This initiation, preliminary results of review and notice are in accordance with section 751(b) of the Act, as amended (19 U.S.C. 1675(b)), and 19 CFR 353.22(f)(4).

Dated: March 18,1997.

**Robert S. LaRussa,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 97–7588 Filed 3–25–97; 8:45 am]

**BILLING CODE 3510–DS–P**

**[A–433–807]**

## Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Open-End Spun Rayon Singles Yarn From Austria

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

**EFFECTIVE DATES:** March 26, 1997.

**FOR FURTHER INFORMATION CONTACT:** Robert Copyak or Russell Morris, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–2786.

### The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act'') are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Rounds Agreements Act (''URAA'').

### Preliminary Determination

We preliminarily determine that open-end spun rayon singles yarn from Austria is being, or is likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the ''Suspension of Liquidation'' section of this notice.

### Case History

Since the initiation of this investigation (Notice of Initiation of Antidumping Duty Investigations: Open-End Spun Rayon Singles Yarn from Austria (61 FR 48472, September 13, 1996)), the following events have occurred. On October 4, 1996, the United States International Trade Commission (''ITC'') issued an affirmative preliminary injury determination in this case (see ITC Investigation No. 731–TA–751; 61 FR 53760, October 15, 1996).

On October 4, 1996, the Department issued an antidumping duty questionnaire to the following companies identified by petitioners as possible exporters of the subject merchandise: Linz Textil GmbH (Linz) and G. Borckenstein und Sohn A.G. (Borckenstein). The questionnaire is divided into four sections. Section A requests general information concerning a company's corporate structure and business practices, the merchandise under investigation that it sells, and the sales of the merchandise in all of its markets. Sections B and C request home market sales listings and U.S. sales listings, respectively. Section D requests information on the cost of production (''COP'') of the foreign like product and constructed value (''CV'') of the subject merchandise.

Borckenstein submitted its response to section A of the questionnaire on November 8, 1996 and to sections B and C on December 3, 1996. As a result of our analysis of Borckenstein's submissions to our original questionnaire, we determined that we required additional information as well as clarification of the information submitted in the responses, and thus we issued a supplemental request for information on December 19, 1996, and requests for additional supplemental information on January 29, 1997. We received the responses to these requests on January 9, 1997, and February 6, 1997 respectively.

Linz submitted its questionnaire response to section A on October 25, 1996 and sections B and C on November 26, 1996. As a result of our analysis of Linz's response to our original questionnaire, we determined that we required additional information as well as clarification of the information submitted in the responses. We issued a supplemental request for information on December 12, 1996 and requests for additional supplemental information on January 29, 1997 and February 10, 1997. We received responses to these requests on January 6, 1997, and February 6 and 24, 1997, respectively.

Pursuant to section 733(c)(1)(B) of the Act, as amended, we postponed the date of the preliminary determination of whether sales of open-end spun rayon singles yarn from Austria have been made at less than fair value until not later than March 18, 1997 (see 62 FR 3003, January 21, 1997). We postponed the preliminary determination because this investigation is extraordinarily complicated, and because of the novel legal and methodological issues in this investigation.

In their questionnaire responses to Section A, both respondents argued that particular market conditions of this case render the home market non-viable as a comparison market. Borckenstein argued that because there is no demand in the home market for all the same yarn counts which it sells in the United States, a third country market, Italy, is a more appropriate comparison market. Borckenstein also argued that a majority of its sales in the home market were of black rayon yarn which is generally a higher-cost, higher-priced product compared to the raw white product sold in the United States. Linz also argued that because there is no demand in the home market for the same yarn counts that Linz sells in the United States, a third country market, France, is the more appropriate comparison market. Linz also noted that French sales are more appropriate as the comparison market for U.S. sales because the customers are similar, the yarns are used in a similar fashion, there are similar quantities of sales, and similar channels and methods of distribution.

On November 14, 1996, we determined that the home market was viable for each of the respondents. Under section 773(a)(1) of the Act, the Department normally considers sales in the home market to be of sufficient quantity if they represent five percent of the aggregate quantity of sales of the subject merchandise in the United States. Both the home market sales of Borckenstein and Linz met that requirement. If the sales in the home market met the five percent requirement, the Department will only resort to a third country market when unusual situations renders the home market inappropriate. The fact that the home market may not have identical sales to compare to the sales of the subject merchandise in the United States is not an unusual situation and thus does not render the home market inappropriate. (For further explanation, see the memoranda from Barbara E. Tillman, Director, Office of CVD/AD Enforcement VI, Import Administration dated November 14, 1996, (public version) on file in the Central Records Unit, Room B–099 of the Department of Commerce.)

On December 10, 1996, petitioner objected to the use of date of invoice as the date of sale. Petitioner argued that given the actual sales processes of both respondents, the appropriate date of sale is the date of contract and not the date on which the sale is invoiced. Petitioner noted that there are no changes in the basic terms of each sale after the negotiation of the sales contract, and there is a significant lag time between the date of the sales contract and the date of the invoice. After a careful review of the petitioner's comments and the method by which sales are made in

both the home market and U.S. market by both Borckenstein and Linz, we determined that the date of invoice is the appropriate date of sale in this investigation.

In the proposed regulations (61 FR 7308), section 351.401(i) states that the Department will normally use the date of invoice, as recorded in the exporter's or producer's records kept in the ordinary course of business, as the date of sale. On March 29, 1996, the change in the date of sale methodology specified in the proposed regulations was implemented as policy by the Department for all investigations initiated after February 1, 1996, and for all reviews initiated after April 1, 1996. Therefore, for purposes of deciding the appropriate date of sale for this investigation, the new date of invoice policy is to be used.

This new policy still provides the Department with flexibility in situations involving certain long-term contracts or situations in which there is an exceptionally long lag time between date of invoice and date of shipment. Our review of the sales processes of both Borckenstein and Linz indicate that sales are made using short-term contracts. We also found that there is little lag time between the date of shipment and the date of invoice. Also, there is no other circumstance present to warrant making an exception to the general rule of using date of invoice as the date of sale for both companies for purposes of this investigation. Therefore, we determined that the date of invoice used by both Borckenstein and Linz is the appropriate date of sale for both companies. (For further information, see the memoranda from Barbara E. Tillman dated February 24, 1996, (public versions) on file in the Central Records Unit, Room B–099 of the Department of Commerce.)

On December 12, 1996, the petitioner alleged that both Borckenstein and Linz had made sales in the home market at prices that were below the cost of production, pursuant to section 773(b) of the Act. After analyzing the petitioner's allegation, the Department determined that there were reasonable grounds to believe or suspect that home market sales had been made by Linz at prices below Linz's cost of production. Therefore, on January 17, 1997, the Department initiated a cost of production (COP) investigation of Linz for sales-below-cost. (See, memorandum from Barbara E. Tillman dated January 17, 1997, (public version) on file in the Central Records Unit, Room B–099 of the Department of Commerce.) The Department declined to initiate a cost of production investigation of Borckenstein. See, *Id*.

On January 23, 1997, petitioner submitted comments stating that the Department made clerical errors in its determination that there was no reason to believe or suspect that Borckenstein made sales in the home market below COP. We reviewed petitioner's comments and determined that additional adjustments were warranted. Based on these additional adjustments, we determined that there were reasonable grounds to believe or suspect that home market sales had been made by Borckenstein at prices below Borckenstein's COP. Therefore, on March 12, 1997, we initiated a COP investigation of Borckenstein. (See, memorandum from Barbara E. Tillman dated March 12, 1997, (public version) on file in the Central Records Unit, Room B–099 of the Department of Commerce.) Our final determination will include a COP analysis of Borckenstein's home market sales.

As a result of the Department's cost of production investigation, the Department requested that Linz answer Section D of the original questionnaire; Linz submitted its response to section D of the questionnaire on February 18, 1997. We determined that we required additional information as well as clarification of the information provided in this response, and thus we issued a supplemental questionnaire on February 24, 1997. We received a response to this request on March 3, 1997. This preliminary determination includes a COP analysis of Linz's home market sales.

**Postponement of Final Determination and Extension of Provisional Measures**

Pursuant to section 735(a)(2)(A) of the Act, on March 14 and 17, 1997, Linz and Borckenstein requested that in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until not later than 135 days after the publication of an affirmative preliminary determination in the **Federal Register**. In accordance with 19 CFR 353.20(b) (1995), inasmuch as our preliminary determination is affirmative, Borckenstein and Linz account for a significant proportion of exports of the subject merchandise, and we are not aware of the existence of any compelling reasons for denying this request, we are granting the request and postponing the final determination. Suspension of liquidation will be extended accordingly. See, Preliminary Determination of Sales at Less Than Fair Value: Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled from Japan, 61 FR 8029 (March 1, 1996).

**Scope of Investigation**

The product covered by this investigation is open-end spun singles yarn containing 85% or more rayon staple fiber. Such yarn is classified under subheading 5510.11.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and for Customs purposes, our written description of the scope of this investigation is dispositive.

**Period of Investigation**

The period of investigation (POI) is July 1, 1995 through June 30, 1996.

**Fair Value Comparisons**

To determine whether sales of the subject merchandise by respondents to the United States were made at less than fair value, we compared the Export Price (EP) to the Normal Value (NV), described in the ''Export Price'' and ''Normal Value'' sections of notice. In accordance with section 777A(d)(1)(A)(i), we compared the weighted average EPs to weighted-average NVs during the POI. In determining averaging groups for comparison purposes, we considered the appropriateness of such factors as physical characteristics and level of trade.

*(i) Physical Characteristics*

In accordance with section 771(16) of the Act, we considered all products covered by the description in the ''Scope of Investigation'' section of this notice, produced in Austria by the respondents and sold in the home market during the POI, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the most similar foreign like product on the basis of the characteristics listed in the Department's antidumping questionnaire. In making the product comparisons, we relied on the following criteria (listed in order of preference): weight, percentage of rayon fiber, color, denier, finish, and luster. All comparisons were based on the same grade of yarn. (For further explanation, see the memorandum from Barbara E. Tillman dated September 23, 1996, on file in the Central Records Unit, Room B–099 of the Department of Commerce.)

**(ii) Level of Trade**

Neither Borckenstein nor Linz claimed a difference in level of trade. Based upon our review of the responses submitted by each of the companies, we determine that each company performed essentially the same selling activities for all reported home market and U.S. sales. Accordingly, we find that no level of trade differences exist between any sales in either the home market or U.S. market for either company. Therefore, all price comparisons are at the same level of trade and an adjustment pursuant to section 773(a)(7)(A) is unwarranted.

**Export Price**

We calculated EP, in accordance with subsections 772(a) and (c) of the Act, for each of the respondents, where the subject merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation and use of constructed export price (CEP) was not otherwise warranted based on the facts of record.

We made company-specific adjustments as follows:

*1. Borckenstein*

For Borckenstein, we calculated EP based on packed, CIF, U.S. port prices to an unaffiliated customer in the United States. Where appropriate, we made deductions from the starting price (gross unit price) for international freight (which included freight from the plant to port of export and ocean freight) and marine insurance, in accordance with section 772(c)(2)(A). We also made a deduction, where appropriate, for rebates that had been reported as commissions by the respondent. We reclassified the commissions as rebates because the commission agent is affiliated with the U.S. customer.

We have preliminarily rejected petitioner's request to use CEP because we do not find the record to indicate that the sole U.S. importer and Borckenstein are affiliated parties. The petitioner alleged Borckenstein and its U.S. importer were related because both parties had entered into a joint venture to establish a production facility in the United States and because of a close supplier relationship. Pursuant to section 771(33) of the Act, we reviewed Borckenstein's relationship with its U.S. importer and have determined, subject to verification, that petitioner's claim is unwarranted. There is no joint venture between Borckenstein and its U.S. importer. In addition, the evidence indicates that there is no affiliation between the two companies.

With respect to petitioner's claim of a close supplier relationship, section 771(33)(G) of the Act provides, *inter alia*, that parties will be considered affiliated when one controls the other. A person controls another person ''if the person is legally or operationally in a position to exercise restraint or direction over the other person.'' The SAA further states that a company may be in a position to exercise restraint or direction through, among other things, ''close supplier relationships in which the supplier or buyer becomes reliant upon the other.'' SAA at 838. However, we find no close supplier relationship to exist between Borckenstein and its U.S. importer. Borckenstein reported in its supplemental response that it negotiated prices with the importer, that the importer is free to purchase rayon yarn from sources other than Borckenstein, that Borckenstein is free to sell to any customer in the United States, and that Borckenstein's sales to its U.S. importer constitute a small percentage of its overall sales. Borckenstein has also stated that there is no exclusive long-term sales contract between itself and its U.S. importer.

In sum, Borckenstein and the U.S. importer have not entered into a joint venture nor does a close supplier relationship exist between the two parties. Therefore, we preliminarily determine the companies are not affiliated. (For further explanation, see the memorandum from Barbara E. Tillman dated March 17, 1997, (public version) on file in the Central Records Unit, Room B–099 of the Department of Commerce.)

*2. Linz*

We calculated EP based on packed, delivered/duty paid and f.o.b. prices to unaffiliated customers in the United States. Where appropriate, we made deductions from the starting price (gross unit price) for the following charges: Austrian inland freight (which included brokerage), insurance (which included inland and marine insurance), ocean freight, U.S. duty, clearing charges, bond expenses, and U.S. freight, in accordance with section 772(c)(2).

Linz reported that it did not borrow in U.S. dollars during the POI. In accordance with the Department's policy (see, e.g., Notice of Final Results of Antidumping Duty Administrative Review: Certain Cut-to-Length Carbon Steel Plate from Sweden, (61 FR 15780, April 9, 1996)), we recalculated the U.S. imputed credit expense using the average short-term lending rates published by the Federal Reserve as surrogate U.S. interest rates, for purposes of making the circumstance of sale adjustment for this expense.

**Normal Value**

*1. Borckenstein*

We calculated NV based on packed, delivered prices to unaffiliated customers. Where appropriate, we made deductions from the starting price (gross unit price) for foreign inland freight in accordance with section 773(a)(6)(B)(ii) of the Act and early payment discounts. We also adjusted for differences in circumstances of sale for credit expenses and export credit insurance pursuant to section 773(a)(6)(C)(iii) of the Act. We made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act. In no cases did the difference in merchandise adjustment for the comparison product exceed 20 percent of the U.S. product's cost of manufacturing. In addition, in accordance with section 773(a)(6)(A) and (B) of the Act, we deducted home market packing costs and added U.S. packing costs.

Borckenstein also reported an amount upon which to base an adjustment for differences in quantities sold in the U.S. and Austrian markets, pursuant to 19 CFR 353.55(a). Although Borckenstein claimed that it incurred differing manufacturing costs based on quantities produced, it was unable to demonstrate, based on information on the record, that pricing differences were related to quantity. Our review of the submitted prices indicated that prices did not vary based upon the quantity sold. Accordingly, we have not made the requested adjustment.

As noted in the ''Case History'' section of this notice, we initiated a COP investigation of Borckenstein on March 12, 1997. Because the COP investigation was just recently initiated, we are unable to include a COP analysis of Borckenstein's home market sales in this preliminary determination, however, the final determination will include a COP analysis of Borckenstein's home market sales.

*2. Linz*

a. Cost of Production Analysis

As noted in the ''Case History'' section above, based on the petitioner's allegations, the Department found reasonable grounds to believe or suspect that Linz made sales in the home market at prices below the cost of producing the merchandise. As a result, the Department initiated an investigation to determine whether Linz made home market sales during the POI at prices below the COP in accordance with section 773(b)(1) of the Act.

Before making any fair value comparisons, we conducted the COP analysis described below.

Calculation of COP

We calculated the COP based on the sum of Linz's reported cost of materials and fabrication for the foreign like product, plus amounts for home market general and administrative expenses (''G&A'') and packing costs in accordance with section 773(b)(3) of the Act. Indirect selling expenses are included in the reported G&A expenses.

Test of Home Market Prices

We used the respondent's adjusted weighted-average COP for the POI. We compared the weighted-average COP figures to home market sales of the foreign like product as required under section 773(b) of the Act, in order to determine whether these sales had been made at below-cost prices within an extended period of time in substantial quantities, and whether the below-cost prices would permit recovery of all costs within a reasonable period of time. On a product-specific basis, we compared the COP to the home market prices, less any applicable movement charges and direct selling expenses.

Results of COP Test

In determining whether to disregard home-market sales made at prices below COP, we examine: (1) Whether, within an extended period of time, such sales were made in substantial quantities, and (2) whether such sales were made at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade. Where less than 20 percent (by quantity) of a respondent's sales of a given product were at prices less than the COP, we do not disregard any below-cost sales of that product. Where 20 percent (by quantity) or more of a respondent's sales of a given product during the POI were at prices less than the COP, we determine such sales to have been made in substantial quantities within an extended period; where we determine that such sales were also not made at prices that permit recovery of cost within a reasonable period, we disregard the below-cost sales.

Based on our COP test, we found that less than 20 percent (by quantity) of Linz's sales of a given product were at prices less than COP. Thus, we did not disregard any below-cost sales. Therefore for matching purposes, export prices were compared to home market prices for all comparisons, and constructed value (CV) was not required.

b. Adjustments to Prices

We calculated NV based on packed, delivered prices to unaffiliated customers and prices to affiliated customers where the sales were made at arm's length. Where appropriate, we made deductions from the starting price (gross unit price) for foreign inland freight and inland insurance, in accordance with section 773(a)(6)(B). In addition, where appropriate, we adjusted for differences in circumstances of sale for credit expenses, post-sale warehousing, and commissions, in accordance with section 773(a)(6)(C). Linz did not report home market indirect selling expenses, therefore, we were unable to offset commissions paid in the U.S. with home market indirect selling expenses.

We made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act. In no case did the difference in merchandise adjustment for the comparison product exceed 20 percent of the U.S. product's cost of manufacturing. In addition, in accordance with section 773(a)(6)(A) and (B), we deducted home market packing costs and added U.S. packing costs.

Linz also reported for purposes of the difference in merchandise adjustment, different manufacturing cost for identical yarns based on the machine which produced the yarn. We have recalculated this adjustment based on the weighted-average cost for manufacturing identical yarns for the POI.

Linz also reported an amount upon which to base an adjustment for differences in quantities sold in the U.S. and Austrian markets. Although Linz claimed that it incurred differing costs based on quantities produced, it also stated in its January 6, 1997 supplemental response that the application of its small quantity price adjustment is flexible, made on a case-by-case basis, and is meant only as a guideline. Therefore, Linz was unable to demonstrate, based on information on the record, that pricing differences were related to quantity. Accordingly, we have not made the requested adjustment.

Linz was instructed to provide sales made to affiliated weaving mills in Austria. Sales not made at arm's-length were excluded from our LTFV analysis. To test whether these sales were made at arm's length, we compared the starting prices of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, and packing. We utilized the 99.5 percent benchmark ratio used in the 1993 carbon steel investigations (see below). Where no related customer price ratio could be constructed because identical merchandise was not sold to unrelated customers, we were unable to determine that these sales were made at arm's-length and, therefore, excluded them from our LTFV analysis. See, Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina (58 FR 37062, 37077 (July 9, 1993.))

**Currency Conversion**

We made currency conversions into U.S. dollars based on the official exchange rates in effect on the dates of the U.S. sales. The official rates are based on rates certified by the Federal Reserve Bank.

Section 773A(a) of the Act directs the Department to convert foreign currencies based on the dollar exchange rate in effect on the date of sale of the subject merchandise, except if it is established that a currency transaction on forward markets is directly linked to an export sale. When a company demonstrates that a sale on forward markets is directly linked to a particular export sale in order to minimize its exposure to exchange rate losses, the Department will use the rate of exchange in the forward currency sale agreement.

Section 773A(a) also directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars unless the daily rate involves a fluctuation. It is the Department's practice to find that a fluctuation exists when the daily exchange rate differs from the benchmark rate by 2.25 percent. The benchmark is defined as the moving average of rates for the past 40 business days. When we determine a fluctuation exists, we substitute the benchmark rate for the daily rate, in accordance with established practice. Further, section 773A(b) directs the Department to allow a 60-day adjustment period when a currency has undergone a sustained movement. A sustained movement has occurred when the weekly average of actual daily rates exceeds the weekly average of benchmark rates by more than five percent for eight consecutive weeks. (For an explanation of this method, see Policy Bulletin 96–1: Currency Conversions (61 FR 9434, March 8, 1996.)) Such an adjustment period is required only when a foreign currency is appreciating against the U.S. dollar. The use of an adjustment period was not warranted in this case because the Austrian schilling did not undergo a sustained appreciation.

**Verification**

As provided in section 782(i) of the Act, we will verify all information determined to be acceptable for use in making our final determination.

**Suspension of Liquidation**

In accordance with section 733(d) of the Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the export price, as indicated in the chart below. These suspension of liquidation instructions will remain in effect until further notice.

| Exporter/Manufacturer | Weighted-average margin percentage |
|---|---|
| G. Borckenstein und Sohn ..... | 4.77 |
| Linz Textil GmbH ..... | 10.83 |
| All Others ..... | 7.93 |

**ITC Notification**

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine, before the later of 120 days after the date of this preliminary determination or 45 days after our final determination, whether these imports are materially injuring, or threatening material injury to, the U.S. industry.

**Public Comment**

Case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than June 16, 1997, and rebuttal briefs no later than June 23, 1997. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. Such summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held on June 26, 1997, at 2:00 p.m. in room 1414 at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within ten days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination no later than 135 days after the publication of this notice in the **Federal Register**.

This determination is published pursuant to section 733(f) of the Act.

Dated: March 18, 1997.

**Robert S. LaRussa,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 97–7591 Filed 3–25–97; 8:45 am]

**BILLING CODE 3510–DS–P**

## National Oceanic and Atmospheric Administration

**[I.D. 032097B]**

## Endangered Species; Permits

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

**ACTION:** Receipt of three applications for scientific research permits (P632, P638, P642).

**SUMMARY:** Notice is hereby given that the State of California, Department of Transportation, District 4, in Oakland, CA (CalTrans 4), Michael H. Fawcett in Bodega Bay, CA, and the University of California, Davis, Bodega Marine Laboratory in Bodega Bay, CA (BML) have applied in due form for permits authorizing takes of a threatened species for scientific research purposes.

**DATES:** Written comments or requests for a public hearing on any of these applications must be received on or before April 25, 1997.

**ADDRESSES:** The applications and related documents are available for review in the following offices, by appointment:

Office of Protected Resources, F/PR3, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301–713–1401); and

Protected Species Division, NMFS, 777 Sonoma Avenue, Room 325, Santa Rosa, CA 95404–6528 (707–575–6066).

Written comments or requests for a public hearing should be submitted to the Protected Species Division in Santa Rosa, CA.

**SUPPLEMENTARY INFORMATION:** CalTrans 4, Michael Fawcett, and BML request permits under the authority of section 10 of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543) and the NMFS regulations governing ESA-listed fish and wildlife permits (50 CFR parts 217–227).

CalTrans 4 (P632) requests a five-year permit for takes of adult and juvenile, threatened, central California coast coho salmon (*Oncorhynchus kisutch*) associated with fish population and habitat studies throughout Sonoma, Marin, San Francisco, and San Mateo Counties. The studies consist of three assessment tasks for which ESA-listed fish are proposed to be taken: (1) Presence/absence, (2) population estimates, and (3) habitat quality evaluation. ESA-listed fish are proposed to be observed or captured, anesthetized, handled, allowed to recover from the anesthetic, and released or captured and sacrificed. Indirect mortalities associated with research activities are also requested.

Michael Fawcett (P638) requests a five-year permit for takes of adult and juvenile, threatened, central California coast coho salmon (*Oncorhynchus kisutch*) associated with fish population and habitat studies in the Russian River and Salmon Creek drainages of Sonoma County. The studies consist of three assessment tasks for which ESA-listed fish are proposed to be taken: (1) Presence/absence, (2) population estimates, and (3) habitat quality evaluation. ESA-listed fish are proposed to be observed or captured, anesthetized, handled, allowed to recover from the anesthetic, and released. Indirect mortalities associated with research activities are also requested.

BML (P642) requests a five-year permit for takes of adult and juvenile, threatened, central California coast coho salmon (*Oncorhynchus kisutch*) associated with ongoing genetic population inventories throughout the Evolutionarily Significant Unit. ESA-listed adult carcasses are proposed to be sampled for small (less than ½ cu. cm) tissues wherever the carcasses are found. ESA-listed juvenile fish are proposed to be collected for the acquisition of small (less than 1 sq. mm) non-lethal caudal fin tissue samples, in conjunction with the California Department of Fish and Game's population surveys. ESA-listed juveniles will be captured, anesthetized, handled, allowed to recover from the anesthetic, and released. ESA-listed