

**OFFICE OF THE UNITED STATES  
TRADE REPRESENTATIVE**

**Update on Potential Withdrawal of  
Tariff Concessions and Increase in  
Applied Duties in Response to  
European Union (EU) Enlargement and  
EU Changes to Its Rice Import Regime**

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Update for the public.

**BACKGROUND: In Federal Register**

Notices 04-20543, dated September 10, 2004, and 04-21762, dated September 28, 2004, the Office of the U.S. Trade Representative sought comments concerning a list of goods for which tariff concessions may be withdrawn and duties may be increased in the event the United States cannot reach agreement with the European Union (EU) for adequate compensation owed under World Trade Organization (WTO) rules as a result of EU enlargement and EU changes to its rice import regime. The Trade Policy Staff Committee continues to review the public comments that it has received in response to these **Federal Register** notices. As announced at a public hearing on September 24, 2004, the United States had been subject to a deadline of October 1, 2004 to notify the WTO of its rights to withdraw substantially equivalent concessions under GATT 1994 Article XXVIII:3 in relation to the issue of EU enlargement. The European Communities has subsequently extended the United States' and other interested WTO Members' rights to withdraw substantially equivalent concessions for an additional six months, until April 30, 2005. In the case of the rice import regime change, the United States and other interested WTO Members have a right to withdraw substantially equivalent concessions until March 1, 2005. The United States Government is seeking an immediate negotiated resolution of both the enlargement and the rice Margin of Preference issues, which would alleviate the need for increases in U.S. tariffs. However, we retain the right to put into force the aforementioned tariff increases if negotiations do not result in successful provision of adequate compensation. The United States must notify the World Trade Organization at least 30 days before such increases could go into effect. The United States would also provide notification to the public of the list of goods affected at least thirty days before such increases could go into effect. The public is encouraged to call Laurie Molnar, Director for European

and Mediterranean Trade Issues, Office of Europe and the Mediterranean, at (202) 395-3320, or Sharon Sydow, Director for Agriculture, Office of Agriculture, Office of the U.S. Trade Representative at (202) 395-6127 for periodic updates on the status of these issues.

**Carmen Suro-Bredie,**

*Chairman, Trade Policy Staff Committee.*

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**DEPARTMENT OF TRANSPORTATION**

**Bureau of Transportation Statistics**

[Docket No. BTS-2004-19380]

**Request for Public Comments on 14  
CFR Part 241 Reporting Requirements**

**AGENCY:** Bureau of Transportation Statistics (BTS), DOT.

**ACTION:** Request for Public Comments.

**SUMMARY:** Pursuant to the Department's regulations, certain air carriers are required to file BTS Form 41 Schedule B-7 (Airframe and Aircraft Engine Acquisitions and Retirements) and Form 41 Schedule B-43 (Inventory of Airframes and Aircraft Engines). Under the Department's regulations, the Department can withhold confidential business information if release of the confidential information is likely to cause substantial competitive harm to the entity that submitted the information. Based on the sensitive nature of this cost data, carriers have filed motions for confidential treatment and BTS has routinely granted confidential treatment for a ten-year period. After receiving notification that, upon the expiration of the ten-year confidentiality period, the BTS intended to release the cost data, the United Parcel Service Co. (UPS) and United Air Lines, Inc. (United) filed objections to the pending release. Both UPS and United claimed that the cost data, although ten years old, are still so sensitive that their release would result in competitive harm.

BTS is seeking public comments on the merits of the UPS and United positions and views on whether the BTS should increase the confidentiality period for certain airframe and aircraft engine cost data.

**DATES:** Comments must be received by December 27, 2004.

**ADDRESSES:** You may submit comments (identified by DMS Docket Number BTS-2004-19380) through the following methods:

*Web site:* <http://dms.dot.gov>. Follow the instructions for submitting comments on the DOT electronic docket site.

*Fax:* 1-202-493-2251.

*Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-0001.

*Hand Delivery:* Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. Federal Rulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

*Instructions:* All submissions must include the agency name and docket number. Note that all comments received will be posted without change to <http://dms.dot.gov>, including any personal information provided. You should know that anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://dms.dot.gov>.

*Docket:* For access to the docket to read background documents or comments, go to <http://dms.dot.gov> at any time or to Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Clay Moritz, Office of Airline Information, Bureau of Transportation Statistics, Department of Transportation, Room 4125, 400 Seventh Street, SW., Washington, DC, 20590-0001, (202) 366-4385; [clay.moritz@bts.gov](mailto:clay.moritz@bts.gov).

**SUPPLEMENTARY INFORMATION:** Pursuant to 14 CFR part 241, certain air carriers are required to file BTS Form 41 Schedule B-7 (Airframe and Aircraft Engine Acquisitions and Retirements) and Form Schedule B-43 (Inventory of Airframes and Aircraft Engines). These schedules contain cost data concerning airframes and aircraft engines. Specifically, the motions for confidential treatment cover the release of data pertaining to airframe and aircraft engine acquisitions and retirements that are reported in Schedule B-7 columns 9 (Cost), 10

(Depreciated Cost or Amortized Value), 11 (Realization) and the data pertaining to an annual inventory of airframes and aircraft engines that are reporting in Schedule B-43 columns 10 (Acquired Cost or Capitalized Value), 11 (Allowance for Depreciation or Amortization), 12 (Depreciated Cost or Amortized Value), and 13 (Estimated Residual Value). In previous confidentiality requests, UPS and United requested and the BTS effectively granted a ten-year period of confidentiality for the cost data reported on the Form 41, Schedules B-7 and B-43.

Subsequent to the expiration of the confidentiality period, BTS informed twelve air carriers that the agency intended to release the information. In a September 14, 2004 letter, UPS filed objections to the release and, in a September 23, 2004 letter, United also filed objections to the release (see BTS Docket No. 2004-19380). Both UPS and United claim that the information, although ten years old, is so sensitive that each company would suffer "competitive harm" if the BTS releases the information.

In its letter, UPS maintains that the information is still "commercially sensitive" based on three main points: (1) Disclosure of the data diminishes competition among the major aircraft manufacturers; engine manufacturers, and new and used aircraft owners and lessors who can use the commercially sensitive data to closely track UPS' acquisition and retirement costs; (2) disclosure of the data impairs competition among competing domestic and foreign airlines in the international arena because United States airlines are required to reveal major elements of their cost structures when their foreign competitors are not; and (3) the Securities and Exchange Commission (SEC) has determined that these data should be withheld from public disclosure.

In addition, UPS requested that the BTS withhold the information under Exemptions 3 and 4 of the Freedom of Information Act (FOIA) (See 5 U.S.C. 552(b)(3) and (4)). Exemption 3 allows the withholding of information if the disclosure is prohibited by another statute and the statute either: "(A) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;" (see 5 U.S.C. 552(b)(3)). UPS stated that a provision in the United States Code (see 49 U.S.C. 40115) qualifies as an Exemption 3 statute in that the statute allows the

Department to order certain information withheld from public disclosure if the disclosure would "have an adverse effect on the competitive position of an air carrier in foreign air transportation." (See 49 U.S.C. 40115(a)(2)(B)).

In light of its objections, UPS requested that "the Department continue to afford confidential treatment to Form 41 Schedules B-7 and B-43 and that such confidential treatment be continued indefinitely or, at a minimum, for [another] ten (10) years."

United requested an extension based on the fact that prices have changed little since the 1992 to 1996 period. According to United, its "747s delivered in 1994 \* \* \* have aircraft/engine prices which are the same as the prices of the later delivered 747s, except for some minor changes due to price escalation provisions and any minor configuration changes." United also claimed that Exemptions 3 and 4 of FOIA protected this information from disclosure. United also cited the fact that the SEC had provided a period of confidentiality for this information. Thus, United requested that the BTS extend its period of confidentiality until December 31, 2006, the expiration date for the SEC confidentiality period.

#### Request for Public Comments

We are inviting public comments on the UPS and United requests and views on whether BTS' confidentiality period should be retained or amended. Based on the public comments and a review of the requests to extend the confidentiality period, BTS will consider retaining or amending its confidentiality period.

We are posing a series of questions in the hope that the public comments will address several issues in particular:

- (1) Do you use the airframe and aircraft engine cost data required under Part 241 and, if so, how do you use the data elements?
- (2) Should BTS amend or retain its confidentiality period for airframe and aircraft engine cost data?
- (3) Should BTS change the manner in which it collects these data elements?
- (4) Would it be in the public interest for BTS to grant the confidentiality extension requests?

Issued in Washington, DC on October 15th, 2004.

**Don Bright,**

*Assistant Director, Office of Airline Information.*

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**BILLING CODE 4910-62-P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

[REG-118620-97]

#### Proposed Collection; Comment Request for Regulation Project

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, REG-118620-97 (TD 8855), Communications Excise Tax; Prepared Telephone Cards.

**DATES:** Written comments should be received on or before December 27, 2004, to be assured of consideration.

**ADDRESSES:** Direct all written comments to Joseph Durbala, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the regulations should be directed to Larnice Mack at Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622-3179, or through the Internet at [Larnice.Mack@irs.gov](mailto:Larnice.Mack@irs.gov).

#### SUPPLEMENTARY INFORMATION:

*Title:* Communications Excise Tax; Prepaid Telephone Cards.

*OMB Number:* 1545-1628.

*Regulation Project Number:* REG-118620-97.

*Abstract:* Carriers must keep certain information documenting their sales of prepaid telephone cards to other carriers to avoid responsibility for collecting tax. The regulations provide rules for the application of the communications excise tax to prepaid telephone cards.

*Current Actions:* There are no changes being made to this existing regulation.

*Type of Review:* Extension of currently approved collection.

*Affected Public:* Business or other for-profit organizations.

*Estimated Number of Respondents:* 104.

*Estimated Time Per Respondent:* 20 min.

*Estimated Total Annual Burden Hours:* 34.