhibit 10 of the GOI's October 14, 2003, questionnaire response. However, regarding the Department's other questions, the GOI explained that, ''a response from the State Government of Gujarat is still awaited and will be sent as soon as received. . .. The Government of India will assist the investigating authorities in verifying the facts submitted by Essar Steel Limited, if need be.''[5] A response from the State Government of Gujarat was never received.

In our October 21, 2003, verification outline issued to the GOI and the State Government of Gujarat, we informed the two governments that they should prepared to discuss the BRU. Namely, we instructed them to be ready to discuss how the program was administered, including the eligibility requirements. *See* ''State of Gujarat'' section of the GOI Verification Outline. We further instructed them to be prepared to discuss Essar's participation under the BRU and to have available any documents or reports that pertained to Essar's protection under the BRU. *Id.*

[4] The company proposed corporate debt restructuring is discussed in further detail below in the ''Corporate Debt Restructuring (CDR)'' section of these preliminary results.

[5] We note that the GOI's incomplete response was submitted in spite of the fact that the Department granted the GOI and the State Government of Gujarat a 15-day extension to response to the questionnaire.

During verification, the officials from the State Government of Gujarat claimed that eight companies were granted protection in 2001 while six were granted BRU status in 2002. State government officials further claimed that there are between 25 and 30 applicants per year. However, the State Government of Gujarat presented no documentation to support these contentions. *See* the ''Bombay Relief Undertaking Act (BRU)'' section of the GOI's Verification Report. Further, state government officials failed to provide the Department with the requested documentation regarding Essar's application and declaration under the BRU.

Regarding specificity, we find that there is nothing in the BRU legislation indicating that the program is *de jure* specific under section 771(5A)(D)(I) of the Act. *See* Exhibit 10 of the GOI's October 14, 2003, questionnaire response. Thus, we turn to issue of whether the program is *de facto* specific under section 771(5A)(D)(iii) of the Act. According this subsection of the Act, a program is *de facto* specific where one or more of the following factors exist:

(I). The actual recipients of the subsidy, whether considered on an enterprise or industry basis, are limited in number;

(II). An enterprise or industry is a predominant user of the subsidy;

(III). An enterprise or industry receives a disproportionately large amount of the subsidy;

(IV). The manner in which the authority providing the subsidy has exercised discretion in the decision to grant the subsidy indicates that an enterprise or industry is favored over others.

The Preamble to the CVD Regulations states that:

As indicated in the SAA at 931, the discretion factor is generally more valuable as an analytical tool that enhances the analysis of the other de facto specificity factors and criteria. . . .

Discretion can also come into play where the evidence relating to the first three factors is inconclusive.

See 63 FR 65348, 65356.

Record evidence indicates that the State Government of Gujarat granted eight companies protection in 2001 while in 2002, the year in which Essar received protection under the program, the State Government of Gujarat approved only six companies. Record evidence further indicates that the State Government of Gujarat reviewed between 25 and 30 applicants during these years. In 2002, Essar received protection under the BRU, while some 19 or so other applicants were rejected. The fact that only six companies were approved under this program during 2002 demonstrates that the actual recipients of the subsidy are limited in number. While this, by itself, may be inconclusive, we preliminarily find that the State Government of Gujarat's exercise of discretion in approving applicants, supports a finding of specificity. Although the three criteria for designation as a relief undertaking would make the program appear broadly available, we note that the State Government of Gujarat has established a set of generic criteria under which it analyzes applications. For example, the State Government of Gujarat has not established the amount of financial losses that a company must be experiencing, the level of anticipated unemployment, or the factors upon which the company's proposed turn-around should be based. On this basis, at least 19 other applicants were rejected during 2002. Therefore, we find that the State Government of Gujarat exercises discretion in the manner in which grants approval under the program to a limited number of users, as provided for under section 771(5A)(D)(iii)(I) of the Act. Thus, for purposes of these preliminary results, we find that the BRU is countervailable.

To calculate the benefit to Essar, we summed the amount of the principal and interest payments that Essar would have otherwise been required to make had it not been under the protection of the BRU. We treated these payments as interest-free short-term loans using the short-term interest benchmark, as discussed in the ''Benchmarks for Loans and discount Rate'' section above. We then took this amount and divided it by Essar's total sales for 2002. As the protection under the BRU did not take affect until March 19, 2002, we are not calculating a net subsidy rate for this program for 2001. On this basis, we preliminarily find that Essar received a countervailable subsidy of 1.43 percent *ad valorem*.

4. Duty Entitlement Passbook Scheme (DEPS)

The DEPS enables exporting companies to earn import duty exemptions in the form of passbook credits rather than cash. All exporters are eligible to earn DEPS credits on a post-export basis, provided that the GOI has established a standard input-output norm (SION) for the exported product. DEPS credits can be used for any subsequent imports, regardless of whether they are consumed in the production of an export product. DEPS credits are valid for twelve months and are transferable after the foreign exchange is realized from the export sales on which the DEPS credits are earned. With respect to subject merchandise, exporters were eligible to earn credits equal to 14 percent of the FOB value of their export shipments during the fiscal year ending January 31, 2003. During the POR, Essar earned a DEPS credit on a sale of subject merchandise to the United States.

In *PET Film*, the Department determined that DEPS conferred countervailable subsidies on the respondents: 1) because a financial contribution, as defined under section 771(5)(D)(ii) of the Act, is provided under the program, as the GOI provides the respondents with credits for the future payment of import duties; 2) since the GOI does not have in place and does not apply a system to confirm which inputs, and in what amounts, are consumed in the production of the exported products that is reasonable and effective for the purposes intended, under section 351.519(a)(4) of the Department's regulations and section 771(5)(E) of the Act, the entire amount of import duty exemption earned by the respondents during the POI constitutes a benefit; and 3) this program can only be used by exporters and, therefore, is specific under section 771(5A)(B) of the Act. *See* the ''DEPS'' section of the PET Film Decision Memorandum. No new information or evidence of changed circumstances have been presented in this review to warrant reconsideration of this findings. Therefore, we continue to find that the DEPS program is countervailable.

In October 2003, Essar switched the license it earned under the DEPS program to a license under the Duty Free Remission Certificate Scheme (DFRCS). Essar claims that the DFRCS program is similar to the Advance License program, a program under which duty exemptions are not countervailable provided that the input imported under the program is physically incorporated into the re-exported product. Essar further claims that it switched the license (after the POR) in order to avoid any countervailable duties associated with the DEPS program. Essar also claims that, as it did not use the DEPS license during the POR to receive duty exemption on imported inputs, the Department should not find that it received any benefits during the POR.

We disagree with Essar. We note that in *CTL Plate from India*, we stated that, ''benefits from the DEPS program are conferred as of the date of exportation of the shipment for which the pertinent DEPS credits are earned rather than the

date the DEPS credits are used. At that time, the amount of the benefit is known by the exporter.'' *See CTL Plate* at 64 FR 73134. *See* also Comment 4 of CTL Plate, ''Timing and Calculation of DEPS Benefits,'' 64 FR 73140. Moreover, Essar has not provided any new evidence that would lead us to reconsider our finding that the GOI does not have in place and does not apply a system that is reasonable and effective to confirm which inputs, and in what amounts, are consumed in the production of the exported products for the purposes intended. Thus, consistent with our approach in *CTL Plate*, we find that the DEPS credit earned by Essar during the POR is countervailable.

To derive the DEPS program rate, we first calculated the value of the credits that Essar earned for its export shipments of subject merchandise to the United States during the POR by multiplying the f.o.b. value of each export shipment by 14 percent, the percentage of DEPS credit allowed under the program for exports of subject merchandise. We then subtracted as an allowable offset the actual amount of application fees paid for each license in accordance with section 771(6) of the Act. Finally, we took this sum (the total value of the licenses net of application fees paid) and divided it by Essar's total exports of subject merchandise to the United States during the POR. On this basis, we determine the net countervailable subsidy from this program to be 14.06 percent ad valorem.

Program Preliminarily Determined Not To Be Used

1. Corporate Debt Restructuring

On September 12, 2003, the Department initiated separate investigations of the following programs: forgiveness of debt obligations, suspension and restructuring of interest payments, debt-to-equity conversions, preferential restructuring of loans, and guarantee and ultimate payment of certain debt. *See* New Subsidy Allegation Memorandum. While we initiated on each program separately, we preliminary find that it is more appropriate to discuss and analyze these programs under the single program of the corporate debt restructuring. During the course of this proceeding, the Department has found that these programs are all related to the Corporate Debt Restructuring (CDR) and therefore should be treated as a single program.

The RBI and a group of lenders introduced the CDR Mechanism to restructure corporations' debt in August 2001. The Inter-Creditor Agreement (ICA) was signed in February 2002 to deal with the increasing amount of non-performing assets (NPAs) that banks where holding. The RBI and the CDR Standing Forum, which consisted of members from various banks in India reviewed other countries' restructuring programs, and ultimately based the CDR framework on the London Approach. The CDR is a non-statutory and voluntary organization whose members are bound by the ICA. Lender participation in the CDR is voluntary. However, when a restructuring package is accepted by at least 75 percent of the lenders, determined by value of their outstanding loans, the remaining 25 percent must either comply with the terms of the agreement, or, if they decide to opt out, must transfer their debts to another lender on terms set by the agreement.

The CDR has three levels; the CDR Core Group, the Empowered Group and the CDR Cell. During the POR, state banks, private banks and other financial institutions had representation on the CDR Core Group. Foreign banks did not. The Core Group is responsible for overseeing the CDR as a whole, while the Empowered Group is responsible for making the decision on the individual restructuring packages. The CDR Cell works with the company and oversees the restructuring package. The RBI is a party to the CDR Core Group; however, it does not have representation on the other two levels.

The objective of the CDR is to restructure a company's debt. The guidelines for the CDR are set forth in the RBI's circulars dated August 23, 2001 and February 5, 2003. The CDR began restructuring companies' debts in March 2002. *See* GOI Verification Report at 5. While CDR packages are created on a case-by-case basis, most CDR packages include a change (lowering) of the company's interest rates and an extension of the time period for repayment of outstanding debt.

With respect to Essar, in October 2002, the IDBI proposed a CDR package for Essar under the CDR. *See* Essar's Verification Report at 9. On January 21, 2003, the Empowered Group approved the proposed restructuring package. *Id.* at 10. On February 24, 2003, the CDR Cell sent a letter to the IDBI, stating that the package had been approved and that the IDBI was selected as the monitoring agency for implementation of the plan and Essar's Board of Directors approved the CDR package on March 31, 2003. *See* Essar's October 2, 2003 submission at Exhibit 3 and Essar's Verification Exhibit 14.

Essar's restructuring package included the extension of loan due dates until 2017, and a lowering of interest rates for all lenders who had not yet changed the interest rates that they were charging. If a lender did not want to extend the loan, it could accept a one-time settlement, in which Essar would pay out its obligation at a discount. Another option presented to the lenders would be to convert debt to rupees and extend the due date to 2017.

Based on the record evidence provided by the GOI and Essar as well as information obtained during verification, we preliminarily determine that the restructuring plan for Essar under the CDR did not take effect until after the POR. As a result, we preliminarily determine that Essar did not use this program during the POR.

2.Duty Free Remission Certificate Scheme (DFRCS)

The Duty Free Remission Certificate (DFRC) scheme was introduced by the GOI in 2001. The DFRC is administered by the Director-General for Foreign Trade (DGFT), and is applicable to manufacturing exporters. Eligibility is not conditioned on any sector or region, but is conditioned on export. The GOI characterizes the DFRC as an extension of the Advance License scheme. The DFRC also uses the same Standard Input Output Norms (SION) as the Advance License program. *See* Essar's Verification Report at 5. The DFRC differs from the Advance License scheme in that the Advance License program requires only positive addition and the DFRC requires a minimum value addition of 25 percent. DFRC licenses are only issued after export has occurred. Manufacturers are required to provide all shipping documents and invoices to demonstrate they imported only the allowable input.

In October 2003, Essar switched from a DEPS to a DFRC. *Id.* Since the company switched from a DEPS to a DFRC in 2003, we find that this occurred after the POR and therefore, Essar did not use this program during the POR.

3. Sick Industrial Companies Act and Board for Industrial and Financial Reconstruction

Passed in 1987, the Sick Industrial Company Act (SICA) is administered by the Board for Industrial and Financial Reconstruction (BIFR). It was designed for companies whose accumulated losses surpass the net equity of share capital. Companies in such a financial situation must refer themselves to the BIFR within sixty days of finalizing their audited financial statements. The

referral of a company triggers a judicial process which brings companies under the oversight of the BIFR. Then the BIFR supervises the process through which the companies restructure their debts and financial obligations. While under the BIFR, companies are shielded from any litigation.

On September 30, 2002, Essar's accumulated losses exceeded its net worth of equity capital. However, these results were not officially adopted until March 2003 by Essar's shareholders. Between September 2002 and March 2003, Essar's net worth exceeded its losses. The company had also entered its restructuring process under the CDR. As the company was in the process of rehabilitating its financial condition, the company sought an opinion as to whether it was necessary to refer itself, as a sick company, to the BIFR. The BIFR concluded that referral was not necessary, since the company's net worth became positive before the required notification period. Thus, Essar was never officially declared to be a ''sick company'' by the BIFR.

Consequently, we conclude that Essar never invoked protection under the BIFR, and therefore, we preliminarily find that Essar did not use this program during the POR.

Furthermore, we preliminarily find that Essar did not use the following programs during the POR.[6]

4. Advance Licenses

5. Exemption of Export Credit from Interest Taxes

6. Income Tax Deductions Under Section 80 HHC

7. Post-Shipment Export Financing

Preliminary Results of Review

In accordance with 19 CFR 351.221(b)(4)(i), we calculated an individual subsidy rate for Essar subject to this administrative review, for 2001 and 2002. We preliminarily determine the total estimated net countervailable subsidy rate is 1.69 percent *ad valorem* for 2001 and 17.10 percent *ad valorem* for 2002.

If the final results of this review remain the same as these preliminary results, the Department intends to instruct the CBP, within 15 days of publication, to liquidate shipments of hot rolled steel from India entered, or withdrawn from warehouse, for consummption from April 20, 2001 through August 18, 2001 as well as from December 3, 2001 through December 31, 2001 at 1.69 percent *ad valorem* and and shipments of hot rolled steel from India entered, or withdrawn from warehouse, for consumption from January 1, 2002 through December 31, 2002 at 17.10 percent *ad valorem* of the f.o.b. invoice price on all shipments of the subject merchandise from Essar. Also, the rate of cash deposits of estimated countervailing duties will be set at 17.10 percent *ad valorem* for all shipments of hot rolled steel made by Essar from India entered or withdrawn from warehouse, for consumption on or after the publication of the final results of this administrative review. The Department will issue appropriate instructions directly to the CBP within 15 days of the final results of this review.

Because the Uruguay Round Agreements Act (URAA) replaced the general rule in favor of a country-wide rate with a general rule in favor of individual rates for investigated and reviewed companies, the procedures for establishing countervailing duty rates, including those for non-reviewed companies, are now essentially the same as those in antidumping cases, except as provided for in section 777A(e)(2)(B) of the Act. A requested review will normally cover only those companies specifically named. *See* 19 CFR 351.213(b). Pursuant to 19 CFR 351.212(c), for all companies for which a review was not requested, duties must be assessed at the cash deposit rate, and cash deposits must continue to be collected at the rate previously ordered. As such, the countervailing duty cash deposit rate applicable to a company can no longer change, except pursuant to a request for a review of that company. *See Federal-Mogul Corporation and The Torrington Company v. United States*, 822 F. Supp. 782 (CIT 1993) and Floral Trade Council v. United States, 822 F. Supp. 766 (CIT 1993) (interpreting 19 CFR 353.22(e), the pre-URA antidumping regulation on automatic assessment, which was identical to 19 CFR 355.22(g)). Therefore, the cash deposit rates for all companies except those covered by this review will be unchanged by the results of this review.

We will instruct the CBP to continue to collect cash deposits for non-reviewed companies at the most recent company-specific or country-wide rate applicable to the company. Accordingly, the cash deposit rates that will be applied to non-reviewed companies covered by this order are those established in the most recently completed administrative proceeding conducted under the URAA. *See HRC Amended Final*, 66 FR 60200. These rates shall apply to all non-reviewed companies until a review of a company assigned these rates is requested. In addition, for the period April 20, 2001 through December 31, 2002, the assessment rates applicable to all non-reviewed companies covered by this order are the cash deposit rates in effect at the time of entry.

Public Comment

Pursuant to 19 CFR 351.224(b), the Department will disclose to parties to the proceeding any calculations performed in connection with these preliminary results within five days after the date of the public announcement of this notice. Pursuant to 19 CFR 351.309, interested parties may submit written comments in response to these preliminary results. Unless otherwise indicated by the Department, case briefs must be submitted within 30 days after the date of publication of this notice, and rebuttal briefs, limited to arguments raised in case briefs, must be submitted no later than five days after the time limit for filing case briefs, unless otherwise specified by the Department. Parties who submit argument in this proceeding are requested to submit with the argument: (1) a statement of the issue, and (2) a brief summary of the argument. Parties submitting case and/or rebuttal briefs are requested to provide the Department copies of the public version on disk. Case and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f). Also, pursuant to 19 CFR 351.310, within 30 days of the date of publication of this notice, interested parties may request a public hearing on arguments to be raised in the case and rebuttal briefs. Unless the Secretary specifies otherwise, the hearing, if requested, will be held two days after the date for submission of rebuttal briefs, that is, thirty-seven days after the date of publication of these preliminary results.

Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs, under 19 CFR 351.309(c)(ii), are due. The Department will publish the final results of this administrative review, including the results of its analysis of arguments made in any case or rebuttal briefs.

This administrative review is issued and published in accordance with sections 751(a)(1) and 777(I)(1) of the

[6] For descriptions of these previously examined programs, see, *e.g., CTL Plate from India.*

Act (19 U.S.C. 1675(a)(1) and 19 U.S.C. 1677f(I)(1)).

Dated: December 30, 2003.

James J. Jochum,

Assistant Secretary for Import Administration.

[FR Doc. 04–330 Filed 1–6–04; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 123103A]

Mid-Atlantic Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council) and its Protected Resources Committee, will hold a public meeting.

DATES: The meeting will be held on Tuesday, January 20, 2004, from 1 p.m. to 3 p.m.

ADDRESSES: The meeting will be held at the Old Town Holiday Inn Select, 480 King Street, Old Town Alexandria, VA; telephone: 703-549-6080.

Council address: Mid-Atlantic Fishery Management Council, 300 S. New Street, Dover, DE 19904; telephone: 302-674-2331.

FOR FURTHER INFORMATION CONTACT: Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council; telephone: 302-674-2331, ext. 19.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to provide an update on the status of bottlenose dolphin and right whale Take Reduction Team (TRT) activities.

Although non-emergency issues not contained in this agenda may come before the Council for discussion, these issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final actions to address such emergencies.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis at the Council (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: December 31, 2003.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 04–328 Filed 1–6–04; 8:45 am]

BILLING CODE 3510–22–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2003–0395; FRL–7337–9]

Propoxycarbazone-sodium; Receipt of Application for Emergency Exemption, Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received specific exemption requests from the Kansas Department of Agriculture and the Oklahoma Department of Agriculture, Food, and Forestry to use the pesticide propoxycarbazone-sodium (CAS No. 181274–15–7) to treat up to 1,200,000 acres (Kansas) and 150,000 (Oklahoma) acres of wheat to control *Bromus* weed species. The applicants propose the use of a new chemical which has not been registered by EPA. EPA is soliciting public comment before making the decision whether or not to grant the exemption.

DATES: Comments, identified by docket identification (ID) number OPP–2003–0395, must be received on or before January 22, 2004.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Libby Pemberton, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–9364; fax number: (703) 308–5433; e-mail address: *Sec–18–Mailbox@epamail.epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are a Federal or State government agency involved in administration of environmental quality programs (i.e., Departments of Agriculture, Environment, etc). Potentially affected entities may include, but are not limited to:

- Federal or State Government Entity, (NAICS 9241), i.e., Departments of Agriculture, Environment, etc.

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established an official public docket for this action under docket ID number OPP–2003–0395. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through EPA's Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket ID number.

Certain types of information will not be placed in EPA's Dockets. Information