

# STATE OF NEBRASKA

## DEPARTMENT OF CORRECTIONAL SERVICES

Scott R. Frakes

Director



Pete Ricketts  
Governor

August 13, 2015

Ms. Amy A. Miller, Attorney  
ACLU of Nebraska  
via email: [www.aclunebraska.org](http://www.aclunebraska.org)

RE: Public Records Request

Dear Ms. Miller

This letter is in response to your August 7, 2015 request for public records pertaining to the Nebraska Department of Correctional Services' attempts to obtain pharmaceuticals for the purpose of carrying out a lethal injection execution. Your request is for the following documents for the time period from June 30, 2015 to present.

1. Any documents including email, letter, phone message or other communication with any and all potential pharmaceutical manufacturers, brokers, or suppliers-whether domestic or foreign-showing efforts to obtain injection drugs.
2. Any documents including email, letter, phone message, or other communication with Chris Harris and or Harris Pharma.
3. Any documents including email, letter, phone message, or other communication with the Department and the Governor, or Governor's office, or Governor's corrections advisory committees, or Governors private political consultants related to the efforts to obtain injection drugs.
4. Any documents including email, letter, phone message or other communication with any representatives of the United States Food and Drug Administration in regards to obtaining a license for the importation and acquisition of injection drugs.
5. Any documentation showing the expiration date for the injection drugs currently in the Department's possession, including a copy of the packaging itself.
6. Any documents including email, letter, phone message or other communication with any representatives of the United States Drug Enforcement Administration (DEA) in regards to

obtaining a license for the importation and acquisition of injection drugs or any other matters relating to the importation and acquisition of injection drugs.

7. Any documentation with any party as to the testing, potency, efficacy, or other matters related to the injections drugs by any party including Chris Harris, Harris Pharmaceuticals, the DEA, the FDA, or independent testing entity.
8. Any documentation with any common carrier such as the United States Postal Service, Fed Ex, UPS, or other commercial entity or private courier related to the importation or acquisition of injection drugs or conveyance of public funds to purchase injections drugs.
9. Any documentation showing the use of public funds to purchase injection drugs including any invoice, purchase order, requisition, check, receipt or other similar record.

Records responsive to your requests are enclosed. Please contact me at 402-479-5901 if you have any additional questions.

Sincerely



Kathleen A. Blum  
Nebraska Department of Correctional Services

XC: Director's Office File  
Legal Office File

## Frakes, Scott

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**From:** Chris Harris <chrisharris@harrispharmallp.com>  
**Sent:** Monday, July 13, 2015 7:20 AM  
**To:** Frakes, Scott  
**Subject:** Re: Information  
**Attachments:** Decl.docx

Hi Scott,

Pls see the attached document. Kindly print on letter head and stamp and sign and send back with DEA 236. Will need 3 copies.

Regards,  
Chris

**From:** Frakes, Scott  
**Sent:** Saturday, May 30, 2015 4:01 AM  
**To:** chrisharris@harrispharmallp.com  
**Subject:** RE: Information

Thanks

---

**From:** chrisharris@harrispharmallp.com [mailto:chrisharris@harrispharmallp.com]  
**Sent:** Friday, May 29, 2015 5:24 PM  
**To:** Frakes, Scott  
**Subject:** Re: Information

Hi Scott,

Will give you a call tomorrow as I don't have network coverage here. Will be back tomorrow.

Regards,  
Chris

----- Reply message -----

**From:** "Frakes, Scott" <scott.frakes@nebraska.gov>  
**To:** "chrisharris@harrispharmallp.com" <chrisharris@harrispharmallp.com>  
**Subject:** Information  
**Date:** Sat, May 30, 2015 3:25 AM

Please give me a call when you have time to discuss.

**Explanation for the Legitimate Use of Thiopental Being Imported  
Under 21 U.S.C. S 952**

This product is being imported for use by the Nebraska Department of Corrections law enforcement activities. The product complies with federal statutory and regulatory requirements. The Nebraska Department of Corrections will not use this product for activities other than law enforcement activities.

Sign and Date

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**From:** Gallagher, Cathy A. <Cathy.A.Gallagher@usdoj.gov>  
**Sent:** Tuesday, July 14, 2015 10:19 AM  
**To:** Blum, Kathy  
**Subject:** Fw: Emailing: Nebraska DOCS Scott R. Frakes  
**Attachments:** Nebraska DOCS Scott R. Frakes.pdf

Kathy - Please share with Mark. I'm on vacation can only find your e-mail.

Thanks,  
Cathy

Sent from my BlackBerry 10 smartphone.

Original Message

From: Johnson, Vickie L. <VLJohnson@dea.usdoj.gov>

Sent: Monday, July 13, 2015 10:59 AM

To: Gallagher, Cathy A.

Subject: Emailing: Nebraska DOCS Scott R. Frakes

Your message is ready to be sent with the following file or link attachments:

Nebraska DOCS Scott R. Frakes

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.





U. S. Department of Justice  
Drug Enforcement Administration  
8701 Morrisette Drive  
Springfield, Virginia 22152

[www.dea.gov](http://www.dea.gov)

JUL 13 2015

Scott R. Frakes  
Director  
Nebraska Department of Correctional Services  
P.O. Box 94661  
Lincoln, Nebraska 68509-4661

Dear Director Frakes:

This letter is confirmation of previous communications with you on June 18, 2015 and Associate Legal Counsel Mark Boyer on June 22, 2015 regarding the proposed importation of sodium thiopental. As you know, the Drug Enforcement Administration (DEA) was notified by the Food and Drug Administration (FDA) that the sodium thiopental the Nebraska Department of Correctional Services seeks to import is an unapproved drug product in the United States and it appears to be misbranded or in violation of 21 U.S.C. § 355. According to the FDA, there is no approved application for sodium thiopental, and it is illegal to import an unapproved new drug into the United States.

In light of the information provided by the FDA and the Nebraska Department of Correctional Services' recently submitted the DEA Controlled Substances Import/Export Declaration, DEA Form 236 (Transaction ID 5159973), the DEA notified the Customs Border and Protection and the FDA of the potential illegal importation of sodium thiopental.

If you have any questions regarding this matter, please contact Cathy A. Gallagher, Chief, Regulatory Section at 202-307-7194.

Sincerely,

  
Joseph T. Rannazzisi  
Deputy Assistant Administrator  
Office of Diversion Control

## Frakes, Scott

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**From:** Frakes, Scott  
**Sent:** Wednesday, July 15, 2015 2:00 PM  
**To:** 'Chris Harris'  
**Subject:** RE: Information  
**Attachments:** 20150715145103202.pdf

Hello Chris,

Here is the letter that we already sent to the DEA on May 29<sup>th</sup>, along with the original (DEA copy) of the form 236. I will be sending you 3 signed copies of this letter, and copies 1,2,3 of the DEA 236 form. I don't believe we need to do an additional letter.

---

**From:** Chris Harris [<mailto:chrisharris@harrispharmallp.com>]  
**Sent:** Monday, July 13, 2015 7:20 AM  
**To:** Frakes, Scott  
**Subject:** Re: Information

Hi Scott,

Pls see the attached document. Kindly print on letter head and stamp and sign and send back with DEA 236. Will need 3 copies.

Regards,  
Chris

**From:** Frakes, Scott  
**Sent:** Saturday, May 30, 2015 4:01 AM  
**To:** [chrisharris@harrispharmallp.com](mailto:chrisharris@harrispharmallp.com)  
**Subject:** RE: Information

Thanks

---

**From:** [chrisharris@harrispharmallp.com](mailto:chrisharris@harrispharmallp.com) [<mailto:chrisharris@harrispharmallp.com>]  
**Sent:** Friday, May 29, 2015 5:24 PM  
**To:** Frakes, Scott  
**Subject:** Re: Information

Hi Scott,

Will give you a call tomorrow as I don't have network coverage here. Will be back tomorrow.

Regards,  
Chris

----- Reply message -----

From: "Frakes, Scott" <[scott.frakes@nebraska.gov](mailto:scott.frakes@nebraska.gov)>  
To: "[chrisharris@harrispharmallp.com](mailto:chrisharris@harrispharmallp.com)" <[chrisharris@harrispharmallp.com](mailto:chrisharris@harrispharmallp.com)>

Subject: Information

Date: Sat, May 30, 2015 3:25 AM

Please give me a call when you have time to discuss.



# STATE OF NEBRASKA

DEPARTMENT OF CORRECTIONAL SERVICES

Scott R. Frakes

Director



Pete Ricketts  
Governor

May 29, 2015

Drug Enforcement Agency  
Attention: ODGI Import/Export Unit (Ms. Kara Sweeney)  
8701 Morrisette Drive  
Springfield, Virginia 22152

**RE: Form 236 Legitimate Use Declaration**

To Whom It May Concern,

I, Scott R. Frakes, as Director of the Nebraska Department of Correctional Services do hereby notify the United States Drug Enforcement Agency that I have sought the importation of Sodium Thiopental pursuant to DEA Form 236. The shipment of 1,000 vials containing 1 gram each of Sodium Thiopental will solely be used for the legitimate purpose of the Nebraska Department of Correctional Services carrying out lethal injections for those persons sentenced to death in the State of Nebraska.

Sincerely,

A handwritten signature of Scott R. Frakes, consisting of a large, stylized 'S' followed by a horizontal line.

Scott R. Frakes, Director

Nebraska Department of Correctional Services



**U.S. Department of Justice**  
Drug Enforcement Administration  
Office of Diversion Control  
8701 Morrisette Drive  
Springfield, Virginia 22152

[www.dea.gov](http://www.dea.gov)

July 6, 2015

NEBRASKA STATE PENITENTIARY  
SCOTT FRAKES 4201 SOUTH 14TH STREET  
LINCOLN NE 68502-0000



RECEIVED

JUL 27 2015

NDCS Director's Office

Dear Registrant:

The Drug Enforcement Administration (DEA) is pleased to announce that in addition to the current online import/export forms (DEA 161, 236, 486 and 486A), you may now electronically submit the DEA Form 357 – Application for Permit To Import Controlled Substances For Domestic and/or Scientific Purposes (All Schedule I-II and Schedule III-V Narcotics) online. The form is available on the DEA Office of Diversion Control website at [www.DEAdiversion.usdoj.gov](http://www.DEAdiversion.usdoj.gov) on the Reporting webpage under the Import/Export heading.

To submit the form electronically, you must establish a Corporate Administrator (CA). The CA will establish company users who will be authorized to create and submit forms to the DEA for processing. Please provide the following information for your firm's CA for each location via e-mail to [ODGIONLine357@dea.usdoj.gov](mailto:ODGIONLine357@dea.usdoj.gov):

DEA Registration Number(s):  
 Exporter:  
 Importer:  
 First Name:  
 Middle Name:  
 Last Name:  
 Telephone Number/Extension:  
 E-mail address:  
 Company Name:  
 Company Address:  
 Business Activity:

Once your online account has been established, you will receive an e-mail with your username and a temporary password. The first time you log into the account you will be prompted to change your password.

For information regarding the DEA Office of Diversion Control, please visit [www.DEAdiversion.usdoj.gov](http://www.DEAdiversion.usdoj.gov). If you have additional questions on this issue, please contact the Office of Diversion Control Liaison and Policy Section at (202) 307-7297.

Sincerely,

Joseph F. Rannazzisi  
Deputy Assistant Administrator  
Office of Diversion Control

## Frakes, Scott

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**From:** Frakes, Scott  
**Sent:** Friday, July 31, 2015 11:26 AM  
**To:** chrisharris@harrispharmallp.com  
**Subject:** Information

Chris,

The required paperwork is with FedEx, delivery to you is expected to be Tuesday morning. FedEx tracking number is 8736-9099-4607.

The packet will include copies of our Customs Bond, please provide this information to FedEx as part of the shipping process.

Thank you.

**Frakes, Scott**

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**From:** chrisharris@harrispharmallp.com  
**Sent:** Friday, July 31, 2015 11:56 AM  
**To:** Frakes, Scott  
**Subject:** Re: Information

Thanks. Will keep you posted

Sent from my HTC One

----- Reply message -----

**From:** "Frakes, Scott" <[scott.frakes@nebraska.gov](mailto:scott.frakes@nebraska.gov)>  
**To:** "[chrisharris@harrispharmallp.com](mailto:chrisharris@harrispharmallp.com)" <[chrisharris@harrispharmallp.com](mailto:chrisharris@harrispharmallp.com)>  
**Subject:** Information  
**Date:** Fri, Jul 31, 2015 9:56 PM

Chris,

The required paperwork is with FedEx, delivery to you is expected to be Tuesday morning. FedEx tracking number is 8736-9099-4607.

The packet will include copies of our Customs Bond, please provide this information to FedEx as part of the shipping process.

Thank you.



# FedEx International Air Waybill

Express For FedEx services worldwide

1 From Please print and press hard

Date 7/24/95 Sender's FedEx Account Number 21 8128 2 1230

Sender's Name Scott Frakes Phone 902-479-5710

Company NE Dept. of Correctional Services

Address P O Box 94661

Address

City Lincoln State NE

2 Country United States ZIP 68509

To Recipient's Name Chris Harris Phone

Company Harris Pharma

Address Level 8 RDB Boulevard Plot K1 Sect V

Address

City Salt Lake City State KolKata

Country Y00091 West Bengal, India ZIP

Recipients Tax ID Number for Customs Purposes

3 Shipment Information ☐ For EU only: Tick here if goods are not in free circulation and provide C.I.

Total Packages 1 Total Weight 1 lbs 0 kg 0 gms

Contents Description Documents Harmonized Code USA Country of Manufacture USA Value for Customs US\$0.00

Has EBI been filed in AES? ☒ No EBI required, was EBI or less per S.A. B Number. ☐ Yes EBI required, enter EBI number. ☐ No EBI required, enter EBI number. ☐ Yes - Enter AES proof of filing number.

Total Value for Customs (Special Customs) \$1.00

4 Express Package Service

☒ FedEx Intl. Priority ☐ FedEx Intl. First

☐ ☐ ☐ FedEx Intl. Economy

5 Packaging

☒ FedEx Envelope ☐ FedEx Pak ☐ FedEx Tube

☐ Other ☐ FedEx 10kg Box ☐ FedEx 25kg Box

6 Special Handling

☐ HOLD at FedEx Location ☐ SAT/NOV Delivery

7 Payment

Bill transportation charges for: ☐ Sender Fed. Acct. No. ☐ Recipient ☐ Third Party ☒ Credit Card ☐ Cash ☐ Check/Cheque

8 Your Internal Billing Reference

OPTIONAL

9 Required Signature

Use of this Air Waybill constitutes your agreement to the Conditions of Contract on the back of this Air Waybill, and you represent that the shipper does not require a U.S. State Department License to export dangerous goods. Certain international treaties, including the Warsaw Convention, may apply to this shipment and limit your liability for damage, loss, or delay as described in the Conditions of Contract.

Signature Chris Harris

This is not a declaration to deliver this shipment without a recipient signature.

For Completion Instructions, see back of fifth page.

FedEx Tracking Number 8736 9099 4607

Form ID No. 0402

Ship and track packages at [fedex.com](http://fedex.com)

Questions? Go to our Web site at [fedex.com](http://fedex.com).

Or in the U.S., call 1.800.GoFedEx 1.800.463.3333. Outside the U.S., call your local FedEx office.

Not all services and options are available to all destinations. Dangerous goods cannot be shipped using this Air Waybill.

RETAIN THIS COPY FOR YOUR RECORDS.





4747 OLD CHENEY RD  
Lincoln, NE 68516

Location:	LNKK
Device ID:	LNKK-POS2
Employee:	1885626
Transaction:	860136900253

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INTL PRIORITY		
873690994607	0.20 lb (S)	66.77

Shipment subtotal:	66.77
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Total Due:	66.77
------------	-------

Check:	66.77
15684	

M = Weight entered manually  
S = Weight read from scale  
T = Taxable item

Subject to additional charges. See FedEx Service Guide  
at [fedex.com](http://fedex.com) for details. All merchandise sales final.

DEPARTMENT OF HOMELAND SECURITY  
U.S. Customs and Border Protection

OMB No. 1851-0050 Exp. 05/31/2017

## CUSTOMS BOND

19 CFR Part 113

CBP USE ONLY	BOND NUMBER (Assigned by CBP)  15C000XOP
--------------------	--

Broker Filer Code: N/A

Surety Reference Number: 14738192

In order to secure payment of any duty, tax or charge and compliance with law or regulation as a result of activity covered by any condition referenced below, we, the below name principal(s) and surety(ies), bind ourselves to the United States in the amount or amounts, as set forth below.	Execution Date 07/30/2015
---	------------------------------

## SECTION I - Select Single Transaction OR Continuous Bond (not both) and fill in the applicable blank spaces.

<input type="checkbox"/> SINGLE TRANSACTION BOND	Identification of transaction secured by this bond (e.g., entry number, seizure number, etc.)	Transaction Date	Port Code
<input checked="" type="checkbox"/> CONTINUOUS BOND	Effective Date 07/30/2015	This bond remains in force for one year beginning with the effective date and for each succeeding annual period, or until terminated. This bond constitutes a separate bond for each period in the amounts listed below for liabilities that accrue in each period. The intention to terminate this bond must be conveyed within the period and manner prescribed in the CBP Regulations.	

## SECTION II - This bond includes the following agreements. Check one box only. (Except 3a may be checked independently or with 3.)

Activity Code	Activity Name and CBP Regulations in which conditions codified	Limit of Liability	Activity Code	Activity Name and CBP Regulations in which conditions codified	Limit of Liability
<input checked="" type="checkbox"/> 1	Importer or broker ..... §113.62	\$50,000	<input type="checkbox"/> 0	Detection of Copyrighted Material ..... §113.70 -Single Transaction Only-	
<input type="checkbox"/> 1a	Drawback Payments Refunds ..... §113.65		<input type="checkbox"/> 0	Neutral ..... §113.71 -Single Transaction Only-	
<input type="checkbox"/> 2	Custodian of Bonded Merchandise ..... §113.63 (Includes bonded carriers, freight forwarders, cartmen and lightermen, all classes of warehouses, container station operators) -Continuous Bond Only-		<input type="checkbox"/> 40	Court Costs for Confirmed Goods ..... §113.72 -Single Transaction Only-	
<input type="checkbox"/> 3	International Commerce ..... §113.64		<input type="checkbox"/> 41	Airport Security Bonds ..... Part 113 App A	
<input type="checkbox"/> 3a	Instruments of International Traffic ..... §113.65 -Continuous Bond Only-		<input type="checkbox"/> 42	International Trade Commission (ITC) Exclusion Bond ..... Part 113 App B	
<input type="checkbox"/> 4	Foreign Trade Zone ..... §113.73 -Continuous Bond Only-		<input type="checkbox"/> 43	In-Bond Export Consolidation Bond	
<input type="checkbox"/> 5	Tariff Classifications ..... §113.62		<input type="checkbox"/> 45	Intellectual Property Rights (IPR) ..... Part 113 App D	
<input type="checkbox"/> 6	Wool & Fur Products Labeling Acts Importation ..... §113.62 -Single Transaction Only-		<input type="checkbox"/> 46	Importer Security Filing (ISF) ..... Part 113 App D	
<input type="checkbox"/> 7	Bulk of Lading ..... §113.60 -Single Transaction Only-		<input type="checkbox"/> 47	Marine Terminal Operator ..... Continuous Bond Only-	

## PRINCIPAL

Name and Physical Address (including legal description and state of incorporation) NEBRASKA DEPT OF CORRECTIONAL SERVICES (A State/Local Government Entity) FOLSOM AND WEST PROSPECTOR PLACE 4201 14TH SOUTH STREET LINCOLN, NE 68502	By checking the box you agree that you have a seal in accordance with 19 CFR 113.25 CBP Identification Number: 47-049123300	AFFIX SEAL or Check Box  <input type="checkbox"/> Check Box
	Signature Electronically submitted to CBP on 07/30/2015	

Principal and surety agree that any charge against the bond under any of the listed names is as though it was made by the principal(s). Principal and surety agree that they are bound to the same extent as if they executed a separate bond covering each set of conditions incorporated by reference to the CBP regulations into this bond. If the surety fails to appoint an agent under Title 31, United States Code, Section 9306, surety consents to service on the Clerk of any United States District Court or the U.S. Court of International Trade, where suit is brought on this bond. That clerk is to send notice of the service to the surety at:

## Mailing Address Requested by the Surety

American Alternative Insurance Corporation  
c/o Roanoke Group  
1476 E. Woodfield Road, Suite 500  
Schaumburg, IL 60173

## SURETY

Name and Physical Address (including legal description and state of incorporation) American Alternative Insurance Corporation (A DELAWARE CORPORATION) 555 COLLEGE ROAD EAST PRINCETON, NJ 08540-6618	Surety Number 036	Agent ID Number	<input type="checkbox"/> Check Box
	Signature Electronically submitted to CBP on 07/30/2015  Attorney-In-Fact		





## Aon Surety- Specialty Customs Bond Application

Entity Requesting Bond:	Nebraska Department of Correctional Services	Date:	07/28/2015
Legal Name:	Nebraska Department of Correctional Services	State of Inc.	
Address:	P. O. Box 94661	Importer # (FEIN):	47-0491233
City:	Lincoln	State:	NE
Zip:	68509	Customs Assigned #:	DEA-RN0414184

<input checked="" type="checkbox"/> Activity 1-Importer	<input type="checkbox"/> Activity 1A-Drawback	<input type="checkbox"/> Activity 2-Custodian of Bonded Merchandise
<input type="checkbox"/> Activity 3-International Carrier	<input type="checkbox"/> Activity 3A-Instruments of International Traffic	
<input type="checkbox"/> Activity 4-Foreign Trade Zone	<input type="checkbox"/> Other - Activity	

Requested Bond Amount	50,000	Imported Commodity (Activity 1 Only)	Apparel & accessories
Are goods are subject to anti-dumping or countervailing duty?	<input type="checkbox"/> Y <input type="checkbox"/> N	Is there a current bond inforce?	<input type="checkbox"/> Y <input type="checkbox"/> N

### Type of Business

<input checked="" type="checkbox"/> Importer	<input type="checkbox"/> Warehousemen	<input type="checkbox"/> Trucking/Common Carrier	<input type="checkbox"/> Ocean Common Carrier	<input type="checkbox"/> Air Carrier	<input type="checkbox"/> Other
--	---------------------------------------	--	---	--------------------------------------	--------------------------------

Co-Principals	U.S. Customs permits the inclusion of more than one legal entity (co-principals) on the bond. These entities must be of the same legal status and must be legally related (i.e. subsidiaries). Please be aware that co-principals are jointly liable to U.S. Customs for all obligations secured under the bond. To avoid joint liability, separate bonds should be filed. (Additional names may be listed separately).		
	Co-Principal's Name	IRS	Type of Organization (Corp, LLC, Partnership, ect.)
			How Related (Subsidiary, etc.)

Tradenames and Unincorporated Divisions	Tradenames, divisions, other names under which you import, or different locations may be listed as additional users on the bond. Users are identified by using their corporate IRS number with separate suffixes. Suffixes can be any two numbers or letters other than I, O, Z, or 00. (Additional names may be listed separately).		
	Name	IRS # with Suffix	How Related (Subsidiary, etc.)

### Insurance Broker Information

Name:	Aon Risk Services Central, Inc.- Specialty				
Address:	200 E. Randolph Street	City:	Chicago	State:	IL
		Zip:	60601		

Broker Name: (circle one)	Marcia Cesafsky, Chris Troha, Ann Mullins		
Telephone:		E-mail:	

### Contact Information for Bond & Premium Invoice:

Name:	Scott Frakes		
Address:	P. O. Box 94661, Lincoln, NE 68509		
Phone:	402-479-5710	Fax:	402-479-5623
E-mail:	Scott.frakes@nebraska.gov		

Currently participating in Customs Periodic Monthly Statement Program? (Premium Surcharge Applies)	<input type="checkbox"/> YES <input checked="" type="checkbox"/> X <input type="checkbox"/> NO
Is a reconciliation rider needed?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> X <input type="checkbox"/> NO

List all anti-dumping and countervailing duty entries, along with the dollar value:	
Estimated annual import values:	
Estimated annual duties paid:	