DEPARTMENT OF COMMERCE

International Trade Administration

[C–122–815]

Pure and Alloy Magnesium From Canada; Final Results of the Second (1993) 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 March 24, 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, 1993 through December 31, 1993 (see Pure Magnesium and Alloy Magnesium From Canada; Preliminary Results of Countervailing Duty Administrative Reviews (Preliminary Results), 62 FR 13863). We have completed these reviews and determine the net subsidy to be 7.34 percent *ad valorem* for Norsk Hydro Canada, Inc. (NHIC) and all other producers/exporters except Timminco Limited, which has been excluded from these orders. We will instruct the U.S. Customs Service to assess countervailing duties as indicated above.

EFFECTIVE DATE: September 16, 1997.

FOR FURTHER INFORMATION CONTACT: Cynthia Thirumalai or Sally Hastings. AD/CVD Enforcement, Group 1, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4087 or (202) 482–3464, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 24, 1997, the Department published in the **Federal Register** (62 FR 13863) the preliminary results of its administrative reviews of the countervailing duty orders on pure and alloy magnesium from Canada (62 FR 13863). The Department has now completed these administrative reviews in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

We invited interested parties to comment on the Preliminary Results. On April 23, 1997, case briefs were submitted by NHCI, a producer of subject merchandise which export pure and alloy magnesium to the United States during the review period, and the Government of Québec (GOQ). At the request of respondents, the Department held a public hearing on May 13, 1997.

These reviews cover the period January 1, 1993 through December 31, 1993. 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, Financial Assistance Program For Research Formation and for the Improvement of the Recycling Industry, and Transportation Research and Development Assistance Program.

Applicable Statute

The Department is conducting these administrative reviews in accordance with section 751(a) of the Act. Unless otherwise indicated, all citations to the statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

Scopes 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. Secondary and granular magnesium are not included in the scope of the orders. Pure and alloy magnesium are classifiable under subheadings 8104.11.000 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.

Analysis of Programs

Based upon the 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 of the interested parties, summarized below, has not led us to change our findings with respect to the countervailability of this program. The net subsidy rate for this program is as follows:

Manufacturer/exporter	Rate (percent)
NHCI	1.00

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 with respect to the countervailability of this program. The net subsidy for this program is as follows:

Manufacturer/exporter	Rate (percent)
NHCI	6.34

II. Programs Found Not To Be Used

In the preliminary results, we found that the producers and/or exporters of the subject merchandise did not apply for or receive benefits under the following programs:

- St. Lawrence River Environment Technology 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
- Financial Assistance Program for Research Formation and for the Improvement of the Recycling Industry
- 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: Countervailable Benefit Received From the Exemption From Payment of Water Bills

While agreeing that NHCI's contract with its supplier of water, La Societé du Parc Industriel et Portuaire de Bécancour (''Industrial Park''), was linked with the credit it received from the GOQ to offset its water bills and reflected a forecasted annual rate of consumption, respondents argue that the GOQ's recalculation of NHCI's water bills reflecting actual consumption is a more accurate measure of the countervailable benefit than is the water bill credit received by NHCI during the review period. Respondents state that a different billing arrangement would have been made if a water credit had not been received. In summary, respondents argue that the Department should look to what NHCI would have paid absent the water credit and the contract compared to what NHCI paid with the credit and the contract to determine the amount of the benefit conferred by the credit.

DOC Position: We disagree with respondents that 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 to measure the benefit conferred by the credit. Simply put, the GOQ gave NHCI a credit based on and because of the contract and NHCI's forecasted usage. The water contract and the credit are inextricably linked. Again, we compare NHCI's argument to a situation in which a company that received a low-interest loan from a government argues to the Department that because of the low interest rate, it borrowed a greater amount of money than it otherwise would have. Therefore, the company would contend, to calculate the benefit conferred by the low-interest loan, the Department should compare the actual amount of interest paid on the low-interest loan with the amount of interest the company would have paid on a smaller loan at a higher benchmark interest rate. In this loan situation, we would not enter into a hypothetical calculation of what amount the company would have borrowed absent the low-interest loan. Instead, consistent with section 771(5)(A)(II)(c) of the Act, we would simply countervail the difference between the two interest rates regardless of the effect the interest rate has on the other terms of the loan, i.e., the amount borrowed.

In these reviews, the terms of the contract between NHCI and the Industrial Park unambiguously state that NHCI is required to pay an amount based, in part, on forecasted consumption. To the extent the GOQ's provision of the credit relieved NHCI from paying its water bills, a countervailable benefit existed regardless of any hypothetical alternative arrangements. Therefore, as stated in the Preliminary Results we determine that the countervailable benefit is the full amount of the credit.

Comment 2: Article 7 Assistance under the SDI Act: Respondents argue that the Department improperly applied its grant methodology to the Article 7 assistance provided to NHCI. According to respondents, the Department should calculate the benefit using its loan methodology and reduce the interest rate charged by the amount of the interest rebated because NHCI knew it would receive interest rebates from SDI prior to taking out loans. Respondents state that this would be consistent with the Department's methodology, and cite a number of cases in support thereof (e.g., Final Affirmative Countervailing Duty Determination; Certain Steel Products From the United Kingdom (UK Steel), 58 FR 37393, 37397 (July 9, 1993)).

Respondents further contend that the Preliminary Results were based on significant errors of fact regarding the interest rebates received by NHCI. First, the interest rebates received by NHCI reduced NHCI's costs of borrowing for the construction of its plant, not its costs of purchasing environmental equipment. Second, respondents argue that the relationship between the interest rebates and the underlying loans was not indirect.

With respect to the first point, respondents argue that since the Department wrongly assumed that the Article 7 assistance was provided solely for the purchase of environmental equipment, the Department was able to conclude that the interest rebates exceeded the interest that would be expended in connection with the purchase of the environmental equipment. Hence, the Department concluded that the Article 7 assistance should not be treated as an interest rebate. However, because the Article 7 assistance was intended to reduce the cost of financing for the project as a whole, the assistance was not excessive in the sense described by the Department.

With respect to the second point, respondents argue that the Department was incorrect in its assertion that the Article 7 assistance was more closely linked to the acquisition of certain assets than the accumulation of interest costs. Moreover, respondents maintain that the SDI assistance was not intended solely for the purchase of environmental protection equipment, but was also intended to facilitate the construction of NHCI's facility in Québec. The fact that the Article 7 assistance was intended to achieve more than one objective does not distinguish the Article 7 assistance from other interest rebate programs which the Department has treated under its loan methodology, according to respondents.

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 a interest rebate, then under the methodology adopted by the Department in 1993 steel cases, the benefit of the Article 7 assistance would be countervailed according to our loan methodology (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 of corresponding to the life of the company's assets.

In their brief, respondents argue 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, respondents conclude the benefit should be measured with reference to the duration of the borrowing for which the rebate is provided.

We disagree that the Department's interest rebate methodology was intended to reflect the choice between equity and loan financing. In the 1993 steel cases, we examined a particular type of subsidy, interest rebates, and determined which of our valuation methodologies was most appropriate (*See, e.g.*, Belgium Steel). 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 5 percent interest (which would be countervailed according to the loan methodology) and offering to rebate half of the interest paid on a 10 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 sold 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.

In these reviews, as in the 1993 steel cases, the Department is seeking the most appropriate methodology for the 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 37082, at 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: Re-Examination of Specificity of the Article 7 Assistance: In the event the Department continues to treat the Article 7 assistance as a non-recurring grant, respondents state that the Department is obliged to make a finding that the Article 7 assistance conferred a subsidy to NHCI during the POR. The Department may not, as it has here, rely on a factual finding of disproportionality during a different time period and different amounts of assistance. Respondents state that a finding of *de facto* specificity requires a case-by-case analysis, citing *PPG Industries, Inc.* v. *United States* (928 F.2d 1568, 1577 (Fed.Cir. 1991)), *Geneva Steel* v. *United States* (914 F.Supp. 563, 598 (CIT 1996)), and Final Affirmative Countervailing Duty Determinations: Certain Steel Products from Brazil (58 FR 37295, 37303 (July 9, 1993)) to support their reasoning. Respondents also cite the sixth administrative review of Live Swine from Canada: Final Results of Countervailing Duty Administrative Review (Live Swine) (59 FR 12243 (March 16, 1994)) as an example where the Department reexamined the countervailability of benefits found to be *de facto* specific in prior reviews.

Respondents maintain that the Department is obliged to evaluate the countervailability of a program previously determined to be *de facto* specific, regardless of whether the parties have provided new information. According to the GOQ, 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.

Respondents then present a methodology they believe should be employed whereby the Department would compare the portion of NHCI's original grant allocated to the POR, based on the Department's standard allocation methodology, and the portions of benefits allocated to the POR for all assistance bestowed to all other enterprises receiving SDI assistance under Articles 7 and 9 to determine whether NHCI received a disproportionate share of benefits.

DOC Position: It is the Department's policy not to revisit specificity determinations 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). In these reviews, no new facts or evidence have been presented which would lead us to question our previous determination.

Respondents refer to the various reviews of the countervailing duty order on live swine from Canada as demonstrating that the Department has, as a matter of course, revisited its *de facto* specificity determinations from one segment of a proceeding to another. While distinct *de facto* specificity determinations were made with respect to the Tripartite program in the fourth, fifth and sixth reviews of the order on live swine from Canada, these were not done as a matter of course. The Department reexamined specificity in these reviews of live swine only as a result of an adverse decision by the Binational Panel. Because the Binational Panel overturned the Department's finding of specificity regarding the Tripartite program in the fourth review of live swine for lack of evidence (and eventually rejected its analysis regarding specificity in the fifth review but upheld its decision), the Department continued to collect information in the sixth review, which was running concurrently with the Binational proceedings. In explaining its actions in the sixth review, the Department recognized that it does not routinely revisit specificity determinations, as respondents would have us believe, in stating the following:

> Although our practice is not to reexamine a specificity determination (affirmative or negative) made in the investigation or in a review absent new facts or evidence of changed circumstances, the record in the prior reviews did not contain all of the information we consider necessary to define the agricultural universe in Canada.

(See Live Swine (59 FR 12243 (March 16, 1994)).) As can be seen from the foregoing, the facts surrounding the live swine reviews do not correspond to the situation presented here. In particular, the issue of specificity had not been conclusively settled in the live swine reviews and was in the process of litigation, and different information was available; unlike this case in which a definitive specificity determination had already been established.

As for respondents' arguments that *de facto* specificity determinations should be done on a case-by-case basis, we agree. However, once again we state that we disagree with respondents as to what ''case-by-case'' means. In each of the citations respondents refer to, ''case'' referred not to a separate segment of the same proceeding (*e.g.*, the first review of an order distinct from the second review), but to a separate proceeding involving different products (*e.g.*, carbon black from Mexico as opposed to steel products from Brazil). It is this latter definition of ''case'' we find to be the proper basis for examination of *de facto* specificity determinations. Since a separate *de facto* specificity determination was made in the investigations of pure and alloy magnesium, we find that the analysis was properly conducted.

In proposing that the Department base a POR-specific *de facto* specificity finding on the portions of non-recurring grants allocated to the POR, the respondents appear to be confusing the initial specificity determination based on the action of the granting authority at the time of bestowal with the allocation of the benefit over time. Again, we state that these are two separate processes. The portions of grants 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.

In addition, we find that the GOQ has not provided new information which would cause us to revisit our original specificity determination. As a result, the bases of the original specificity determination and the conclusions of that determination are still valid. We, therefore, maintain that assistance provided to NHCI under Article 7 of the SDI Act is specific and, therefore, countervailable.

Comment 4: FOB Adjustment: Respondents argue that the Department used the correct sales denominator in the Preliminary Results, but in the alternative has submitted NHCI's F.O.B. (port) value of total sales during the POR.

DOC Position: We have used NHCI's submission of its F.O.B. (port) value of total sales in these reviews in determining the *ad valorem* subsidy rate. In the Preliminary Results, we used NHCI's total sales figure as recorded in the company's books. Due to this change, the rates calculated in these final results differ from those in the Preliminary Results.

Final Results of Review

For the period January 1, 1993 through December 31, 1993, we determine the net subsidy for NHCI to be 7.34 percent *ad valorem*.

The Department will instruct the U.S. Customs Service to assess the following countervailing duties:

Manufacturer/exporter	Rate (percent)
NHCI and all others, except for Timminco Ltd	7.34

Prior to these 1993 results, the final results of the 3rd (1994) administrative reviews were published (see 12994 Final Results). The 1994 reviews were conducted under the statutory provisions subject to the URAA amendments. These statutory provisions 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. As a result, 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. Therefore, 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 v. 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)).) Accordingly, the cash deposit rate that will be applied to companies not reviewed during the 1994 reviews is that established in the most recently completed administrative proceeding conducted pursuant to the statutory provisions that were in effect prior to the URAA amendments, *i.e.*, these 1993 administrative reviews. (See Pure and Alloy Magnesium from Canada: Final Results of the First (1992) Countervailing Duty Administrative Reviews (62 FR 13857 (March 24, 1997).) Since NHCI was reviewed in the 1994 reviews, we will instruct Customs to collect cash deposits for NHCI at the company-specific rate established for it in the 1994 reviews of 4.48 percent *ad valorem;* for non-reviewed companies, the cash deposit will be the rate calculated in these 1993 reviews of 7.34 percent *ad valorem*, except from Timminco Limited (which was excluded from the order in the original investigations). In addition, for the period January 1, 1993 through December 31, 1993, 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 CFR 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)) and 19 CFR 355.22.

Dated: August 6, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–24565 Filed 9–15–97; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 090597D]

Marine Mammals

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

ACTION: Receipt of application for amendment.

SUMMARY: Notice is hereby given that the Whale Conservation Institute, 191 Weston Road, Lincoln, Massachusetts 01773, has requested an amendment to Permit No. 1004.

DATES: Written comments must be received on or before October 16, 1997.

ADDRESSES: The amendment request and related documents are available for review upon written request or by appointment in the following office(s):

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289); and

Regional Administrator, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930 (508/281–9250).

Written data or views, or requests for a public hearing on this request should be submitted to the Chief, Permits Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

SUPPLEMENTARY INFORMATION: The subject amendment is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U..S.C. 1531 et seq.), and the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR 222.23).

Permit No. 1004 authorizes the importation of biopsy tissue samples taken from several species of cetaceans in South America, through June 30, 1998. The Holder is now requesting that: 1) the expiration date of the permit be extended from June 30, 1998 to November 30, 1998; 2) the number of imported southern right whale (*Eubalaena australis*) tissue samples taken at Peninsula Valdez, Argentina be increased from 20 to 340; and 3) these ''tissues samples'' taken from southern right whales include baleen, blood and bone, skin/blubber and organ tissues (from dead/stranded whales), and sloughed skin (from live free-ranging whales). Amendment of the permit to allow for this adjustment is considered administrative in nature and is therefore planned to take place upon close of the public comment period.

Dated: September 8, 1997.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–24520 Filed 9–15–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 090997D]

Marine Mammals

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

ACTION: Issuance of scientific research permit no. 875–1401.

SUMMARY: Notice is hereby given that Dr. Christopher W. Clark, Laboratory of Ornithology, Cornell University, Ithaca, New York 14850, has been issued a permit to ''take'' blue whales (*Balaenoptera musculus*) and fin whales (*B. physalus*) for purposes of scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following offices:

Permits Division, Office of Protected Resources, NMFS,

1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289); and

Regional Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213 (310/980–4001).

SUPPLEMENTARY INFORMATION: On July 17, 1997, notice was published in the **Federal Register** (62 FR 10259) that the above-named applicant had submitted a request for a scientific research permit to ''take'' (i.e., harass) blue whales (Balaenoptera musculus) and fin whales (B. physalus) in order to study the effects on these species of low-frequency sound produced by the Navy's Surface Towed Array Surveillance System Low Frequency Active (SURTASS LFA) system. The research will be conducted in the Southern California Bight during September/October of 1997 and/or 1998. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216); the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 *et seq.*), the Regulations Governing the Taking, Importing, and Exporting of Endangered Fish and Wildlife (50 CFR part 222); and the Fur Seal Act of 1966 (16 U.S.C. 1151–1175). Issuance of this permit, as required by the ESA, was based on a finding that such permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of this permit; and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: September 10, 1997.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–24521 Filed 9–15–97; 8:45 am]

BILLING CODE 3510–22–F