doctoral fellows in the ESR spectroscopic techniques and their use in determining protein structure and function. *Application accepted by Commissioner of Customs:* August 28, 1997.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 97–24711 Filed 9–16–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–122–815]

Pure and Alloy Magnesium From Canada; Final Results of the Fourth (1995) Countervailing Duty Administrative Reviews

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

ACTION: Notice of final results of countervailing duty administrative reviews.

SUMMARY: On May 12, 1997, the Department of Commerce (the Department) published in the **Federal Register** its preliminary results of administrative reviews of the countervailing duty orders on pure and alloy magnesium from Canada for the period January 1, 1995 through December 31, 1995 (see *Pure Magnesium and Alloy Magnesium From Canada; Preliminary Results of Countervailing Duty Administrative Reviews* (*Preliminary Results*), 62 FR 25924). We have completed these reviews and determine the net subsidy in each to be 3.18 percent *ad valorem* for Norsk Hydro Canada, Inc. (NHCI). We will instruct the U.S. Customs Service to assess countervailing duties as indicated above.

EFFECTIVE DATE: September 17, 1997.

FOR FURTHER INFORMATION CONTACT: Marian Wells or Hong-Anh Tran, Office 1, Group 1, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-6309 or (202) 482–0176, respectively.

SUPPLEMENTARY INFORMATION:

Background

In accordance with 19 C.F.R. 355.22(a), these reviews cover only those producers or exporters of the subject merchandise for which reviews were specifically requested. Accordingly, these reviews cover only NHCI, a producer of the subject merchandise which exported pure and alloy magnesium to the United States during the review period.

On May 12, 1997, the Department published in the **Federal Register** the *Preliminary Results* of its administrative reviews of the countervailing duty orders on pure and alloy magnesium from Canada (62 FR 25924). We invited interested parties to comment on the *Preliminary Results*. On June 10, 1997, case briefs were submitted by NHCI, a producer of the subject merchandise which exported pure and alloy magnesium to the United States during the review period, and the Government of Québec (GOQ). At the request of the GOQ, the Department held a public hearing on June 17, 1997.

These reviews cover the period January 1, 1995 through December 31, 1995 (the period of review or POR). The reviews involve one company (NHCI) and the following programs: Exemption from Payment of Water Bills, Article 7 Grants from the Québec Industrial Development Corporation (SDI), St. Lawrence River Environment Technology Development Program, Program for Export Market Development, the Export Development Corporation, Canada-Québec Subsidiary Agreement on the Economic Development of the Regions of Québec, Opportunities to Stimulate Technology Programs, Development Assistance Program, Industrial Feasibility Study Assistance Program, Export Promotion Assistance Program, Creation of Scientific Jobs in Industries, Business Investment Assistance Program, Business Financing Program, Research and Innovation Activities Program, Export Assistance Program, Energy Technologies Development Program, and Transportation Research and Development Assistance Program.

Applicable Statute

Unless otherwise indicated, all citations to the statute are in reference to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (URAA) effective January 1, 1995 (the Act). The Department is conducting these administrative reviews in accordance with section 751(a) of the Act.

Scope of the Reviews

The products covered by these reviews are shipments of pure and alloy magnesium from Canada. Pure magnesium contains at least 99.8 percent magnesium by weight and is sold in various slab and ingot forms and sizes. Magnesium alloys contain less than 99.8 percent magnesium by weight with magnesium being the largest metallic element in the alloy by weight, and are sold in various ingot and billet forms and sizes. Pure and alloy magnesium are currently classifiable under subheadings 8104.11.0000 and 8104.19.0000, respectively, of the Harmonized Tariff Schedule (HTS). Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Secondary and granular magnesium are not included in the scopes of these orders. Our reasons for excluding granular magnesium are summarized in the *Preliminary Determination of Sales at Less Than Fair Value: Pure and Alloy Magnesium From Canada* (57 FR 6094, February 20, 1992).

Analysis of Programs

Based upon our analysis of the questionnaire responses and written comments from the interested parties, we determine the following:

I. Programs Conferring Subsidies

A. Exemption from Payment of Water Bills

In the *Preliminary Results,* we found that this program conferred countervailable benefits on the subject merchandise. Our analysis of the comments submitted by the interested parties, summarized below, has not led us to change our findings from the Preliminary Results. On this basis, the net subsidy rate for this program is as follows:

Manufacturer/exporter	Rate (percent)
NHCI	0.50

B. Article 7 Grants from the Québec Industrial Development Corporation

In the *Preliminary Results,* we found that this program conferred countervailable benefits on the subject merchandise. Our analysis of the comments submitted by the interested parties, summarized below, has not led us to change our findings from the *Preliminary Results.* On this basis, the net subsidy rate for this program is as follows:

Manufacturer/exporter	Rate (percent)
NHCI	2.68

II. Programs Found Not To Be Used

In the *Preliminary Results,* we found that NHCI did not apply for or receive benefits under the following programs:

- St. Lawrence River Environment Technology Development Program
- Program for Export Market Development
- Export Development Corporation
- Canada-Québec Subsidiary Agreement on the Economic Development of the Regions of Québec
- Opportunities to Stimulate Technology Programs
- Development Assistance Program
- Industrial Feasibility Study Assistance Program
- Export Promotion Assistance Program
- Creation of Scientific Jobs in Industries
- Business Investment Assistance Program
- Business Financing Program
- Research and Innovation Activities Program
- Export Assistance Program
- Energy Technologies Development Program
- Transportation Research and Development Assistance Program.

We received no comments on these programs from the interested parties; therefore, we have not changed our findings from the *Preliminary Results.*

Analysis of Comments

Comment 1: Countervailability of the Exemption from Payment of Water Bills NHCI argues that, in calculating the countervailable benefit under this program, the Department has in its *Preliminary Results* overstated the benefit by using the amount NHCI would have paid for water during the POR instead of NHCI's actual water consumption amount during the POR. NHCI claims that absent the credit from its supplier of water, La Societé du Parc Industriel et Portuaire de Bécancour (''Industrial Park''), NHCI would have been subject to a different billing arrangement based on actual water consumption which was the billing basis for all of the other Industrial Park customers. Thus, to calculate the amount of the benefit it received under this program, NHCI argues that the Department should use the amount NHCI would have paid based on its actual water consumption.

NHCI claims that this issue is analogous to the question of what commercial interest rate benchmark should be used where a company is benefitting from a preferential interest rate. As such, NHCI states that the appropriate benchmark to measure the amount of benefit, in this case, is the commercial water rate available to all the other Industrial Park's customers. By using the rate associated with NHCI's credit agreement as opposed to the commercially available rate, NHCI claims that the Department has unlawfully overstated the amount of its benefit.

DOC Position: We disagree with NHCI that in order to measure the benefit conferred by the credit, we are required to hypothesize what NHCI would have paid for its water in the absence of the credit and the contract it entered into. In these reviews, the terms of the contract between NHCI and the Industrial Park state that NHCI is required to pay an amount based, in part, on forecasted consumption. To the extent that the water credit relieved NHCI from paying its water bills, a countervailable benefit existed without regard to whether NHCI would have received different terms under an alternative arrangement. Therefore, we determine that the benefit is the full amount of the credit (see also *Final Results of the First Countervailing Duty Administrative Reviews: Pure Magnesium and Alloy Magnesium From Canada, (Final Results of First Magnesium Reviews),* 62 FR 13857 (March 24, 1997), and *Final Results of the Third Countervailing Duty Administrative Reviews: Pure Magnesium and Alloy Magnesium From Canada, (Final Results of Third Magnesium Reviews),* 62 FR 18749 (April 17, 1997)).

Comment 2: Article 7 Assistance under the SDI Act: NHCI argues that the Department erroneously stated that the Article 7 assistance was provided to cover a large percentage of the cost of certain environmental protection equipment. Instead, NHCI maintains that, based on the SDI agreement, NHCI was required to satisfy two prerequisites before it could receive any financial assistance from SDI.

NHCI further argues that the Department improperly applied its grant methodology to the Article 7 assistance provided to NHCI. According to NHCI, the Department should have used its loan methodology to calculate the benefits from virtually all of the SDI financial assistance received because NHCI knew at the time it undertook the borrowings that the interest paid on those borrowings would be reimbursed. NHCI states that this would be consistent with the Department's interest rebate methodology, i.e., interest rebates should be considered as reductions in the cost of borrowing if the company knew that it would receive the interest rebates at the time it received the loan (e.g., *Final Affirmative Countervailing Duty Determination; Certain Steel Products From the United Kingdom* (*UK Steel*), 58 FR 37393, 37397 (July 9, 1993)).

DOC Position: The issue presented by this case is whether the Article 7 assistance received by NHCI should be treated as an interest rebate or as a grant. If it is treated as an interest rebate, then under the methodology adopted by the Department in the 1993 steel cases, the benefit of the Article 7 assistance would be countervailed according to our loan methodology (e.g., *Final Affirmative Countervailing Duty Determinations: Certain Steel Products From Belgium,* (*Belgium Steel*) 58 FR 37273, 37276 (July 9, 1993)). However, if treated as a grant, the benefits would be allocated over a period corresponding to the life of the company's assets.

In its brief, NHCI argues that the interest rebate methodology reflects the fact that companies face a choice between debt and equity financing. If a company knows that the government is willing to rebate interest charges before the company takes out a loan, the government is encouraging the company to borrow rather than sell equity. Hence, NHCI concludes, the benefit should be measured with reference to the duration of the borrowing for which the rebate is provided.

We disagree with NHCI's contention that the Department's interest rebate methodology was intended to reflect the choice between equity and loan financing. In the 1993 steel cases, (see e.g., *Belgium Steel*), we examined a particular type of subsidy, (i.e., interest rebates), and determined which of our valuation methodologies was most appropriate. The possible choices were between the grant and loan methodologies. Where the company had knowledge prior to taking the loan out that it would receive an interest rebate, we decided that the loan methodology was most appropriate because there is virtually no difference between the government offering a loan at five percent interest (which would be countervailed according to the loan methodology) and offering to rebate half of the interest paid on a ten percent loan from a commercial bank each time the company makes an interest payment. Hence, we were seeking the closest methodological fit for different types of interest rebates.

However, the interest rebate methodology described in the 1993 steel cases was never intended to dictate that the Department should apply the loan methodology in every situation in which a government makes contributions towards a company's interest obligations. The appropriate methodology depends on the nature of the subsidy. For example, assume that the government told a company that it would make all interest payments on all

construction loans the company took out during the next year up to $6 million. This type of ''interest rebate'' operates essentially like a $6 million grant restricted to a specific purpose. Whether the purpose is to pay interest expenses or buy a piece of equipment does not change the nature of the subsidy. In contrast, the interest rebate methodology is appropriate for the type of interest rebate programs investigated in the 1993 steel cases, i.e., partial interest rebates paid over a period of years on particular long-term loans.

As we did in the 1993 steel cases, the Department in these reviews is seeking the most appropriate methodology for the Article 7 assistance. We erred in our *Preliminary Results of First Countervailing Duty Administrative Reviews: Pure Magnesium and Alloy Magnesium From Canada*, 61 FR 11186 (March 19, 1996), in stating that the primary purpose of the Article 7 assistance was to underwrite the purchase of environmental equipment. However, it cannot be disputed that the environmental equipment played a crucial role in the agreement between SDI and NHCI. Most importantly, the aggregate amount of assistance to be provided was determined by reference to the cost of environmental equipment to be purchased. In this respect, the Article 7 assistance is like a grant for capital equipment.

Further, the assistance provided by SDI is distinguishable from the interest rebates addressed in the 1993 steel cases in that the interest payments in the steel cases rebated a portion of the interest paid on particular long-term loans. Here, although the disbursement of Article 7 assistance was contingent, *inter alia*, on NHCI making interest payments, the disbursements were not tied to the amount borrowed, the number of loans taken out or the interest rates charged on those loans. Instead, the disbursements were tied to NHCI meeting specific investment targets and generally to NHCI having incurred interest costs on borrowing related to the construction of its facility.

Therefore, while we recognize that NHCI had to borrow and pay interest in order to receive individual disbursements of the Article 7 assistance, we do not agree that this fact is dispositive of whether the interest rebate methodology used in the 1993 steel cases is appropriate. We believe this program more closely resembles the scenario described above where the government agrees to pay all interest incurred on construction loans taken out by a company over the next year up to a specified amount. Because, in this case, the amount of assistance is calculated by reference to capital equipment purchases (something extraneous to the interest on the loan) and the reimbursements do not relate to particular loans, we determine that the Article 7 assistance should be treated as a grant.

The Department has in past cases classified subsidies according to their characteristics. For example, in the *General Issues Appendix* (GIA) appended to *Final Countervailing Duty Determination; Certain Steel Products from Austria* (58 FR 37217, 37226, (July 9, 1993)), we developed a hierarchy for determining whether so-called ''hybrid instruments'' should be countervailed according to our loan, grant or equity methodologies. In short, we were asking whether the details of particular government ''contributions'' made them more like a loan, a grant or an equity infusion. Similarly, when a company receives a grant, we look to the nature of the grant to determine whether the grant should be treated as recurring or non-recurring. In these reviews, we have undertaken the same type of analysis, i.e., determining an appropriate calculation methodology based on the nature of the subsidy in question. As with hybrid instruments and recurring/non-recurring grants, it is appropriate to determine which methodology is most appropriate based on the specific facts of the Article 7 assistance. Although the Article 7 assistance exhibits characteristics of both an interest rebate and a grant, based on an overview of the contract under which the assistance was provided, we determine that the weight of the evidence in this case supports our treatment of the Article 7 assistance as a grant.

Comment 3: Obligation of Department to Re-examine Specificity of Article 7 Assistance: In the event the Department continues to treat the Article 7 assistance as a nonrecurring grant, the GOQ argues that the Department must re-examine whether the assistance was specific. In particular, the Department is obliged to evaluate, according to the GOQ, in each administrative review the countervailability of a program previously determined to be *de facto* specific, regardless of whether the parties have provided new information. The Department may not rely, as it did in the *Preliminary Results*, on a *de facto* specificity determination made in the original investigations.

DOC Position: Just as it does not revisit prior determinations that a program is not specific, it is the Department's policy not to revisit prior determinations that a program is specific, absent the presentation of new facts or evidence (see e.g., *Carbon Steel Wire Rod From Saudi Arabia; Final Results of Countervailing Duty Administrative Review and Revocation of Countervailing Duty Order*, 59 FR 58814 (November 15, 1994), *Final Results of First Magnesium Reviews*, and *Final Results of Third Magnesium Reviews*). In the present reviews, no new facts or evidence, have been presented which would lead us to question our original specificity determination for the POI.

Comment 4: Alternative Methodology for Determining Specificity of Article 7 Assistance: The GOQ continues to argue, as it has in previous reviews, that the Department should take an entirely different approach to the question of how to determine if a nonrecurring grant is disproportionately large, and therefore, specific. Rather than base its analysis on the entire amount of the grant at the time of bestowal, the GOQ maintains that the Department must instead examine only the portion of the benefit allocated—in accordance with the Department's standard allocation methodology—to the POR. It is this amount, in relationship to the portions of benefits allocated to the POR for all assistance bestowed under the program to all other enterprises, that must be determined to be disproportionate. Because the benefit attributable to the POR is the subsidy at issue, it is that amount, according to the GOQ, that must be found specific before it may be countervailed.

DOC Position: As we have explained in previous final results (see *Final Results of First Magnesium Reviews*, and *Final Results of Third Magnesium Reviews*, the GOQ is confusing the determination of specificity with the measurement of the subsidy. Tellingly, the GOQ is unable to cite a single determination by the Department or any other legal authority to support its argument.

The specificity determination and the measurement of the subsidy are two separate and distinct processes. The question of whether a nonrecurring grant is disproportionately large is based on an examination of the entire amount of the grant at the time of bestowal. If such a grant is found to be disproportionately large, it is determined to be specific. (As a grant specifically provided, it is also at this point that the statutory requirements for countervailing the grant are met. See section 771(5) of the Act.) The separate and distinct second step is the measurement of the benefit. This step involves allocating portions of the grant over time. It is these portions of the grant which then provide the basis for the calculation of the *ad valorem* rate of

subsidization. The portions of subsidies allocated to periods of time using the Department's standard allocation methodology are irrelevant to an examination of the actual distribution of benefits by the granting government at the time of bestowal.

Comment 5: Appropriate Time of Specificity Determination: ''Bestowal'' or Disbursement: The GOQ argues that although the Department concluded in the *Final Results of First Magnesium Reviews* and the *Final Results of Third Magnesium* that the proper time period for a specificity determination is the time of bestowal, the Department did not examine specificity in the original period of investigation (POI) at the time of bestowal. Rather, the Department examined specificity at the time of approval of the funds. The GOQ argues that the time of bestowal for the purpose of a specificity determination should refer to the time of actual disbursement of funds, and should not refer to the time funds are approved by the granting authority.

DOC Position: We disagree with the GOQ's assertion that the Department's specificity analysis during the original investigations should have been conducted based on the time of actual disbursement of funds. We acknowledge that the specificity determination in the original investigations was based on the action of the granting authority, i.e., the GOQ, at the time of approval. However, we note that the Department uses the terms ''approval'' and ''bestowal'' interchangeably in this context. The time of bestowal or approval is the appropriate basis for the specificity determination because it most directly demonstrates whether a government has limited benefits to an enterprise or industry, or group thereof.

Comment 6: Relevance of New Information: The GOQ maintains that given the Department's responsibility to make a finding of specificity and countervailability based on the information relevant to the POR, the Department should consider any new assistance provided by SDI since the end of the original POI. To this end, the GOQ provided information on the Article 7 assistance extended up to, and including, the POR in a submission dated January 15, 1997. According to the GOQ, this new factual information was apparently ignored by the Department when it concluded during the *Preliminary Results* for these reviews that neither the GOQ nor NHCI provided new information which would warrant reconsideration of this determination.

DOC Position: As stated above, the proper time period for a specificity determination is the time of bestowal. Therefore, information submitted by the GOQ concerning assistance that was provided subsequent to the time of bestowal of the assistance granted to NHCI under Article 7 of the SDI Act is not relevant to the specificity determination. The remaining information presented by the GOQ on the Article 7 assistance granted prior to and including the time of bestowal of NHCI's Article 7 benefits is nearly identical to that utilized by the Department in its original specificity determination. Differences between the updated information on Article 7 provided by the GOQ and information used in the original specificity determination are sufficiently small so as not to compromise the original specificity determination.

Comment 7: Relevance of Article 9 Information: The GOQ argues that assistance under Article 9 should be included in the Article 7 specificity analysis because Article 9 was the predecessor of Article 7 and the provisions of Article 9 functioned basically the same as those of Article 7.

DOC Position: We disagree. The GOQ did not provide any information which would allow us to make a determination on whether Article 9 and Article 7 should be considered integrally linked or otherwise considered a single program for purposes of our specificity analysis. Information on the record in these proceedings with respect to Article 9 consists only of a statement by the GOQ in its case brief that Article 9 was the predecessor of Article 7. This is an insufficient basis to determine that the two programs should be treated as one.

Comment 8: Appropriate Denominator: NHCI states that in the *Preliminary Results* the Department deviated from its standard practice in determining the denominator for companies with multinational production facilities that fail to rebut the presumption that subsidies are domestically tied. In particular, NHCI argues that it is the Department's policy to tie such subsidies to domestic operations, by allocating benefits to sales by the domestic company regardless of country of manufacture, as opposed to tying to domestic production, as was done in the *Preliminary Results.* NHCI additionally states that the Department failed both to explain its basis for presuming that the subsidies were tied to Canadian production and to respond to NHCI's arguments in favor of allocating the subsidies over sales by NHCI of subject merchandise regardless of country of manufacture. In so doing, NHCI claims that the Department has denied it due process by preventing it from rebutting the presumption and from responding to the rationale the Department used to support its decision to tie the subsidies to domestic production. In support of its assertion that the subsidies it received are tied to its domestic operations, NHCI states that any funds received benefited all employment-related activities in Canada (e.g., sales of all products) and that these activities are related to both domestic and foreign production. NHCI elaborates further that the denominator policy used by the Department in this case is a deviation from the fungibility of money principle.

NHCI also cites *British Steel plc* v. *United States (British Steel*) (879 F. Supp. 1254, 1317) in which the Court reversed and remanded the Department's determinations because it found that the Department should have given plaintiffs due notice of its decision to apply the rebuttable presumption that the subsidies at issue were tied to domestic production in order to allow plaintiffs the opportunity to rebut the Department's presumption.

DOC Position: NHCI cites *British Steel* to imply that the Department must inform parties early during the course of each proceeding of its intent to use the rebuttable presumption that subsidies to companies with foreign manufacturing operations are tied to domestic production. However, the facts involved in *British Steel* are readily distinguishable. Therefore, the holding in that case does not apply to the present situation.

In *British Steel,* the Court was examining the Department's policy of using the rebuttable presumption articulated in the GIA. In particular, the Court took issue with the introduction of the new policy in the final-determination stage of the investigation, because the timing prevented parties from both commenting on the methodology and from presenting evidence rebutting the presumption. It is important to note that the Department's remand determination, as affirmed by the Court, upheld the appropriateness of using the rebuttable presumption. (*Id.* at 1316). The Department has continued to use the rebuttal presumption and this policy has become accepted Department practice. Unlike *British Steel,* we are not dealing with the introduction of a new policy late into the course of a proceeding in this case. Therefore, the Department was not required to forewarn NHCI of the use of the rebuttable presumption.

We also note that the use of a denominator based only on

domestically produced merchandise did not come as a surprise to NHCI. In the original investigations of these cases (which pre-dated the rebuttable presumption) the Department used a denominator based only on sales of domestically produced merchandise (*Final Affirmative Countervailing Duty Determinations: Pure Magnesium and Alloy Magnesium From Canada,* 57 FR 30946 (July 13, 1992)). Since the investigations in these cases, there has been a changed circumstances review (57 FR 54047 (November 16, 1992)) and a Binational Panel proceeding. In all of the proceedings, the denominators have included only domestically produced merchandise and in no case has NHCI objected to those denominators. In addition, the questionnaire for these reviews requested information on sales denominators based on domestically produced merchandise. NHCI provided the requested sales denominator information along with denominators based on total sales by NHCI and arguments why those based on total sales should be used. Moreover, sales of domestically produced merchandise were used as the denominator in the *Preliminary Results* as well as every other administrative review of these orders, (see for example, *Final Results of First Magnesium Reviews,* and *Final Results of Third Magnesium Reviews*). As can be seen from the foregoing, NHCI was aware as to the possible use of a denominator based on domestically produced merchandise and did indeed have an opportunity to attempt to rebut the presumption.

NHCI also argues that the Department must explain the basis of its presumption. However, the idea behind the use of a rebuttable presumption is that the fact presumed—in this case that subsidies bestowed on companies with foreign manufacturing operations are tied to domestic production—becomes the default position and does not have to be explained in each case. As the Department stated in the GIA, ''Thus, under the Department's refined ''tied'' analysis, the Department will begin by presuming that a subsidy provided by the government of the country under investigation is tied to domestic production'' (GIA at 37231). It follows that the Department will find that subsidies are tied to domestic production in the absence of evidence to the contrary.

As for NHCI's complaint that the Department failed to address its arguments that the subsidies received by NHCI benefited all of the company's operations, not just its manufacturing activities, we note that in the GIA it states, ''A party may rebut this presumption by presenting evidence tending to show that the subsidy was not tied to domestic production.'' The phrase, ''tending to show'' means that the party attempting to rebut the presumption must provide enough evidence to convince a reasonable fact-finder of the non-existence of the presumed fact—that subsidies are tied to the recipient firm's domestic production (Results of Redetermination Pursuant to Court Remand on General Issues of Sales Denominator: *British Steel plc* v. *United States,* Consol. Ct. No. 93–09–00550–CVD, Slip Op. 95–17 and Order (CIT Feb. 9, 1995) at 17). The mere absence of evidence limiting the government's intended scope of the benefit to domestic production is not sufficient. In this case, NHCI's arguments are unsupported by any evidence that the subsidies bestowed on NHCI were, in whole or in part, tied to foreign production. Therefore, NHCI has failed to rebut the presumption that the subsidies were tied to domestic production.

The Department's methodology for determining what to include in the denominator when a company has foreign manufacturing operations is explained in the GIA: ''If we determine that the subsidy is tied to domestic production, we will allocate the benefit of the subsidy fully to sales of domestically produced merchandise'' (GIA at 37231). This quotation makes it clear that sales of foreign-produced merchandise by a respondent company would not be included in the denominator. Even if we were to consider tying the subsidies at issue to domestic operations, using NHCI's suggestion of a sales denominator based on total NHCI sales would be improper since such a figure would include sales of foreign-produced merchandise by NHCI and, therefore, value-added from operations in other countries. Based on the foregoing arguments, we have continued to allocate subsidies received by NHCI to the company's merchandise produced in Canada.

Final Results of Review

In accordance with 19 CFR § 355.22(c)(4)(ii), we calculated an individual subsidy rate for each producer/exporter subject to these administrative reviews. For the period January 1, 1995 through December 31, 1995, we determine the net subsidy for NHCI to be 3.18 percent *ad valorem*. We will instruct the U.S. Customs Service to assess countervailing duties as indicated above. The Department will also instruct Customs to collect cash deposits of estimated countervailing duties in the percentages detailed above of the f.o.b. invoice price on all shipments of subject merchandise from the reviewed company, NHCI, except from Timminco Limited (which was excluded from the order in the original investigations), entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of these reviews.

Because the URAA replaced the general rule in favor of a country-wide rate with a general rule in favor of individual rates for investigated and reviewed companies, the procedures for establishing countervailing duty rates, including those for non-reviewed companies, are now essentially the same as those in antidumping cases, except as provided for in section 777A(e)(2)(B) of the Act. The requested review will normally cover only those companies specifically named (19 CFR 355.22(a)). Pursuant to 19 CFR 355.22(g), for all companies for which a review was not requested, duties must be assessed at the cash deposit rate, and cash deposits must continue to be collected at the rate previously ordered. As such, the countervailing duty cash deposit rate applicable to a company can no longer change, except pursuant to a request for a review of that company. See *Federal-Mogul Corporation and The Torrington Company* versus *United States,* 822 F. Supp. 782 (CIT 1993) and *Floral Trade Council* v. *United States,* 822 F. Supp. 766 (CIT 1993) (interpreting 19 CFR 353.22(e), the antidumping regulation on automatic assessment, which is identical to 19 CFR 355.22(g)). Therefore, the cash deposit rates for all companies except those covered by these reviews will be unchanged by the results of these reviews.

We will instruct Customs to continue to collect cash deposits for non-reviewed companies at the most recent company-specific or country-wide rate applicable to the company, except from Timminco Limited (which was excluded from the order in the original investigations). Accordingly, the cash deposit rates that will be applied to non-reviewed companies covered by these orders are those established in the administrative reviews completed for the most recent POR, conducted pursuant to the statutory provisions that were in effect prior to the URAA amendments. See *Pure and Alloy Magnesium from Canada: Final Results of the Second (1993) Countervailing Duty Administrative Reviews.* This rate shall apply to all non-reviewed companies until a review of a company assigned this rate is requested. In addition, for the period January 1, 1995 through December 31, 1995, the assessment rates applicable to all non-

reviewed companies covered by these orders are the cash deposit rates in effect at the time of entry.

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 C.F.R. 355.34(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

These administrative reviews and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)).

Dated: September 2, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 97–24710 Filed 9–16–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 091097A]

Incidental Take of Marine Mammals; Bottlenose Dolphins and Spotted Dolphins

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

ACTION: Notice of issuance of letters of authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA) as amended, and implementing regulations, notification is hereby given that 1-year letters of authorization to take bottlenose and spotted dolphins incidental to oil and gas structure removal activities were issued on July 10, 1997, to the Coastal Oil and Gas Corporation; on July 11, 1997, to Enron Oil and Gas Corporation; on July 18, 1997, to the Louisiana Land and Exploration Company, all of Houston, TX; on July 25, 1997, to Mobil Exploration and Producing U.S. Inc., of New Orleans, LA; and on September 10, 1997, to the Forest Oil Corporation, of Denver, CO, and Unocal of California, of Lafayette, LA.

ADDRESSES: The applications and letters are available for review in the following offices: Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910 and the Southeast Region, NMFS, 9721 Executive Center Drive N, St. Petersburg, FL 33702.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead, Office of Protected Resources, NMFS, (301) 713–2055 or Charles Oravetz, Southeast Region (813) 570–5312.

SUPPLEMENTARY INFORMATION: Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs NMFS to allow, on request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region, if certain findings are made and regulations are issued. Under the MMPA, the term ''taking'' means to harass, hunt, capture, or kill or to attempt to harass, hunt, capture or kill marine mammals.

Permission may be granted for periods up to 5 years if NMFS finds, after notification and opportunity for public comment, that the taking will have a negligible impact on the species or stock(s) of marine mammals and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses. In addition, NMFS must prescribe regulations that include permissible methods of taking and other means effecting the least practicable adverse impact on the species and its habitat, and on the availability of the species for subsistence uses, paying particular attention to rookeries, mating grounds, and areas of similar significance. The regulations must include requirements pertaining to the monitoring and reporting of such taking. Regulations governing the taking of bottlenose and spotted dolphins incidental to oil and gas structure removal activities in the Gulf of Mexico were published on October 12, 1995 (60 FR 53139), and remain in effect until November 13, 2000.

Summary of Requests

NMFS received requests for letters of authorization on June 25, 1997, from Coastal Oil and Gas Corporation; on July 11, 1997, from Enron Oil and Gas Corporation; on June 27, 1997, from the Louisiana Land and Exploration Company; on July 17, 1997, from Mobil Exploration and Producing U.S. Inc.; on September 3, 1997, from the Forest Oil Corporation, and on September 4, 1997, from Unocal of California. These letters requested a take by harassment of a small number of bottlenose and spotted dolphins incidental to the described activity. Issuance of these letters of authorization are based on a finding that the total takings will have a negligible impact on the bottlenose and spotted dolphin stocks of the Gulf of Mexico.

Dated: September 11, 1997.

Patricia A. Montanio,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–24673 Filed 9–16–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 080697A]

Small Takes of Marine Mammals Incidental to Specified Activities; Seismic Hazards Investigations in Puget Sound

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

ACTION: Notice of receipt of application and proposed authorization for a small take exemption; request for comments.

SUMMARY: NMFS has received a request from the U.S.Geological Survey (USGS) for an authorization to take small numbers of marine mammals by harassment incidental to collecting deep-crustal marine seismic data in the Puget Sound/Straits of Juan de Fuca region of Washington State. Under the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to authorize USGS to incidentally take, by harassment, small numbers of marine mammals in the above mentioned area during late February or March 1998.

DATES: Comments and information must be received no later than October 17, 1997.

ADDRESSES: Comments on the application should be addressed to Michael Payne, Chief, Marine Mammal Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3225. A copy of the application, and a draft environmental assessment (EA), which includes a list of references used in this document, may be obtained by writing to this address or by telephoning one of the contacts listed below.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead, Office of Protected Resources, NMFS, (301) 713–2055, or Brent Norberg, Northwest Regional Office, NMFS, (206) 526–6733.