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This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the grant review cycle.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393-93.396, 93.837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 24, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95-7759 Filed 3-29-95; 8:45 am]

BILLING CODE 4140-01-M

Social Security Administration

Rescission of Social Security Rulings on the Definition of "Eligible Spouse" as it is Used in the Supplemental Security Income (SSI) Program

AGENCY: Social Security Administration, HHS.

ACTION: Notice of rescission of Social Security Rulings (SSR) 76-28, 76-41, and 88-11c.

SUMMARY: The Commissioner of Social Security gives notice of the rescission of SSR 76-28, SSR 76-41, and SSR 88-11c.

EFFECTIVE DATE: March 30, 1995.

FOR FURTHER INFORMATION CONTACT:

Joanne K. Castello, Division of Regulations and Rulings, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965-1711.

SUPPLEMENTARY INFORMATION: Social Security Rulings make available to the public precedential decisions relating to the Federal old-age, survivors, disability, supplemental security income, and black lung benefits programs. Social Security Rulings may be based on case decisions made at all administrative levels of adjudication, Federal court decisions, Commissioner's decisions, opinions of the Office of the General Counsel, and other policy interpretations of the law and regulations.

SSR 76-28 and SSR 76-41 were published in the 1976-1980 Cumulative Edition of the Rulings, and SSR 88-11c was published in the 1988 Cumulative Edition of the Rulings. These Rulings concern the definition the Social Security Administration used for the

term "eligible spouse" in supplemental security income cases.

Section 8012 of Public Law (Pub. L.) 101-239 (the Omnibus Budget Reconciliation Act of 1989) changed the definition of the term "eligible spouse" by eliminating the 6-month waiting period for ending couple status after a separation. The definition of the term "eligible spouse" as used in these Rulings is no longer applicable because of the revised statutory definition. We are publishing final regulations to reflect section 8012 of Pub. L. 101-239 on this date.

(Catalog of Federal Domestic Assistance Program No. 93.807 Supplemental Security Income.)

Dated: February 1, 1995.

Shirley S. Chater,

Commissioner of Social Security.

[FR Doc. 95-7887 Filed 3-29-95; 8:45 am]

BILLING CODE 4190-29-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Proposed Policy on Giant Panda Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of proposed policy for issuance of permits for giant panda imports; request for comments.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces a proposed policy for issuance of permits for the import of giant pandas under the Convention on International Trade in Endangered Species (CITES) and the U.S. Endangered Species Act (Act). Current policy regarding giant panda imports would be superseded by this policy, if adopted. Specifically, no import permits would typically be issued for animals intentionally removed from the wild. All imports would have to be part of a coordinated international panda conservation effort, and activities would need to benefit panda conservation by supplementing, and not interfering with, China's breeding and research programs. Any net profits raised as a result of a panda loan would need to primarily fund conservation projects, educational programs, and/or breeding efforts in China. The Service proposes two alternatives concerning exhibition. One alternative would allow for import of pandas for short-term exhibition loans only as an ancillary component of a captive-breeding and/or scientific research program, when the display would not interfere with the captive-

breeding or research activities. In the other alternative, the Service proposes to retain short-term exhibition loans under certain limited circumstances. The basis for findings required by the CITES on "primarily commercial purposes" and the Act on "enhancement of propagation or survival of the species" are outlined in this proposed policy. The suspension of the review and processing of permit applications to import live giant pandas continues until a decision is made on this proposed policy.

DATES: The Service will consider comments received by May 30, 1995.

ADDRESSES: Comments may be submitted to the Office of Management Authority, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Room 420(c), Arlington, Virginia 22203. Materials received will be available for public inspection by appointment from 7:45 a.m. to 4:15 p.m., Monday through Friday, at the Office of Management Authority, Room 434.

FOR FURTHER INFORMATION CONTACT:

Management Authority: Kenneth B. Stansell, Office of Management Authority, at the above address, telephone (703) 358-2093; fax number (703) 358-2280.

Scientific Authority: Dr. Charles W. Dane, Office of Scientific Authority, U.S. Fish and Wildlife Service, telephone (703) 358-1708; fax number (703) 358-2276.

SUPPLEMENTARY INFORMATION:

Background

The survival and ultimately the increase in the population of the giant panda (*Ailuropoda melanoleuca*) in its natural habitat is the strong desire of the United States, the People's Republic of China (China), and the international conservation community. As such, the panda is subject to strict protection by its listing as an endangered species under the Act and its inclusion in Appendix I of CITES.

The Service is responsible for regulating panda loans in the United States by deciding whether to grant import, export, and re-export permits required by the Act and CITES, and interstate and foreign commerce permits under the Act. In making these decisions the Service, under the Act, must determine whether the proposed activities are not likely to jeopardize the continued existence of the giant panda and would enhance its existence in the wild, and under CITES, would be for purposes that are not detrimental to the survival of the species and that are not primarily commercial.

In the late 1980's the proposals for short-term exhibition loans of giant pandas became an increasingly controversial issue. During one period in 1988, the Service received reports that as many as 30 institutions may have been negotiating, or planning to negotiate, with various entities in China to arrange panda loans, potentially posing additional threats to the wild and captive populations of pandas. As a result the Service, through the public review process, published a policy on March 14, 1991 (56 FR 10809), for the issuance of import permits for short-term exhibition loans.

In 1992, after the Service had issued a permit to the Columbus Zoo to import a pair of giant pandas for a short-term exhibition loan, the CITES Secretariat requested the Service to reevaluate its policy on panda imports. The Service published a notice in the **Federal Register** on June 29, 1992 (57 FR 28825), requesting public comment on existing policy. Three written comments were received. The International Union of Directors of Zoological Gardens suggested that an international management program be developed, especially for the captive population, which should include: (1) The development of a comprehensive, accurate inventory of captive pandas; and (2) a carefully designed breeding program, engaging as many founders and contributors to the gene pool as possible. Although accepting that there may be pandas incapable of breeding that could be used for exhibition, they recommended a complete ban on exhibit loans until a panda management plan is in place.

The World Conservation Union (IUCN) stated there should be a moratorium on short-term non-breeding loans of pandas until there is sufficient evidence that such loans would contribute to a long-term conservation strategy in captivity and in the wild. They believed there is need for a strategy defining priority conservation activities for the species.

The New York Zoological Society viewed short-term exhibition loans as money-making commercial ventures that should not be considered as "not for commercial purposes", stating that any policy should meet the mandatory standards that the American Zoo and Aquarium Association (AZA) has proposed. In their view, poaching continues as a major problem, yet little is being done to stop it. They maintained there should be a complete moratorium on loans until: (1) There is an adequate and complete register and studbook of captive pandas; (2) a complete series of priorities and projects

are agreed to by conservation organizations and China; and (3) agreements can be developed with IUCN to meet international conservation concerns, including increased efforts to stop poaching and preserve habitat.

Verbal comments were made by the World Wildlife Fund (WWF) within the comment period, expressing concern about commercial aspects of exhibition loans and the distinction that had been made by the Service in this regard, and that income to the parent city of a zoo should also be considered. They were concerned that exhibition loans could reduce breeding and induce taking from the wild. They thought the Service should provide a clear indication of how it will examine the educational aspect of any exhibits.

Before evaluation of the existing policy on short-term exhibition loans was completed, the Service received an application from the Zoological Society of San Diego (ZSSD) to import a pair of giant pandas for a long-term, captive-breeding loan. On April 20, 1993, the AZA announced the development of a Giant Panda Conservation Action Plan, which has since been formalized. The plan outlines a captive-breeding program with support from 29 zoological institutions in North America. In addition, in July 1993 China's Ministry of Construction (MOC) published the second giant panda studbook, listing all pandas currently in captivity.

With the possibility of receiving an increasing number of import permit applications for giant pandas for public exhibition, scientific research, and/or captive breeding purposes, the Service felt that a re-examination of the long-range implications of panda imports was necessary to ensure that such imports best serve the conservation needs of the species. Thus, on December 20, 1993, the Service announced in a news release the temporary suspension of the processing of any new permit applications for the import of live giant pandas during a reassessment of the current policy. On May 4, 1994, the Service requested public comments and announced a working public meeting to assist the Service in formulating the draft revised policy (59 FR 23077). The suspension of review and processing of any new live giant panda import permits remains in effect.

Public meetings were held by the Service on May 26 and August 23, 1994. For its review, the Service sought information on: Giant panda status and population trends; current information on habitat availability and continuing loss; the status of current breeding efforts; the need to augment breeding

efforts outside of China; whether there is adequate genetic diversity within the captive population to maintain sufficient heterozygosity in future generations; whether there is a need for additional genetic material from the wild; the status of reintroduction; and the need for research priorities. The Service also sought information on the status of all existing or proposed conservation programs and management plans for the giant panda. Comments were sought on the current panda loan policy and on specific elements of the findings necessary for permit issuance, including "primarily commercial purposes" and "enhancement".

As a result of the public comment period in 1994, written information and comments were received from the AZA, Busch Gardens, the Humane Society of the United States (HSUS), WWF, and the ZSSD. The AZA commented that: (1) All importers of giant pandas must be required to participate in the giant panda studbook; (2) most of the funds contributed to China must be used for giant panda field conservation projects; (3) there must be a project selection and monitoring system established in China and overseen in North America for the use of funds generated by panda loans; (4) the permittee must show that the importation will not detract from the current panda captive-breeding program in China; (5) genetic and demographic criteria should be used to determine selection of pandas to be imported; (6) there should be no lower age limit for animals to be imported, and pre-reproductive animals should be allowed if the permittee can demonstrate their value within a holistic panda conservation program; (7) loans should be longer than 3 years; (8) animals to be imported must be individually identified; (9) importing facilities must follow recommended minimum housing guidelines, and facilities should be approved by the Chinese; (10) the permittee must show that the importation is part of the AZA Giant Panda Conservation Action Plan, or a similar plan; (11) all permittees must support research aimed at resolving husbandry and management problems of giant pandas and at increasing reproductive success; (12) import must be for a scientific purpose or survival of the species and not likely to jeopardize the continued existence of the species; (13) no animals are to be used in animal acts while in the United States; (14) there must be an education component; and (15) part of the program must be to assist the Chinese in technology transfer and training and collaborative efforts in

panda husbandry, management, and health care.

Busch Gardens commented that: (1) The Service should lift its moratorium on the importation of giant pandas and establish a new policy promptly; (2) since the current policy establishes guidelines for only short-term exhibition loans, the new policy should set specific guidelines for long-term captive-breeding loans; (3) the new policy should recognize that long-term breeding loans sponsored by the AZA under its conservation plan are inherently non-commercial and, therefore, meet the CITES requirement of being "not for primarily commercial purposes", and "for-profit" institutions that participate in the AZA program should be treated in the same way as "not-for-profits"; (4) accounting or reporting obligations should not be imposed on the importer as a result of a long-term breeding loan as they are unnecessary, impracticable, and unprecedented; and (5) neither CITES nor the Act requires an "in fact" finding by the Service that a proposed activity will enhance propagation or survival of the panda, and participants in the AZA plan should automatically meet the enhancement standard of the Act.

The HSUS indicated that: (1) The previous exhibition of pandas in zoos in the United States has not resulted in the improvement of the status of pandas in captivity or in the wild, and experience has shown that large populations of animals in captivity are not an effective conservation tool; (2) they oppose the removal of an endangered animal from the wild for confinement and breeding in zoos unless preservation of the species' ecosystem is assured; (3) it would be desirable to duplicate the experience in Chinese breeding centers of maintaining a number of pandas clustered at one location for breeding; (4) the import of pandas to zoos will always serve a commercial purpose, and there has been little control or guarantee of what happens to funds going to China for panda conservation; and (5) funds, technical assistance, and other efforts should be directed toward protecting habitat and reintroductions. The WWF commented that: (1) Long-term breeding and research loans must be part of an integrated, international program designed to complement conservation efforts for the wild panda population; (2) research loans must be for research that is of high priority, is best conducted outside China, and will produce results that will contribute to the pool of knowledge about giant pandas; (3) standards for commercial vs. not-for-profit institutions need to be clarified—if import of a panda by a city-owned

institution can result in the benefit to the local economy in the same manner that for-profit institutions operate to generate a profit, all institutions should be held to the same stringent standards; (4) the standards for "primarily commercial" need to be defined to consider the motivation for a giant panda loan; (5) the requirements on accounting and allowable expenses need to be strengthened—the Service should consider setting a ceiling on the associated expense that an exhibitor can deduct from revenues generated by the loan; (6) it should be clarified that education of the American public is not a criterion in making permit decisions, and education in China related to in-situ panda conservation should be considered as a component of an integrated conservation program; (7) better documentation should be required on the specific conservation projects in China that are to receive funding from an exhibitor, and China's approved and complete National Conservation Project Plan for the Giant Panda and its Habitat (National Plan) for pandas should be used as a guide; and (8) the Service must monitor performance of exhibitors on an annual basis to ensure they are complying with the provisions of the permit.

The ZSSD commented that: (1) There is a need to clarify existing regulations and guidelines; (2) there needs to be a framework that includes agreement on the role for captive breeding, coordinated and effective research with agreed-upon, but flexible, research objectives, effective habitat preservation and restoration with emphasis on management of human conflicts, sufficient funding to accomplish these tasks, with agreed-upon monitoring and sufficient accountability for revenues and expenditures, and agreement on the role of display; and (3) they feel strongly that captive breeding is central. They suggested an approach to the policy that includes a framework agreement between AZA and the Chinese government that would identify priority conservation projects and research priorities with integrated participation by U.S. institutions. Permits could be issued to institutions based on this agreement, and a monitoring and implementation process could be established involving key parties, such as the AZA, the permittee, the Service, and the WWF.

The Service considered these comments and comments given at the two public meetings, plus the experience it has gained since 1991 in applying the current policy, to draft a new proposed policy. The following summarizes information the Service

received and gives a brief description of elements in this proposed policy.

Population Status

Precise data on the size of the wild population of giant pandas are not available. The most recent survey, performed from 1985 to 1988, concluded there were between 872 and 1,352 pandas in the wild. The most common current estimate is that there are fewer than 1,000 giant pandas left in the wild and that the population is continuing to decline. In less than 15 years, from 1975 to 1989, the total area of panda habitat declined by 53 percent. This decline was primarily due to logging, grazing, and conversion of forest habitat to agriculture and other uses, resulting in the fragmentation of habitat into small islands. The 1985–88 survey found the wild panda population to be fragmented into 24 isolated groups separated by mountain ranges, rivers, roads, forest clearings, and human settlements. Some of these groups contain fewer than 10 pandas, making them vulnerable demographically and genetically. Without genetic exchange among these populations, the persistence of such small islands of pandas over time is questionable. In addition, poaching continues to take its toll, despite the imposition of harsh penalties, including execution.

Status of Captive Breeding in China and the Need for Breeding Efforts Outside of China

The continued decline of the wild population of giant pandas and the increasing fragmentation of its habitat make it increasingly important to establish a self-sustaining captive population. The existence of a robust captive population could provide insurance against increasing threats to the wild population. The current captive population represents about 10 percent of the total panda population, captive and wild. As of June 1993, there were 113 giant pandas in captivity in 35 institutions—98 animals were in institutions in China and 15 pandas were in 8 institutions located outside of China. Three institutions had 14 to 21 pandas and 4 had 4 to 6 animals. The remaining 28 institutions had 1 or 2 animals. The Chinese recognize that these captive pandas need to be moved for better breeding opportunities and to ensure that all mature individuals participate in breeding. Of the 15 pandas currently held in 8 institutions outside China, 5 institutions hold only 1 panda. These data demonstrate the great need to coordinate the movement of captive-held pandas internationally.

The captive-breeding program in China is not currently self-sustaining. Between 1936 and 1988, 345 pandas held in captivity produced 67 litters of 106 cubs, with only 32 surviving more than a year. In recent years, improvement in management and joint efforts within China have enhanced breeding and survival rates and reduced the infant mortality rate of the captive population. However, a review of the International Studbook of the Giant Panda suggests that the current number of founders that have contributed to the captive population is inadequate. According to the studbook, the current captive population is descended from 30 founders. However, recent research suggests that fewer than 30 founders may exist because the paternity of some of the captive-born pandas is uncertain. The current captive population includes 57 wild-caught pandas that have not reproduced, but only 31 of these are currently of reproductive age. If these pandas could be encouraged to breed before their deaths, the captive population might not need additional genetic material from the wild population for several generations. If immediate action is not taken to enhance captive propagation efforts, additional genetic material might have to be taken from the wild to ensure sufficient genetic diversity in the captive population.

Reintroduction

In view of the information on the status of the panda in the wild and in captivity, the Service recognizes that reintroductions cannot occur until a self-sustaining population of captive-born animals is achieved and sufficient areas of panda habitat are available and secure. The reintroduction of giant pandas is a long-term goal that needs to be incorporated into coordinated international conservation efforts. Protocols for reintroduction must be developed so that they are available when opportunities for reintroduction arise. As used in this notice, a *coordinated international panda conservation effort* means an organized plan through which all panda imports support high priority projects in China's National Plan and are coordinated with China's captive-breeding plan and the AZA Species Survival Plan (SSP) for the panda or other applicable multi-national breeding plans.

Research Priorities

There needs to be a coordinated global effort to set priorities for panda research. China's National Plan (see following section) provides the following research priorities: (1) habitat

improvement; (2) captive-breeding; (3) ecology, population status, and monitoring; (4) rearing and nutrition; (5) prevention of illness; and (6) reintroduction of captive pandas to the wild. The "Giant Panda Breeding Plan" developed in China (see following section) lists the following areas that need basic research: (1) artificial insemination biology and techniques; (2) breeding behavior; (3) disease prevention; (4) reproductive physiology; (5) diet; (6) mating ability; (7) reproductive longevity; and (8) fertility. Because of the precarious level of the panda population, it is important that research findings are shared quickly and that information and methodologies are transferred to China for use in the field and in the captive-breeding program.

Giant Panda Conservation Plans

In the past decade, there appear to have been advances in panda conservation as a result of international cooperation with the Chinese ministries. The WWF worked closely with the Ministry of Forestry (MOF) to develop a panda conservation plan, which was submitted to the Chinese government in 1989. China's National Plan evolved from this plan, and in 1993 it was approved by China's State Council, with the subsequent development of a priority list of the projects included in the plan. The National Plan proposes establishing 14 new panda reserves, improving 13 existing giant panda nature reserves, constructing 18 panda migration corridors, and setting up 32 habitat management stations. It would cover most of the currently occupied panda habitat, protecting 95 percent of pandas in the wild. With the adoption of the plan, the Chinese government made a major commitment to the conservation of pandas and the plan by appropriating \$13 million for its implementation. However, the total required for completion is estimated at \$77 million, leaving more than \$64 million that must come from outside sources over the next 10 years.

To carry out the fund-raising activities effectively and to ensure that the funds raised would be used entirely for the conservation projects, China issued guidelines, "Utilization and Management of Funds Generated for China's National Conservation Project for the Giant Panda and Its Habitat," which have also been approved by China's State Council. The guidelines indicate that the MOF is responsible for coordinating and organizing the raising of funds under the National Plan and any funds generated must be submitted to the China Protecting Giant Panda Project Office (Project Office), which

will be responsible for assuring that specific funds will be used in specific areas. After deductions for some overhead costs, funds will be used entirely for projects in the National Plan, allocated on a priority basis and the Project Office is responsible for announcing the allocation and expenditure of funds generated for the National Plan.

Advances have been made in the captive-breeding efforts as well. In 1993, the second international studbook of giant pandas was published, listing all births, deaths, capture locations, and other valuable data. In September 1993 at the International Giant Panda Conference in Chengdu a document entitled, "Giant Panda Captive Breeding Plan" was presented. It references the Giant Panda Breeding Technical Committee, which coordinates captive-breeding. Although the Service does not know whether this document will become official, it is a clear indication of the increased cooperation between Chinese zoos and MOF panda-breeding facilities.

Recent events suggest that China is interested in working with entities outside of China in an integrated conservation effort that includes conservation in the wild and captive propagation. On January 14, 1994, an agreement was signed between AZA and Chinese officials, in which the Chinese support the long-term giant panda captive-breeding cooperative plan in North America as presented by AZA. The Chinese also indicated that giant pandas removed from the wild before March 1993 and captive-born specimens that do not detract from the breeding efforts in China would be made available for the North American captive population. As part of this agreement, AZA is developing procedures for verifying expenditures within China and for monitoring the progress of conservation projects. Furthermore, China has already agreed to allow AZA personnel to visit China to monitor projects.

The Giant Panda Conservation Action Plan developed by AZA is intended to supplement and support China's National Plan. It calls for 14 priority actions to be implemented by signatories in full collaboration with Chinese colleagues and other conservation organizations. One of the priority actions is to establish a giant panda SSP. The goals of the SSP would include preservation of the species' genetic diversity; research contributing to the survival of both wild and captive populations; public education and professional training, including technology transfer; and direct support

of habitat conservation, including financial support.

Purposes

The primary function of any import of giant pandas must be to enhance the ultimate conservation of the species in the wild. This will require a variety of activities and actions in China, including habitat protection, habitat restoration, creation of corridors linking isolated populations, elimination of poaching, development of compatible resource uses in giant panda habitat, educational programs in China that stress the importance of preserving giant pandas and their habitat, development of a self-sustaining captive population, and, eventually, reintroduction of captive-bred animals. This proposed policy would allow for the issuance of permits to import pandas for captive-breeding, scientific research, and/or exhibition purposes, when the activity is part of a coordinated international panda conservation effort. It proposes two alternatives for exhibition. In alternative 1, exhibition would only be allowed as an ancillary component to captive-breeding or scientific research, and such exhibition would be contingent on the absence of conflict between public display and the primary research or captive-breeding activities. Alternative 2 would allow the import of pre-breeding age male pandas for short-term exhibition under certain circumstances. The proposed policy emphasizes that, in addition to the specific purpose(s) of a loan, the permittee must typically fund conservation projects and/or captive-breeding in China, as well as the transfer of scientific and captive-breeding methodologies or conservation education programs to China. Since there are a number of pandas owned by entities outside of China, this proposed policy includes references not only to China but also to lending institutions in other countries. The proposed policy would continue to prohibit the use of pandas in animal acts or shows.

Wild-Taken Pandas

In the past it has been suggested that giant pandas have been recovered (i.e., "rescued") from the wild without sufficient justification, and that such removals were necessary for survival of the species in the wild. The increased international demand for captive giant pandas may have provided incentives that were misdirected in some instances. The bamboo die-offs of the early 1980's perhaps stimulated misguided and unnecessary removals of pandas from the wild.

In recent years, the Chinese government has taken a firm position on captures from the wild and the number of animals brought into captivity has declined. The August 1989 joint report of the MOF and WWF titled, The National Conservation Management Plan for the Giant Panda and its Habitat (WWF Plan), includes *Guidelines for Rescue Operations* in Section 3.8. These recommendations were apparently developed with the bamboo die-off of the early 1980's in mind, and they recommend, among other things, that: (1) No further panda emergency operations should be mounted until another major wave of bamboo flowering affects the panda range; (2) villagers should not receive any financial incentive to rescue pandas; (3) villagers who encounter starving pandas should report immediately to the local forestry officials or designated rangers, who must visit the site to decide whether rescue is necessary; and (4) rescue should only be attempted in terminal cases. It further states that "some of these regulations are already accepted," we assume, by the MOF. The National Plan evolved from this 1989 plan.

A Sichuan Forestry Department document, with a February 20, 1993, date, titled, "Procedure for the Conservation and Rescue of the Giant Panda" (Rescue Procedures), outlines procedures for reporting the occurrence of ill or injured pandas, authorities responsible for rescue decisions, and options to be considered in a rescue. It also refers to a national protocol on panda rescue, and indicates that Sichuan had taken actions regarding possible panda rescues following the lead of the State Council and the MOF. Therefore, it would appear that national panda rescue regulations or policy similar to those used in Sichuan were in effect at least by February 20, 1993.

This policy proposes that pandas removed from the wild prior to December 31, 1986, would be considered for an import loan. This date approximately follows the peak of bamboo die-off in about 1983 by 3 years, allowing a period during which pandas might still have been affected by that event. It appears the Chinese have established even greater restrictions on the rescue of pandas since then. Therefore, the Service generally would not consider any import of pandas removed from the wild after December 31, 1986, unless the circumstances of the removal clearly indicate that the removal conformed to Chinese regulations and was in the best interest of the individual animal and the species.

Age and Other Parameters of Animals Available for Loans

No post-breeding age pandas would be considered for import. Since data now indicate that the reproductive age is higher than originally thought, the Service proposes that post-breeding pandas would be over 20 years of age. The Service feels that the risks from transport to animals over this age would not be acceptable.

For Alternative 1 in the "Exhibition" section, the Service proposes that pre-breeding age pandas will not be considered for an import permit, except for female pandas within an estimated 6 months of their first estrus. For Alternative 2, for short-term exhibition, only the import of pre-breeding male pandas would be considered.

Length of Loans

The Service believes that the length of giant panda loans should be determined by the purpose(s) of the loan and the length of time necessary to accomplish the goals of the import. The Service feels that internationally coordinated giant panda conservation efforts could incorporate various types of loan arrangements requiring varying lengths of time.

Conservation Benefits of Specific Projects

The Service continues to emphasize the need to relate giant panda imports to the enhancement of the species in the wild, especially through funding of *in situ* projects. It is expected that most imports would be for multiple purposes and funds would be generated.

The Service proposes that the allocation of net profits derived by the applicant during a loan period that can be attributed to the loan should be based on ownership of the panda, and should be used for specific areas of conservation. If the panda is owned by China, at least 80 percent of net profits must be used to fund *in-situ* conservation projects in China's National Plan. Remaining funds would be used for panda conservation, including additional *in-situ* conservation projects, education, and/or captive-breeding efforts in China. If the panda is owned by an entity other than China, at least 50 percent of the funds must be used to fund *in-situ* conservation projects in China's National Plan. Remaining funds would be used for panda conservation, including additional *in-situ* conservation projects, education, and/or captive-breeding efforts inside China, and/or captive-breeding efforts outside of China. Specific conservation projects

and/or activities to be funded must be high-priority projects included in China's National Plan or otherwise specifically and thoroughly justified. The applicant would be required to provide a complete monitoring plan to track disbursement of funds and progress of projects. Instead of outlining exact requirements, the Service proposes that monitoring plans contain components that would clearly show that the projects to be funded will be completed. This should include identification of specific projects with timeframes given for tasks to be completed, and a plan outlining how progress would be documented and how some site inspection would occur. China has recently agreed to these components when working with several groups in the United States. The Service would monitor the progress by requiring the permittee to submit at least an annual report of funds transferred and status of projects funded and implemented.

The Service also proposes that a summary of projects to be funded would be published in the **Federal Register** as part of the public review process when an application is received for a permit to import a giant panda.

Scientific Research

The Service proposes that import applications for scientific research outline how the research would contribute to the conservation of the panda in the wild and in captivity. The proposed policy requires that the applicant provide a research proposal that demonstrates that the research is properly designed and can be accomplished with the available expertise and resources. The Service will not categorize or identify acceptable kinds of research but will retain the option of judging the validity and/or current need of the proposal based on priorities given in a coordinated international panda conservation effort and in China's National Plan.

If the panda would also be on exhibition, the applicant must have a monitoring plan to ensure that the display does not interfere with the research or bias the data.

To the extent possible, the Service would expedite permit applications for biological samples under certain conditions. The researcher needs to keep in mind that under CITES export permits are only valid for 6 months and import permits for 1 year. Authorization under the Act may be granted for 4 years, but then would need to be published in the **Federal Register** for public comment before renewal.

Captive Breeding

The proposed policy would require permittees who import pandas for captive-breeding purposes to participate actively in a coordinated international panda conservation effort. Breeding loans need to benefit panda conservation by supplementing the breeding program in China to achieve a self-sustaining captive population. Since many of the pandas to be imported into the United States for breeding would have a history of not reproducing, it is anticipated that there will be a research component to the captive-breeding activities.

If the panda would also be on public display, the applicant must have a monitoring plan to ensure that the display does not interfere with the breeding program.

Exhibition

To date, almost all of the loans of giant pandas to the United States have been solely for short-term exhibition purposes and the generation of funds for conservation and captive-breeding activities in China. Funds from the loan of one captive panda from the United Kingdom were used to improve facilities for that animal while at Chapultepec Park Zoo in Mexico City.

The Service anticipates import applications that include public display would contain a component to educate the public in the United States about the ecological roles and conservation needs of the giant panda, but this in and of itself would not be considered to meet the requirement under the Act of enhancing the survival of the giant panda in the wild. If the applicant proposes to develop panda conservation education programs that would be transferred to China, the Service would consider this component as possibly meeting part of the enhancement requirement. The Service emphasizes support for education in China because there appears to be a need for educational programs in areas near giant panda habitat and reserves to enhance panda conservation.

The Service proposes two alternatives on exhibition and invites public comment.

Alternative 1—Exhibition Solely as an Ancillary Component. Under this alternative, which would be consistent with the AZA moratorium on short-term panda loans, import of pandas solely for exhibition loans would not be allowed. Educational display would only be allowed as an ancillary component of a captive-breeding and/or scientific research program, when the display would not interfere with the captive-

breeding or research activities. Even temporary loans of pandas to another institution during the non-breeding season would not be allowed, as this could be disruptive to behavioral interactions, endocrine monitoring, and research designed to maximize breeding success.

With advances in coordinated international conservation efforts for the giant panda, the Service proposes that institutions in the United States focus their energies on activities with captive pandas that best ensure their recovery. The Service recognizes that the use of any of these animals for short-term exhibition could detract from the overall captive conservation efforts by stimulating institutions to use resources for short-term exhibition, rather than committing resources to needed captive breeding or research. Furthermore, the use of breeding age pandas for short-term exhibition loans could increase the stress and reduce acclimation of pandas to breeding surroundings while minimizing the opportunities for important research and captive-breeding activities. Thus, in this alternative the Service proposes to discontinue the issuance of permits for the import of pandas for solely exhibition purposes (even though such exhibits might raise substantial funds to go back to China); every panda loan would be required to have intrinsic conservation benefits in its own right, in addition to financial contributions to China.

Alternative 2—Short-term Exhibition. In this alternative, the Service would issue permits for the import of giant pandas not only for activities as described in alternative 1, but also solely for short-term exhibitions under specific conditions designed to raise funds to be returned to China. Exhibition loans could provide significant funding in support of conservation projects for pandas in the wild, but the Service is still considering whether such loans would in any way have a detrimental affect on pandas in the wild, or would detract from captive-breeding or research efforts.

Greater revenues for panda conservation might be likely from exhibition loans because of higher visitation rates for shorter periods of time, and because viewing opportunities might occur at facilities that might otherwise not be able to qualify for scientific research or captive-breeding purposes. Some concerns expressed in the past about exhibition loans, such as the lack of a studbook and the lack of project priorities, have been addressed, and other concerns about accountability and the lack of a master breeding plan are being addressed. Nevertheless, there

remain concerns that short-term loans could in some way affect breeding, stimulate take of additional pandas from the wild, and/or detract from efforts to support overall captive-breeding efforts. Such loans emphasize the purely financial benefits that may be gained from exhibition, rather than any intrinsic benefit from the loan itself.

While there is no available evidence that the import of pandas of pre-breeding ages, as allowed by the previous policy, had subsequently had a detrimental effect on their breeding, AZA has suggested that the loan of only male pandas would further minimize the effects of loans on breeding. The Service agrees with the AZA suggestion and proposes that if the final policy allows any short-term exhibition loans, they would be limited to young, pre-reproductive age male pandas.

With regard to the possible removal of pandas from the wild, projections have changed in that: (1) China in recent years has taken a firm position on capture of pandas from the wild, (2) the Service's proposed policy continues not to allow the import of any pandas that were removed from the wild after 1986, except in unusual yet justifiable circumstances, and (3) the studbook allows for a check on parentage of any captive-bred pandas.

Finally, with regard to possible disruption of efforts to maximize the breeding potential of the captive population, the Service notes: (1) That the Chinese have been developing a captive-breeding plan, (2) the Chinese are supportive of AZA's efforts to augment captive-breeding efforts through research and emphasis on non-reproductive pandas, and (3) the zoo community has shown increasing interest in supporting long-term captive-breeding efforts, although the expense of constructing suitable facilities might exclude some zoos from participating in such long-term loans.

If after reviewing the comments and information received from this notice, the Service concludes that short-term exhibition loans would not be allowed, the Service would likely review this aspect of the panda policy again after accumulating or four or five years' experience and data under the new policy.

Primarily Commercial Purposes

Giant panda loans must be for purposes that are not primarily commercial. This proposed policy does not reflect a significant change from the previous policy since the requirements of CITES have not changed, but there are a few additions. One of the proposed changes is a description of reasonable

expenses that could be deducted to calculate net profit, and items that would not be considered reasonable expenses. Another is that the applicant would need to submit a certified statement from a reputable, independent accounting firm that the internal accounting system meets the requirements of Service policy for tracking funds.

Suitability of Facilities

CITES and the regulations under the Act require that the evaluation of an application for an import permit includes consideration of whether the applicant is suitably equipped to house and care for the animals to be imported. The proposed policy continues to require the applicant to demonstrate it has acquired available information on giant panda care and facilities, and training for involved keepers, as well as approval by the Chinese of the quality of the facilities. Although these requirements would enable an evaluation of the applicant's initial abilities to house and care for giant pandas, the Service now feels that additional assurances are needed regarding the long-term care and health of the animals. Therefore, under this proposed policy applicants would be required to develop a protocol for monitoring the continued health and behavior of giant pandas throughout the loan period, or to describe an existing protocol that will be used for this purpose.

Transfer of Pandas to Other Entities within the United States

Before a giant panda is transferred between facilities within the United States, the recipient must obtain an interstate commerce permit under the Act. The Service would, to the extent possible, facilitate the transfer of animals when it is part of a coordinated breeding program. The transfer of animals must also have the prior approval of China or the entity that owns the panda. The number of times an individual panda is transferred within the United States would be closely monitored to protect the overall health of the animal.

Response to the CITES Secretariat's Views on Giant Panda Loans

The text of the 1991 policy is not significantly changed in the proposed revised policy. The requirement of permits under the Act is clarified as the pre-Act exemption (Section 9(b) of the Act) does not apply to animals to be transferred under a lease-hold agreement.

Public Comments Solicited

The Service requests comments on this proposed policy. The final decision on this proposal will take into consideration the comments and any additional information received, and such consideration might lead to a final policy that differs from this proposal.

Required Determination

This document was not subject to Office of Management and Budget review under Executive Order 12866. The information collection requirements identified in this policy as part of the permit application have been approved by the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and assigned clearance number 1018-0022.

The Service has determined that this proposed policy is categorically excluded under Departmental procedures from complying with the National Environmental Policy Act (NEPA) (516 Departmental Manual, Ch. 2, Appx. 1, paragraph 1.10). An Environmental Action Memorandum is on file at the Service's Office of Management Authority in Arlington, Virginia.

Proposed Revised Policy on Giant Panda Loans

Before any import permit will be issued, the application must be reviewed in terms of the applicable requirements of CITES and the Act by the Service's Offices of Management and Scientific Authority. Issuance of an import permit under CITES requires prior findings that: (1) The proposed import would not be for purposes detrimental to the survival of the species; (2) the import would not be for primarily commercial purposes; and (3) the permit applicant is suitably equipped to house and care for the animals. Issuance of a permit under the Act requires prior determinations that, among other things: (1) The import would be for scientific purposes or to enhance the propagation or survival of the species, in a manner consistent with the purposes and policies of the Act; and (2) issuance of the import permit would not be likely to jeopardize the continued existence of the species. These requirements are further implemented by application requirements and issuance criteria found in 50 CFR 13.12, 17.22, 23.14, and 23.15. In addition, Section 9(d) of the Lacey Act, with regulations at 50 CFR 14, Subpart J, requires that shipments of live wild mammals being shipped to the United States are done under humane and healthful conditions

such that the animals arrive alive, healthy, and uninjured. The policy requires the applicant to demonstrate that the animals will be shipped so as to satisfy this requirement.

Purposes

The primary goal of the policy is to ensure that all imports of giant pandas contribute toward the survival, and ultimately the increase to a self-sustaining level, of panda populations in the wild. All imports must be part of a *coordinated international panda conservation effort*, a term used in this policy to mean an organized plan through which all giant panda imports support high priority projects in China's National Plan and are coordinated with China's captive-breeding plan and AZA's SSP or other applicable multi-national breeding plans. The Service anticipates that most import permit applications will be for multiple purposes. Applicants must identify the primary purpose for the proposed import and all other intended purposes. No activities for additional purposes may be undertaken during the course of the loan without approval from the Service.

The ultimate objective of managing captive pandas should be for breeding and research purposes, and any training or use of pandas in animal acts would be considered as detracting from this objective. Therefore, use of pandas in animal acts or shows during the loan period would be prohibited by condition of the permit.

Wild-Taken Pandas

The following guidelines will be used to evaluate import applications involving pandas removed from the wild. These time constraints are based on information available to the Service suggesting that the removal of pandas from the wild has increasingly come under control by the Chinese, starting prior to the WWF Plan of August 1989.

In all cases, the Service will continue its policy of approving import permit applications only when it is sure that the loan did not, or will not, contribute to the removal of pandas from the wild.

1. Pandas removed from the wild prior to December 31, 1986, will be considered for an import permit.

2. The importation of pandas removed from the wild after December 31, 1986, will not be considered, unless information describing the circumstances of their removal clearly indicates that the Rescue Procedures were followed, that the animal(s) was malnourished, ill, or injured to a degree that justified its removal, and that circumstances of the animal's recovery,

of habitat conditions, of population density, or other reasons provided clearly precluded reintroduction of the animal(s).

Age and Other Parameters of Animals Available for Loans

1. Pandas over 20 years of age will not be considered for an import permit because they are probably beyond breeding age, and the risks from the stresses of travel are not biologically acceptable.

2. For alternative 1 in the "Exhibition" Section, pre-breeding age pandas will not be considered for an import loan. This would include females under 4 years of age, and males under 5 years. Even though it is expected that captive-breeding loans will concentrate on the use of pandas that have not been successfully bred in China (or elsewhere), there may be situations in which females within 6 months of their first estrus would be considered to allow a pre-breeding period of acclimation of a pair.

3. In alternative 2, only pre-breeding age male pandas from the age of 2 to 5 will be allowed for short-term exhibition loans.

- Only male pandas that are independent of maternal care but are not yet of breeding age or approaching breeding age will be allowed to be imported. Specifically, this include males at least 2 years of age at the beginning of a loan period and under 5 years at the end of a loan period.

- No pre-reproductive female pandas or breeding age giant pandas of either sex will be considered for short-term loans, even during the non-breeding season.

Length of Loans

The Service will evaluate the length of time requested for the proposed loan to ensure it is appropriate to the proposed activity. For example, if the primary purpose of the import would be for captive breeding and/or research, the length of the loan should be of sufficient duration to accomplish the stated goals. Generally it is anticipated that such activities may require 3 to 5 years, or perhaps a longer time for the maximum benefit to captive-breeding activities in the United States.

Conservation Benefits of Specific Projects

All of the net profits resulting from the import are to be used for conservation of the giant panda and its habitat. Emphasis is on in-situ conservation projects as listed in China's National Plan.

1. Whenever funding is associated with the import of giant pandas, the following must be satisfied:

(a) Net profits are to be allocated as follows:

- If the animals are owned by China, at least 80 percent of the funds are to be used for *in-situ* conservation projects for the giant panda and its habitat in China as listed in China's National Plan. The remaining funds must be used to support conservation, including additional *in-situ* projects, education and/or breeding efforts for the giant panda in China. In the event that profits generated exceed the ability of the Chinese to apply the monies to priority projects or captive-breeding in China at any one point in time, then funds may be used to support breeding efforts for the giant panda outside China with approval from the Service.

- If the animals are owned by an entity other than China, at least 50 percent of the funds are to be used for *in-situ* conservation projects for the giant panda and its habitat in China as listed in China's National Plan. The remaining funds must be used for panda conservation, including additional *in-situ* conservation projects, education, or captive-breeding efforts in China, and/or captive-breeding efforts outside of China as part of a coordinated international panda conservation effort.

(b) Conservation projects to be funded must meet the following conditions:

- They must be included in a coordinated international panda conservation effort, or compelling reasons must be given for funding other projects. Preferably, any conservation or breeding plan cited as including projects to be funded should be formally approved by China's Project Office of MOF or the appropriate entity in another country, but plans or programs that have not been officially approved will be considered.

- They must be considered to be of high priority in the most recent coordinated international panda conservation effort.

- They must be described as specifically as possible, with funding allocations to specific tasks given in foreign currency (e.g., yuan) and in U.S. dollars, and projected timeframes given for use of the funds to initiate and complete specific projects or activities.

(c) The applicant must provide a plan to monitor the disbursement of funds for selected conservation projects or activities. The plan needs to be sufficiently complete so that the Service is satisfied of its effectiveness and that the projects to be funded will be completed. Such a monitoring plan

should include provisions equivalent to the following:

- Before funds are transferred to the appropriate office in China or the lending entity, the permittee and the appropriate foreign entity should agree on a detailed budget, work plan, and timetable for project completion. Specific, measurable objectives and a schedule for progress reporting should be identified for each project.

- Payments should be made in installments. Each payment needs to be linked to actions taken toward completion of the project(s).

- Subsequent payments should be contingent on approval of progress reports by the permittee.

- An independent audit should be conducted annually to verify disbursement of funds.

- The permittee, its authorized representative, and the Service must have permission from the implementing agency to examine records and to make site visits to funded projects at least annually.

2. Annual reports to the Service will be required, which should give an accounting and report of funds transferred and portions of the project completed (see section under "Primarily Commercial Purposes" for further reporting requirements). Copies of reports received by the applicant from the recipient of funding should be included, with English translations if reports are not in English.

3. As part of the notice of receipt of a permit application published in the **Federal Register** for public comment, the Service will describe the specific projects the applicant is proposing to fund.

Scientific Research

There is a great need for scientific research on the giant panda, both in the wild and in captivity. The research must contribute to the conservation of the panda and typically, when part of an import loan, must provide a source of funds for panda conservation in the wild, as described below.

(1) The applicant must provide information to show that the research is *bona fide*, meaning research that is properly designed and can be accomplished with the expertise and resources available:

- Objectives and goals must be clearly defined. Hypotheses and experimental designs, when applicable, intended to test them must be described.

- Investigative procedures and research protocols must be described in detail or referenced as published in a recognized journal.

- Estimated timeframes need to be given.

- Research must not be duplicative unless it is a collaborative effort, or if repetition can be justified.

- The results of the research would be expected to identify, evaluate, or resolve panda conservation problems or contribute to the basic knowledge of panda biology and ecology deemed important to the survival of the panda.

- The results would likely be published in a scientific journal.

(2) For research with live pandas, the applicant must have the expertise and resources to accomplish the stated objectives.

- Enhancement may be satisfied solely through scientific research if it can be convincingly shown that results will be used to study and/or manage giant pandas in a way that would contribute to their conservation in the wild. It is expected that requests to import live pandas for scientific research will also include other, additional enhancement activities, such as the generation of funds for panda conservation in the wild.

- Research must be recognized as a high priority activity by a coordinated international panda conservation effort.

- Proposals must describe how the study may contribute to the conservation of the giant panda in the wild. If *in situ*, the research must be a collaborative effort with Chinese scientists. If the research is *ex situ*, the applicant must describe why it is best conducted outside China, and how any information gained or methodologies developed will be transferred for use in China, including estimated timeframes of transfers, training, or collaborative efforts.

- Any physically invasive procedures to be used or any behavioral modifications anticipated as part of research activities must be described, together with a detailed plan describing how the applicant would respond to and minimize complications that might arise. Any subsequent procedural changes and/or additions must be pre-approved by the Service.

- The permittee must provide an annual report summarizing research activities associated with the purposes of the permit, including a brief description of each project, a copy of protocols developed and methodologies used, a summary of data collected with a discussion of results and copies of published papers resulting from the research. The report should also indicate any transfer of research protocols or methodologies to the Chinese and their use in China, in the wild or in captivity.

(3) If live pandas are going to be on exhibition at any time during the term of the research loan, the following must be satisfied:

- The applicant must provide protocols outlining how the research and exhibition will be monitored to ensure that having the pandas on exhibit is not interfering with the research or biasing data. The applicant must also provide the name, position, and qualifications of the individual who will be responsible for making the decision to take the pandas off of exhibit if the display is interfering with the research.

- The applicant must have adequate facilities to conduct the research and house the pandas separate and apart from the public exhibition areas in case it is found that exhibition interferes with the research.

- The funds generated by the exhibition must be used for conservation projects.

(4) For research involving biological samples, the applicant must have the expertise and resources to accomplish the stated objectives.

- Salvaged specimens (i.e., those obtained from animals that have died of natural causes; naturally shed hair) must be obtained without harassing any live animals, and collection must be authorized by the MOF, MOC, or the Project Office.

- The collection of samples from live captive giant pandas must be done by qualified personnel, preferably veterinarians, with appropriate training and experience in capture, restraint, and sample collection, so as not to result in death or injury of animals. Sampling must also be done in a manner that would not be disruptive to breeding activities. The collection and subsequent export of such samples to the United States must be done in cooperation with the authority responsible for managing the animals (e.g., MOC).

- Any collection of biological samples from live giant pandas in the wild must be authorized by the MOF. Generally, only samples that were collected incidental to the capture of animals for other purposes by MOF biologists will be considered for import. However, the import of samples taken from animals captured for the sole purpose of collecting samples for import will be considered if the samples are to be used in research that is expected to have a substantial benefit to giant panda conservation. In this case, import permits must be obtained prior to the collection of the samples. Samples from live wild giant pandas may only be collected by qualified personnel,

preferably veterinarians, who have appropriate training and experience in capture, restraint, and sampling methodologies appropriate to giant pandas, so that sampling is unlikely to expose live giant pandas to risk of death or injury, or to disrupt mating or parental care of young.

- The results of research conducted with imported specimens must be reported to the Service at least annually; a report should include copies of any scientific publications produced. The report must contain information on the number and type (e.g., blood, hair, skin biopsy) of samples imported, specific source/location from which each sample was collected (if more than one was authorized), and observations on the effects of sampling on the animals. The report must also state whether the research resulted in the development and transfer of research protocols or other methodologies to the Chinese and how these products have been/will be used in China for the conservation of giant pandas.

- The Service will consider the issuance of general permits for the import and export of biological samples when the applicant provides sufficient information to show the conditions outlined in this policy are met and as long as complete annual reports are submitted in a timely manner.

- The import or export of urine, feces, and synthetic DNA, when collected in a manner that does not involve the capture, detention, or killing of protected wildlife, does not require a permit from the Service. The CITES Management Authority of any exporting or importing country should be contacted to meet any requirements it may have.

Captive Breeding

Breeding loans need to benefit panda conservation by supplementing the breeding program in China to achieve a self-sustaining captive population, and typically also to provide a source of funds for panda conservation in the wild. There is a need to maximize the use of pandas currently held in captivity that are not essential to China's breeding program. It is anticipated many of the animals that may be requested to be imported into the United States will be ones that have not successfully bred in China, and the policy emphasizes the need to have a research component to identify how these individuals may best contribute to the breeding component in China.

(1) The applicant must provide sufficient information to demonstrate the importance and necessity of importing pandas for captive-breeding:

- Enhancement may be satisfied through captive-breeding if it can be convincingly shown that results will be used to study and/or manage giant pandas in a way that has promise of contributing to panda conservation. It will be expected to include a research component aimed at increasing reproductive success if the animals involved have a history of being non-breeding animals. It is expected that requests to import live giant pandas for captive breeding will also include other, additional enhancement activities, such as the generation of funds for panda conservation in the wild.

- If research is a component, the applicant must provide information to show that the research satisfies the requirements of this policy concerning scientific research. The research must be recognized as a high priority activity by a coordinated international panda conservation effort.

- The proposed captive-breeding must be part of a coordinated international panda conservation effort designed to complement conservation efforts for the wild panda population, with the applicant actively participating in the plan.

- The breeding loan must demonstrate how it will contribute to the preservation of the panda's gene pool (i.e., retention of maximum genetic diversity). The choice of individuals to be imported should be based on scientific management of the captive populations with genetic and demographic criteria used to determine mating pairs.

- Proposals must describe how the study would contribute to the conservation of the giant panda in the wild or in captivity, and how any information gained or methodologies developed will be transferred for use in China, including estimated timeframes of transfers, training, or collaborative efforts.

(2) The applicant must provide information to show that he/she has the expertise and resources to accomplish the stated objectives:

- The applicant must submit a detailed breeding protocol that outlines when male and females will be paired for breeding, how females and males will be visually and physically separated and/or managed together, with layout of facilities and protocols for rearing potential young.

- Imports of frozen sperm for use in captive breeding must be done in accordance with a coordinated international panda conservation effort.

- Artificial insemination or any other physically invasive procedures must be described, and any subsequent

procedural changes and/or additions must be pre-approved by the Service.

- The permittee must provide at least an annual report summarizing breeding activities, and research activities, if pertinent, including a copy of protocols developed and methodologies used, a summary of data collected with a discussion of results, and copies of any published papers. The report should also indicate any transfer of protocols or methodologies to the Chinese and their use in China in the wild or in captivity.

(3) If pandas are going to be on exhibition at any time during the captive-breeding loan:

- The applicant must provide protocols outlining how the captive breeding, its research component, when applicable, and exhibition will be monitored to ensure that having the pandas on exhibit does not interfere with captive breeding and/or its research component. The applicant must also provide the name, position, and qualifications of the individual who will be responsible for making the decision to take the pandas off of exhibit if the display is interfering with the captive-breeding or its research.

- The applicant must have adequate facilities to conduct the captive breeding and its research component, when applicable, and to house the pandas separate and apart from public exhibition areas, in case it is found that the exhibition interferes with the captive breeding or its research.

- The funds generated by the exhibition must be used for conservation projects as previously described.

- The applicant must consent to the movement, substitution, or transfer of any panda to another approved institution if, in the judgment and at the request of China, such action is needed to maximize successful captive-breeding opportunities.

Exhibition

1. The import of giant pandas for the purpose of educational exhibition alone would not be sufficient to satisfy enhancement requirements. The Service encourages institutions importing giant pandas to educate the U.S. public about the ecological role and conservation needs of the giant panda, but will not consider this in reviewing applications. However, if an applicant is developing a panda conservation education program that would be transferable to China, or is developing a program specifically for use in China, particularly in localities near giant panda habitat and reserves, the Service will consider this project as part of a coordinated international conservation

effort in making its enhancement finding.

- Educational programs in China should be aimed at local people, school children, panda researchers (field and captive), reserve biologists, and managers.

- Educational activities or projects must be described in detail, including samples of the kinds of educational materials to be used, and a description of evaluation methods.

- The messages conveyed through the educational program should stress historical and contemporary impacts on the status of the giant panda in the wild, and conservation efforts that might be required to halt the species' decline and degradation of its habitat.

2. Alternative 1—Exhibition Solely as an Ancillary Component. Educational displays would only be allowed as an ancillary component of a captive-breeding and/or research program. Specifically, the import of pandas solely for exhibition loans of any length would not be allowed.

3. Alternative 2—Short-term Exhibition. For purposes of this policy, the import of pandas for short-term exhibition loans would be allowed under certain conditions:

- A panda can only be on loan for short-term exhibition for a maximum of 1 year.

- During a single 1-year loan period in the United States, up to 3 different institutions may receive and display the pandas for periods of at least 3 months, unless health considerations dictate otherwise.

- Each institution following the first in the sequence of exhibitions must have submitted complete application materials as well as written authorization from the exporting country's Management Authority and, if from China, from the Protecting Giant Panda Project Office.

Primarily Commercial Purposes

With regard to the determination of whether a loan of giant pandas is not to be used for primarily commercial purposes, the Service will utilize the following policy.

1. Resolution Conf. 5.10 of CITES provides that:

- The nature of the transfer of specimens between the owner in the country of export and the recipient in the country of import may be commercial. It is the intended use of the specimens in the country of import that must not be for primarily commercial purposes, and it is the responsibility of the recipient country's Management Authority to make this determination.

- There may be some commercial aspects of that use, but the non-commercial uses must predominate in order to be deemed primarily non-commercial.

2. Public, non-profit institutions, organizations and agencies will receive consideration for panda loans. The Service's general regulations at 50 CFR 10.12 define "public" institutions as those that " * * * are open to the general public and are either established, maintained, and operated as a government service, or are privately endowed and organized but not operated for profit." Although commercial (profit-making) organizations may also choose to apply for such loans, the profit-making characteristics of such organizations will make it more difficult for the Service to find that the specimen(s) proposed for import is not to be used primarily for commercial purposes. As in all cases, the burden rests with the applicant to show that this CITES requirement is satisfied. Of necessity, the burden of proof will be higher for commercial enterprises than for non-profit entities.

3. It is the Service's policy that all funds or other valuable considerations raised directly or indirectly by a public institution or other organization that are obtained by the organization(s) or institution(s) involved (or any for-profit parent organization of the applicant, but not including unrelated private entities, such as hotels, not associated with the applicant) as a result of the panda loan are, to the extent that such funds or other valuable considerations exceed the reasonable expenses that are properly attributable to the exhibitions, to be used entirely for the non-commercial purposes outlined in the prior section, "Conservation Benefits of Specific Projects".

- Reasonable expenses include the following: Facility construction if amortized for the entire proposed length of the loan (but not for short-term exhibition loans), facility maintenance, direct labor and operating supplies needed for the care of the pandas (includes keeper and veterinary support), administrative support directly associated with the maintenance of the animals, security needed for the pandas, development of educational materials for use in China, development of educational signs for exhibits in the United States, and supplies or materials necessary to conduct research or captive-breeding activities that have been identified in the application.

- It is the intent of the policy to maximize funds going back to

conservation projects in China and, as such, costs associated with ordinary operations, such as advertising, general personnel costs, general legal expenses (not directly related to the panda loan), will not be considered reasonable expenses.

- Collection of revenues generated by the panda loan by the importing institution (e.g., gate receipts, food and drink sales, tourist souvenirs), either for its own use or for the use of other organizations, for purposes other than those previously described, would be judged to be a primarily commercial activity, as would the use of revenues for profit-making purposes.

4. Each applicant for a panda loan, in satisfying the applicable requirements of 50 CFR subchapter B, should submit a detailed plan for the allocation of all funds raised in excess of expenses, as a result of the panda loan. The application must also include a certification statement from a reputable, independent accounting firm stating that the applicant's internal accounting system is sufficient to account for and track funds generated directly or indirectly by the panda loan, and for the subsequent disbursement of funds.

5. Each recipient of a permit to obtain a panda loan shall be required, in accordance with 50 CFR 13.45, to submit an annual report to the Service as a condition of the permit. The annual report must contain a full accounting of all funds raised directly or indirectly by the institution or organization, the portion of those funds that is in excess of expenses, and what portion of these funds are to be disbursed for giant panda conservation projects or activities as outlined in the prior section, "Conservation Benefits of Specific Projects".

- The report must include names of people involved, location of the activities, a brief description of each project, and the amount and use of money being provided the project. The report must also identify specific costs that were deducted as reasonable expenses.

- Conservation projects other than those projects presented in the application must receive approval from the Service's Office of Management Authority prior to allocating funds.

These policy considerations will be used by the Service only for determining whether panda imports are primarily commercial in nature. They are not intended to apply to Appendix I import permit applications for other species. All such applications must continue to demonstrate that the proposed import meets the general requirements of resolution Conf. 5.10 to

satisfy the "not to be used for primarily commercial purposes" test.

Suitability of Facilities and Care

Under CITES, the Service must be "satisfied that the proposed recipient of a living specimen (to be imported) is suitably equipped to house and care for it". Under the regulations implementing the Act, the Service must determine that the applicant has "the expertise, facilities, or other resources" to successfully accomplish the objectives. To aid in satisfying these requirements, applicants must provide the following information in addition to the information required in 50 CFR 17.22:

- Copies of protocols for monitoring general health and behavior. In lieu of new protocols, an applicant may submit copies of protocols recommended by a coordinated international panda conservation effort.

- Diagrams and photographs clearly depicting all enclosures where the panda may be housed, including any off-exhibit areas and panda holding area(s) in relation to other facilities, including roads adjacent to such areas.

- Information to demonstrate the applicant has consulted with at least two other facilities that have successfully held pandas in recent years, that the applicant has facility features that address the National Zoological Park's recommended measures for giant panda care and facilities, and that zoo staff, especially keepers and veterinarians, have had proper training and experience to care for pandas.

- Approval of facilities by the Chinese or appropriate authority in the lending country, if such a stipulation has been made in a contractual agreement. If approval has not been given prior to applying for the permit, there must be a statement from the applicant certifying that the agreement stipulation will be satisfied before animals are imported.

Transfer of Pandas to Other Entities Within the United States

Applicants proposing to import giant pandas and subsequently transfer them

to another entity within the United States should indicate this in the initial import application. The proposed recipient of the panda will need to apply for and receive an interstate commerce permit under the Act prior to the transfer since the pandas are being held under a loan (e.g., lease-hold agreement) from China or other lending entity. The proposed recipient of the panda needs to provide all the information required by the Act, its regulations, and this policy. The Service will facilitate, to the extent possible, the transfer of animals within the United States when part of a coordinated breeding program. If the receiving institution has a panda permit on file with the Service, it can reference the permit number and information in this file, and provide any new information for the Service to review in consideration of an interstate commerce permit. These applications will be published in the **Federal Register**, and so the applicant will need to allow at least 90 days for processing. Such transfers must also have the prior approval of China or the entity that owns the animals. The number of times an individual panda is transferred within the United States will be closely monitored to protect the overall health and well-being of the animal.

Response to the CITES Secretariat's Views on Giant Panda Loans

The Service notes with approval the recommendation of the Secretariat that no exemptions be granted to the requirements of Article III of the Convention for the shipment of giant pandas, even for animals that might otherwise qualify for an exemption as "pre-Convention" animals under Article VII. However, the Service does not have authority under U.S. law to refuse to accept a valid pre-Convention certificate. If the Management Authority of the country of origin or of the country of re-export does not issue a pre-Convention certification, the Service will require a U.S. import permit and export permit or re-export certificate, as appropriate, from the exporting or re-exporting country in accordance with Article III of the Convention. In

addition, even if a valid pre-Convention certificate is issued by the exporting country, an import permit would be required under the Act for all panda loans (and an export permit, if the pandas are to leave the United States), even for pandas acquired prior to January 23, 1984 (the date of the final **Federal Register** notice listing the giant panda under the Act), as the pre-Act exemption (Section 9(b)(1) of the Act) does not apply to animals that are subsequently held in the course of a commercial activity (e.g., lease-hold agreement).

The Service will also continue its policy of approving applications only if it is sure that the proposed loan did not, or will not, contribute to removal of pandas from the wild, and that the non-commercial purposes for the proposed loan predominate.

This notice was prepared under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: February 21, 1995.

George T. Frampton, Jr.,
Assistant Secretary for Fish and Wildlife and Parks.

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DEPARTMENT OF INTERIOR

Fish and Wildlife Service

Letters of Authorization to Take Marine Mammals

AGENCY: Notice of issuance of Letters of Authorization to take marine mammals incidental to oil and gas industry activities.

SUMMARY: In accordance with Section 101(a)(5) of the Marine Mammal Protection Act of 1972, as amended, and the U.S. Fish and Wildlife Service implementing regulations (50 CFR 18.27), notice is hereby given that Letters of Authorization to take polar bears and Pacific walrus incidental to oil and gas industry exploration activities have been issued to the following companies:

Company	Activity	Date issued
Western Geophysical	Exploration	Jan. 3, 1995.
Schlumberger Geco— Prakla.	Exploration	Jan. 3, 1995.
ARCO Alaska, Inc.	Exploration	Feb. 1, 1995.

BP Exploration (Alaska) Inc., (BPX) and ARCO Alaska, Inc., (ARCO) were re-issued reoccurring Letters of

Authorization to incidentally take polar bears and walrus during development and production activities based upon

receipt of an annual monitoring report. BPX is authorized to incidentally take polar bear and walrus in the Prudhoe