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SUPPLEMENTARY INFORMATION: The agenda items include: (1) An overview of the PAC and PAC objectives for new members; (2) a report on the April, 2005 NWFP Monitoring Conference; (3) a Regional Ecosystem Office update; (4) a presentation on the Pacific Northwest Aquatic Monitoring Partnership; (5) an update on the Watershed Progress Report; (6) a presentation on the Six Rivers National Forest Business Plan; (7) CCPAC and agency updates; and (8) a discussion of desired topics and dates for upcoming meetings and field trips. The meeting is open to the public. Public input opportunity will be provided and individuals will have the opportunity to address the committee at that time.

Dated: December 6, 2005.

Jeff Walter,

Forest Supervisor.

[FR Doc. 05-23952 Filed 12-12-05; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF AGRICULTURE

Forest Service

RIN 0596-AC34

National Environmental Policy Act Documentation Needed for Oil and Gas Exploration and Development Activities (Categorical Exclusion)

AGENCY: Forest Service, USDA.

ACTION: Notice of proposed directive; request for comment.

SUMMARY: The Forest Service is proposing to amend its directives in Forest Service Handbook 1909.15, Chapter 30, which describes categorical exclusions, that is, categories of actions that will not result in significant impacts on the environment and, therefore, normally do not require further analysis in either an environmental impact assessment or an environmental impact statement. The proposed amendment would add a new categorical exclusion in section 31.2 to facilitate the implementation of limited oil and gas projects on leases on National Forest System lands that do not have significant effects on the human environment. This categorical exclusion will not apply where there are extraordinary circumstances, such as adverse effects on threatened and endangered species or their designated critical habitat, wilderness areas, inventoried roadless areas, wetlands, and archeological or historic sites.

Public comment is invited and will be considered in development of the final directive.

DATES: Comments must be received in writing by February 13, 2005.

ADDRESSES: Send written comments via the U.S. Postal Service to: Oil and Gas CatEx Proposed Directive, C/O Content Analysis Group, P.O. Box 2000, Bountiful, UT 84011-2000, or by facsimile to (801) 397-2601, or by e-mail to ogcatex@contentanalysisgroup.com. If comments are sent via facsimile or e-mail, the public is asked not to submit duplicate written comments. Please confine comments to issues pertinent to the proposed directive and explain the reasons for any recommended changes.

All comments, including names, addresses and other contact information when provided, are placed in the record and are available for public review and copying at 5500 West Amelia Earhart Drive, Suite 100, Salt Lake City, Utah, during regular business hours (8:30 a.m. to 4:30 p.m.), Monday through Friday, except holidays. Those wishing to inspect comments are encouraged to call in advance to, Jody Sutton, (801) 517-1032 to facilitate access to the building.

FOR FURTHER INFORMATION CONTACT: Reta Laford, Ecosystem Management Staff, (202) 205-2936, or Mike Greeley, Minerals and Geology Staff, (703) 605-4785, Forest Service, USDA.

SUPPLEMENTARY INFORMATION:

Need for the Proposed Direction

The Council on Environmental Quality (CEQ) regulations at 40 CFR 1507.3 provide that agencies, after notice and comment, may adopt categories of actions that do not have significant impacts on the human environment and, consequently, do not require preparation of an environmental assessment (EA) or an environmental impact statement (EIS). Current Forest Service procedures for complying with and implementing the National Environmental Policy Act (NEPA) are set out in Forest Service Handbook (FSH) 1909.15, Chapter 30. This chapter lists the categories of actions that do not require preparation of an EA or an EIS by the Forest Service. The Forest Service calls these categories of action "categorical exclusions" (CE). The agency is proposing a new CE for certain limited oil and gas exploration and development activities.

Oil and gas development is widespread throughout the National Forest System (NFS). With the enactment of the Federal Onshore Oil and Gas Leasing Reform Act of 1987, 30 U.S.C. 226 ("FOOGLRA") both the

Secretary of the Interior (acting through the Bureau of Land Management) and the Secretary of Agriculture (acting through the Forest Service) have authority and responsibility regarding oil and gas leases on NFS lands, and both agencies have the authority to determine the stipulations under which leasing will be permitted. 30 U.S.C. 226(h); 43 CFR 3101.7-2(a). FOOGLRA provides that the Forest Service shall regulate all surface disturbing activities relating to oil and gas leasing on NFS lands. 30 U.S.C. 226(g). No permit to drill on NFS lands may be granted without the analysis and approval by the Forest Service of a surface use plan of operations (SUPO) covering proposed surface disturbing activities within the lease area.

The Forest Service has established an incremental decision-making framework for the consideration of oil and gas leasing activities on NFS lands that is set out in 36 CFR 228.102. In general, the various steps undertaken are as follows: (1) Forest Service leasing analysis; (2) Forest Service notification to Bureau of Land Management (BLM) of lands administratively available for leasing; (3) Forest Service review and verification of BLM leasing proposals; (4) BLM assessment of Forest Service conditions of surface occupancy; (5) BLM offers lease; (6) BLM issues lease; (7) Forest Service review and approval of lessee's SUPO; and (8) BLM review and approval of lessee's application for permit to drill (APD). The proposed CE set out in this notice applies exclusively to the Forest Service's review and approval of an applicant's SUPO.

In 2001 President George W. Bush issued Executive Order (E.O.) 13212 to expedite the increased supply and availability of energy to our Nation. E.O. 13212 set forth "For energy-related projects, agencies shall expedite their review of permits or take other actions as necessary to accelerate the completion of such projects, while maintaining safety, public health, and environmental protections. The agencies shall take such actions to the extent permitted by law and regulation, and where appropriate." In response, the National Energy Policy and the Forest Service Energy Implementation Plan were developed. These two initiatives call for streamlining the processing of APDs and other energy related permits in an environmentally sound manner.

On August 8th 2005, President George W. Bush signed the Energy Policy Act of 2005 into law. Section 390 of the Energy Policy Act of 2005 establishes categorical exclusions under NEPA that apply to five categories of oil and gas exploration and development activities

conducted pursuant to the Mineral Leasing Act (30 U.S.C. et seq., as amended) on Federal oil and gas leases. Section 390 took effect on the date of enactment, August 8, 2005. The categorical exclusion proposed in this notice does not overlap or duplicate the activities proposed in section 390 of the Energy Policy Act of 2005. They are separate and independent of the provisions of section 390 of the Energy Policy Act. Taken in concert, this CE and the five statutory categories discussed above further the President's goals set forth in Executive Order 13212.

For decades the Forest Service has analyzed and administered SUPO for oil and gas exploration and development on NFS lands. As part of the Forest Service Energy Implementation Plan process, the planning and environmental review process was reviewed by field personnel who indicated that the USFS and BLM land and resource management planning process, leasing process, and SUPO and APD review processes for oil and gas exploration and development frequently caused agency personnel to extend timelines and expend undue energy and funding in order to complete the planning and environmental documentation for minor exploration and/or development projects. The Deputy Chief of the NFS requested field units to monitor oil and gas exploration and development projects that had been analyzed in an EA, and were approved and constructed, or partially constructed, between October 1, 1999 and September 30, 2004. The objective of the review was to determine if surface operations for oil and gas activities approved in site-specific EAs did or did not have cumulatively significant effects on the human environment and therefore could or could not qualify for a CE. The results of this analysis are set out to under "Rationale for the Proposal."

Based on this review and the agency's extensive experience with oil and gas exploration and development activities including the construction of well sites, pipelines and roads and road reconstruction, the Forest Service proposes to add a new CE to its Environmental Policy and Procedures Handbook (FSH 1909.15). This category would appear in section 31.2, Categories of Actions for Which a Project or Case File and Decision Memo Are Required, and would provide a specific, narrow CE for oil and gas exploration and/or development.

Description of the Proposed New Categorical Exclusion

The proposed CE would allow oil and natural gas exploration and/or development activities within a new oil and/or gas field not to exceed a total of: (a) One mile of new road construction; (b) one mile of road reconstruction; (c) three miles of pipeline installation; and (d) four drill sites. A drill site may include more than one well in order to reduce surface disturbance. The category would only apply to activities on NFS lands that are under Federal lease and when there are no extraordinary circumstances. Following is a hypothetical example of how the CE could be applied on NFS land.

A Responsible Official approves the construction of one exploration drill site and .5 miles of road construction within a new field using the proposed CE where no extraordinary circumstances are involved. The exploration well is a "strike" and is capable of production. The Responsible Official could appropriately use the proposed CE to subsequently approve the construction of another exploration drill site, involving .5 miles of road reconstruction and .2 miles of road construction. The second exploration well is also a strike and it is determined that both exploration wells are in the same oil or gas field. The Responsible Official could use the proposed CE when approving development of a drill site involving .5 miles of road reconstruction and .2 miles of road construction in the same field. At this point, 3 drill sites, .9 miles of road construction and one mile of road reconstruction have been approved in the field. If a lessee submits an APD and SUPO for construction of another development drill site and one-half mile of road construction in the same field, the total miles of road construction allowable under the category would be exceeded for the field, the proposed CE could no longer be available for such a proposal, and the direct and cumulative effects of additional field development should be considered in an EA or EIS.

Note that when exploration wells are drilled, they are not yet associated with a particular field. However, if an exploration well is determined to be capable of production, it then can be associated with a field (determined by the BLM) and for purposes of the proposed CE, all exploration activities that occurred within the field and subsequent development activities would be chargeable under the category.

There is potential that new oil and gas fields could be located adjacent to existing developed fields. States

delineate fields, in coordination with the BLM, within their boundaries. Fields are areas consisting two or more producing wells in an oil or gas reservoir or reservoirs related to the same individual geological structural feature. Such reservoirs may be interconnected or separated. In such cases, concerns over identifying environmental effects resulting from activities on the adjacent fields would be addressed through the following two methods. First, before NFS lands are offered for lease, a leasing analysis is conducted that evaluates potential environmental consequences resulting from field development. On NFS Lands, this leasing analysis is conducted by the Forest Service in cooperation with the BLM. Second, an extraordinary circumstances review identified in Forest Service Handbook 1909.15, Chapter 30 would be conducted for a particular leasing proposal implementing the proposed CE. It is the degree of the potential effect of the proposed action on these resource conditions, which determines whether extraordinary circumstances exist.

Rationale for the Proposal

As previously stated, the Deputy Chief for the NFS requested field units to monitor oil and gas exploration and development projects assessed in an EA and approved and constructed, or partially constructed, between October 1, 1999 and September 30, 2004. In response, field units collected data on 73 projects.

The scope of the proposed new category is consistent with the scope of the 73 projects examined in the 2005 review, each of which had no significant environmental effects. The agency believes the level of effects associated with future activities within the proposed new category would also be below the level of significant environmental effects.

In addition to reviewing the 73 oil and gas exploration and development projects a review of the analyses supporting oil and gas leasing was also performed. A sample of land and resource management plans for National Forests and Grasslands and leasing EIS decisions, where future oil and gas field development is anticipated, was reviewed. The review found that when future activities were expected to have a significant environmental effect or would be incompatible with other forest or grassland uses, such areas had been identified as not suitable and exploration or development had been prohibited. Furthermore, the use of best management practices such as class III archeological surveys, or biological

surveys, resulted in avoidance or mitigation as necessary, and contributed to the defined category of oil and gas activities having no significant environmental impacts.

The proposed CE will not apply where there are extraordinary circumstances, such as adverse effects on threatened and endangered species or their designated critical habitat, wilderness areas, inventoried roadless areas, wetlands, and archeological or historic sites.

It is important to note that CEs do not allow a Responsible Official to forgo scoping. The CEQ regulations at 40 CFR 1501.7 define scoping as a process for determining the scope of issues to be addressed and for identifying significant issues to be documented in an EIS. The Forest Service conducts scoping on all proposed actions, including those covered by CEs. Guidance to Forest Service employees in FSH 1909.15, Chapter 10 provides that interested and affected agencies and citizens may be invited to participate in the scoping process and further states in Chapter 11 that in determining whether a proposed action can be categorically excluded, the Responsible Official must consider: (1) The nature of the proposal; (2) preliminary issues; (3) interested and affected agencies, organizations, and individuals, and; (4) the extent of existing documentation. Furthermore CEs do not absolve the Responsible Official from conducting appropriate consultations with Federal and state regulatory agencies such as those required by the Endangered Species Act and the National Historic Preservation Act. Any activities authorized using the proposed CE must meet all applicable Federal, state, and local laws, as well as land and resource management plan standards and guidelines.

Description of the Leasing Process

The Department of the Interior, Bureau of Land Management (BLM), acts as the onshore leasing agent for the federal government. The BLM schedules and conducts competitive bid lease sales, collects the bonus bids and issues leases to the successful bidders. As a land management agency, the Forest Service decides whether or not lands will be available for leasing, and under what conditions (stipulations) the leases will be issued. Forest Service decisions about leasing are made in conjunction with approved forest or grassland and resource management plans, as well as in separate forest-wide or area-specific leasing decisions. Land management plan oil and gas leasing availability decisions are made in compliance with the National Environmental Policy Act

as well as other laws such as the Endangered Species Act and the National Historic Preservation Act, and includes public notice and opportunity for comment. The BLM is an official cooperator in these efforts.

The Energy Policy and Conservation Act (EPCA) directed the BLM, in cooperation with the Forest Service, to summarize Forest Service and BLM plan leasing decisions. In two phases, the highest potential onshore geologic basins were studied. The studies show that for the NFS lands studied 47% are off-limits to any surface exploration or development (due to legal and administrative withdrawal, a "no leasing" decision or a "no surface occupancy" lease), 19% are available to exploration and development under standard lease terms and restrictions, and 34% are subject to additional restrictions beyond the standard lease terms and restrictions for additional protection of other forest or grassland resources or uses. The study shows that oil and gas exploration or development activity is not allowed or is restricted where such activity would have a significant environmental effect or be incompatible with other forest or grasslands uses or management schemes. The screening that occurs at the leasing decision stage contributes significantly to the findings of no significant environmental impacts of the 73 projects studied.

Description of the Process and Best Management Practices for Approving Exploration or Development of a Lease

For oil and gas exploration and development on NFS lands there is an element of overlap in the implementation of Best Management Practices (BMPs) and mitigation measures. There may be additional environmental protections added at each stage. This overlap occurs as environmental protections are added at multiple scales of implementation, including: (1) During the land management planning process the agency considers the overall multiple uses of its renewable resources while maintaining the long-term productivity of the land. Resources are managed so they are utilized in a combination that will best meet the needs of the American people and maintain or restore the health of the land to provide a sustainable flow of uses, benefits, products, services and visitor opportunities; (2) The leasing process developed through the land management planning process or separately evaluates those areas that will be: (a) open to development subject to the terms and conditions of the

standard oil and gas lease form; (b) open to development but subject to constraints that will require the use of lease stipulations; and (c) closed to leasing, distinguishing between those areas that are being closed through exercise of management direction, and those closed by law, regulation, etc.; (3) Individual NEPA analysis on the SUPO, a component of the APDs, includes site-specific BMP and mitigations measures, and; (4) Implementation monitoring then occurs and informs future development of BMPs, mitigation measures or standard stipulations.

For the 19% of the NFS lands subject to standard lease terms (as well as 34% with lease restrictions), a permit must be obtained and best management practices followed. Federal oil and gas leases have extensive requirements for environmental protection. Oil and gas exploration and development must comply with the Secretary of Agriculture's rules and regulations for use and occupancy of NFS lands and with additional environmental protections developed specifically for oil and gas exploration and development in Forest Service regulations 36 CFR part 228 subpart E, BLM regulations 43 CFR part 3100, and Onshore Oil and Gas Orders. For example, under Forest Service regulations 36 CFR 228.108(d) operators are required to report findings of cultural and historical resources to the authorized Forest officer immediately. Under BLM regulations 43 CFR part 3100 environmental protection is guided, in part, through the requirements of surety bonding required to be submitted by operators. BLM Onshore Oil and Gas Order #1, which has been adopted by the Forest Service, furthers these environmental protection measures by requiring an on-site review of every proposed ADP for the purpose of identifying resource concerns.

Oil and gas exploration and development must also be consistent with the land management plan direction (forest or grassland land management plans) including any current and applicable standards and guidelines developed under the 1982 planning rule and continuing under the 2005 planning rule.

Lessees are required to conduct operations in a manner that minimizes adverse impacts to the land, air, and water, to cultural, biological, visual, and other resources through such measures as modification to siting or design of facilities, timing of operations, and specification of interim and final reclamation measures. Current best management practices include site specific historic or cultural, botany and

wildlife surveys. National Pollutant Discharge Elimination System (NPDES) permits must be obtained from the state, and air quality standards met. The review of the 73 projects demonstrated repeatedly that projects are moved, delayed or changed to successfully avoid environmental impacts.

It is the conclusion of the agency that the combination of agency leasing decisions, forest or grassland land management plan standards and guidelines, best management practices, and current laws and regulations reduce the potential environmental effects for certain oil and gas activity to insignificance. The limited scope of the proposed CE leads the agency to conclude that implementation of the proposed category would not result in individually or cumulatively significant effects on the human environment. This proposed CE applies exclusively to the Forest Service's review and approval of an applicant's SUPO and does not eliminate the environmental analysis requirement for the leasing decision.

Regulatory Certifications

Environmental Impact

The proposed revision to Forest Service Handbook 1909.15 would add direction to guide field employees in the USDA Forest Service regarding requirements for NEPA documentation for particular oil and gas exploration and development activities. The Council on Environmental Quality does not direct agencies to prepare a NEPA analysis or document before establishing agency procedures that supplement the CEQ regulations for implementing NEPA. Agencies are required to adopt NEPA procedures that establish specific criteria for, and identification of, three classes of actions: Those that require preparation of an EIS; those that require preparation of an EA; and those that are categorically excluded from further NEPA review (40 CFR 1507.3(b)). Categorical exclusions are one part of those agency procedures, and therefore establishing categorical exclusions does not require preparation of a NEPA analysis or document. Agency NEPA procedures are internal procedural guidance to assist agencies in the fulfillment of agency responsibilities under NEPA, but are not the agency's final determination of what level of NEPA analysis is required for a particular proposed action. The requirements for establishing agency NEPA procedures are set forth at 40 CFR 1505.1 and 1507.3. The determination that establishing categorical exclusions does not require NEPA analysis and

documentation has been upheld in *Heartwood, Inc. v. U.S. Forest Service*, 73 F. Supp. 2d 962, 972-73 (S.D. Ill. 1999), aff'd, 230 F. 3d 947, 954-55 (7th Cir. 2000).

Regulatory Impact

This proposed interim directive has been reviewed under USDA procedures and Executive Order 12866 on Regulatory Planning and Review. The Office of Management and Budget (OMB) has determined that this is a significant regulatory action as defined by Executive Order 12866. Accordingly, OMB has reviewed this proposed interim directive.

The primary economic effects of the proposed CE for oil and gas leases are changes in costs of conducting environmental analysis and preparing NEPA documents. The proposed categorical exclusion would reduce agency costs by reducing the documentation requirements for certain oil and gas exploration and development on NFS land under existing Federal leases.

Effects on local economies and small business entities are expected to be nearly the same using either an EA or CE for oil and gas exploration and development activities. There is potential for an increase in certain oil and gas exploration and development projects and increase in site administration since they would be faster and cheaper to prepare.

Total undiscounted costs for CEs were estimated at \$8 million with an annual average cost of \$0.8 million, while the undiscounted cost for EAs for the same timeframe would be \$48 million with an annual average cost of \$4.8 million. There is an annual average cost saving of \$4 million for the proposed CE. A comparison of the discounted costs also shows the same direction of cost saving for CEs over EAs. An annual average saving of discounted cost of \$3 million for CEs is estimated. This quantitative assessment indicates a cost savings for using CEs for oil and gas exploration and development projects for the agency.

A civil rights impact analysis was prepared for the proposed CE. No potential impacts are identified for groups of people who fall within the scope of Civil Rights legislation or the Executive Order on Environmental Justice (E.O. 12898).

Federalism

The agency has considered this proposed directive under the requirements of Executive Order 13132 issued August 4, 1999 (E.O. 13132), "Federalism." The agency has made an

assessment that the proposed directive conforms with the Federalism principles set out in this Executive order; would not impose any compliance costs on the States; and would not have substantial direct effects on the States, on the relationship between the national government and the States, nor on the distribution of power and responsibilities among the various levels of government. Therefore, the agency concludes that the proposed directive does not have Federalism implications.

Consultation and Coordination With Indian Tribal Governments

This proposed directive has been reviewed under E.O. 13175 of November 6, 2000, "Consultation and Coordination With Indian Tribal Governments." This proposed directive does not have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. Nor does this proposed directive impose substantial direct compliance costs on Indian tribal governments or preempt tribal law. Therefore, it has been determined that this proposed directive does not have tribal implications requiring advance consultation with Indian tribes.

No Takings Implications

This proposed directive has been analyzed in accordance with the principles and criteria contained in E.O. 12630 on Governmental Actions and Interference with Constitutionally Protected Property Rights, and it has been determined that the proposed directive does not pose the risk of a taking of Constitutionally protected private property.

Energy Effects

This proposed directive has been reviewed under E.O. 13211 on Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use. It has been determined that this proposed directive does not constitute a significant energy action as defined in the Executive Order.

Controlling Paperwork Burdens on the Public

This proposed directive does not contain any additional recordkeeping or reporting requirements associated with onshore oil and gas exploration and development or other information collection requirements as defined in 5 CFR part 1320. Accordingly, the review

provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and its implementing regulations at 5 CFR part 1320 do not apply.

Dated: December 5, 2005.

Dale N. Bosworth,
Chief.

Text of Proposed Directive

Note: The Forest Service organizes its directive system by alpha-numeric codes and subject headings. Only the section of the FSH 1909.15, Environmental Policy and Procedures Handbook, affected by this proposed directive is included in this notice. Please note, however, that category 15 (para. 16) is reserved. A notice for comment was published for category 16 on January 5, 2005 (70 FR 1062). A final directive for this CE has not been adopted as of the date of publication of this **Federal Register** notice. The complete text of FSH 1909.15, Chapter 30 may be obtained by contacting the individuals listed in **FOR FURTHER INFORMATION CONTACT** or from the Forest Service home page on the World Wide Web at <http://www.fs.fed.us/im/directives/fsh/1909.15/1909.15.30.txt>. The intended audience for this direction is Forest Service employees charged with planning and administering oil and gas exploration and development projects on NFS lands under Federal lease.

FSH 1909.15—Environmental Policy and Procedures Handbook Chapter 30—Categorical Exclusion from Documentation

Add new paragraphs 16 and 17 as follows:

31.2—Categories of Action for Which a Project or Case File and Decision Memo Are Required

Routine, proposed actions within any of the following categories may be excluded from documentation in an EIS or an EA; however, a project or case file is required and the decision to proceed must be documented in a decision memo (sec. 32). As a minimum, the project or case file should include any records prepared, such as: The names of interested and affected people, groups, and agencies contacted; the determination that no extraordinary circumstances exist; a copy of the decision memo (sec. 05); and a list of the people notified of the decision. Maintain a project or case file and prepare a decision memo for any of the categories of actions set forth in section 21.21 through 31.23.

* * * * *

16. [Reserved]

17. Approval of a Surface Use Plan of Operations for oil and natural gas exploration or development activities within a new oil and/or gas field, so long as the approval will not authorize

activities in excess of any of the following:

- One mile of new road construction
- One mile of road reconstruction
- Three miles of pipeline installation
- Four drill sites.

[FR Doc. 05-23983 Filed 12-12-05; 8:45 am]

BILLING CODE 3410-11-P

AMERICAN BATTLE MONUMENTS COMMISSION

SES Performance Review Board

AGENCY: American Battle Monuments Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given of the appointment of members of the ABMC Performance Review Board.

FOR FURTHER INFORMATION CONTACT: Theodore Gloukhoff, Director of Personnel and Administration, American Battle Monuments Commission, Courthouse Plaza II, Suite 500, 2300 Clarendon Boulevard, Arlington, Virginia, 22201-3367, Telephone Number: (703) 696-6908. American Battle Monuments Commission SES Performance Review Board Mr. Gerald W. Barnes, Chief, Operations Division, U.S. Army Corps of Engineers Mr. Donald L. Basham, Chief, Engineering & Construction, U.S. Army Corps of Engineers Mr. Stephen Coakley, Director of Resource Management, US Army Corps of Engineers

Theodore Gloukhoff,

Director, Personnel and Administration.

[FR Doc. E5-7257 Filed 12-12-05; 8:45 am]

BILLING CODE 6120-01-P

DEPARTMENT OF COMMERCE

International Trade Administration

A-533-810

Stainless Steel Bar from India: Notice of Court Decision Not in Harmony and Continuation of Suspension of Liquidation

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

SUMMARY: On October 20, 2005, in *Slater Steels Corp. v. United States*, Consol. Court No. 02-00551, Slip Op. 05-137 (CIT October 20, 2005) (“*Slater III*”), a lawsuit challenging the Department of Commerce’s (“the Department”) *Notice of Amended Final Results of Antidumping Duty Administrative*

Review: Stainless Steel Bar from India, 67 FR 53336 (August 15, 2002) (“*Final Results*”) and the accompanying Issues and Decision Memorandum (July 5, 2002) (“*Decision Memorandum*”), the Court of International Trade (“CIT”) affirmed the Department’s third remand determination and entered a judgment order. In the remand determination, the Department did not collapse Viraj Alloys Limited (“VAL”) with Viraj Impoexpo Limited (“VIL”) and Viraj Forgings Limited (“VFL”). The Department calculated an individual antidumping duty margin for VIL/VFL. The Department did not calculate an individual antidumping duty margin for VAL because it did not export the subject merchandise to the United States during the period of review. The resulting antidumping duty margin for VIL/VFL is 0.84 percent.

Consistent with the decision of the U.S. Court of Appeals for the Federal Circuit (“Federal Circuit”) in *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (“*Timken*”), the Department will continue to order the suspension of liquidation of the subject merchandise until there is a “conclusive” decision in this case. If the case is not appealed, or if it is affirmed on appeal, the Department will instruct the U.S. Customs and Border Protection (“CBP”) to liquidate all relevant entries of subject merchandise for VIL/VFL.

EFFECTIVE DATE: October 30, 2005.

FOR FURTHER INFORMATION CONTACT: Steve Williams, AD/CVD Enforcement Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4619.

SUPPLEMENTARY INFORMATION:

Background

In the underlying administrative review covering the period February 1, 2000, though January 31, 2001, the Department collapsed VAL, VIL, and VFL pursuant to 19 USC § 1677(33) and 19 CFR § 351.401(f) (2000). See *Final Results*; see also *Decision Memorandum* at Comment 1. As a collapsed entity, VAL/VIL/VFL received a *de minimis* dumping margin.

Based upon the record evidence, the Department found that VAL, VIL, and VFL “meet the regulations’ collapsing requirements.” *Decision Memorandum* at Comment 1. First, the Department found that “VAL and VIL can produce subject merchandise (*i.e.*, similar or identical products) and can continue to do so, independently or under existing leasing agreements, without substantial