

Dated: September 9, 2003.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

### Appendix

#### Comments and Responses

Comment 1: Use of Fidelity Steel Manufacturing Corporation's Financial Statements to Calculate Overhead, Selling, General, and Administrative Expenses, and Profit.

Comment 2: Valuation of Natural Gas.

[FR Doc. 03-23620 Filed 9-16-03; 8:45 am]

BILLING CODE 3510-25-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### Evaluation of Coastal Zone Management Programs and National Estuarine Research Reserves

**AGENCY:** Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), DOC.

**ACTION:** Notice of intent to evaluate.

**SUMMARY:** The NOAA Office of Ocean and Coastal Resource Management (OCRM) announces its intent to evaluate the performance of the New York Coastal Management Program and the Ohio Coastal Management Program.

The Coastal Zone Management Program evaluations will be conducted pursuant to section 312 of the Coastal Zone Management Act of 1972, as amended, (CZMA) and regulations at 15 CFR part 923, subpart L.

The CZMA requires continuing review of the performance of states with respect to coastal program implementation. Evaluation of Coastal Zone Management Programs requires findings concerning the extent to which a state has met the national objectives, adhered to its Coastal Management Program document approved by the Secretary of Commerce, and adhered to the terms of financial assistance awards funded under the CZMA.

The evaluations will include a site visit, consideration of public comments, and consultations with interested Federal, state and local agencies and members of the public. Public meetings will be held as part of the site visits.

Notice is hereby given of the dates of the site visits for the listed evaluations, and the dates, local times, and locations of the public meetings during the site visits.

The New York Coastal Management Program evaluation site visit will be

held October 27-31, 2003. One public meeting will be held during the week. The public meeting will be on Thursday, October 30, 2003, from 2:30 p.m. to 4:30 p.m., at the New York Department of Health, 4th Floor Conference Room, 5 Penn Plaza, New York, New York.

The Ohio Coastal Management Program evaluation site visit will be held November 3-7, 2003. One public meeting will be held during the week. The public meeting will be on Wednesday, November 5, 2003, at 7 p.m., at the Erie County Commissioners Office, Large Chambers, 3rd Floor, 247 Columbus Avenue, Columbus, Ohio.

Copies of states' most recent performance reports, as well as OCRM's notifications and supplemental request letters to the states, are available upon request from OCRM. Written comments from interested parties regarding these Programs are encouraged and will be accepted until 15 days after the last public meeting. Please direct written comments to Ralph Cantral, Chief, National Policy and Evaluation Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, 10th floor, Silver Spring, Maryland 20910. When the evaluations are completed, OCRM will place a notice in the **Federal Register** announcing the availability of the Final Evaluation Findings.

**FOR FURTHER INFORMATION CONTACT:** Ralph Cantral, Chief, National Policy and Evaluation Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, Silver Spring, Maryland 20910, (301) 713-3155, Extension 118.

Federal Domestic Assistance Catalog 11.419, Coastal Zone Management Program Administration.

Dated: September 11, 2003.

**Richard W. Spinrad, PhD.**

*Assistant Administrator for Ocean Services and Coastal Zone Management.*

[FR Doc. 03-23698 Filed 9-16-03; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### Notice of Availability of the Record of Decision in the Case of the Goat Canyon Enhancement Project at the Tijuana River National Estuarine Research Reserve

**AGENCY:** The Estuarine Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and

Atmospheric Administration, U.S. Department of Commerce.

**ACTION:** Notice of availability.

**SUMMARY:** Notice is hereby given that the Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce has signed the Record of Decision (ROD) in the case of the Goat Canyon Enhancement Project at the Tijuana River National Estuarine Research Reserve. All requirements of the National Environmental Policy Act have been fulfilled. NOAA has concurred with the decision to construct two sediment basins and to undertake mitigation pursuant to the section 7 consultation with the United States Fish and Wildlife Service and the California State Historic Preservation Office.

To Obtain a Copy of the ROD Contact: Ms. Nina Garfield, (301) 563-1171, Estuarine Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, NOAA, 1305 East West Highway, N/ORM2, Silver Spring, MD 20910. Copies of the ROD are available upon request to the Estuarine Reserves Division.

(Federal Domestic Assistance Catalog Number 11.420 (Coastal Zone Management Research Reserves)

Dated: September 11, 2003.

**Richard W. Spinrad,**

*Assistant Administrator, Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration.*

[FR Doc. 03-23699 Filed 9-16-03; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 080803C]

#### Small Takes of Marine Mammals Incidental to Specified Activities; Oceanographic Surveys in the Mid-Atlantic Ocean

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

**ACTION:** Notice of receipt of application and proposed incidental take authorization; request for comments.

**SUMMARY:** NMFS has received an application from the Lamont-Doherty Earth Observatory (LDEO), a part of Columbia University, for an Incidental Harassment Authorization (IHA) to take small numbers of marine mammals, by

harassment, incidental to conducting oceanographic surveys in the Mid-Atlantic Ocean. Under the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an authorization to LDEO to incidentally take, by harassment, small numbers of several species of cetaceans and pinnipeds for a limited period of time within the next year.

**DATES:** Comments and information must be received no later than October 17, 2003.

**ADDRESSES:** Comments on the application should be addressed to the Acting Chief, Marine Mammal Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3225, or by telephoning the contact listed here. A copy of the application containing a list of the references used in this document may be obtained by writing to this address or by telephoning the contact listed here. Comments cannot be accepted if submitted via e-mail or the Internet.

**FOR FURTHER INFORMATION CONTACT:** Sarah C. Hagedorn, Office of Protected Resources, NMFS, (301) 713-2322, ext 117.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking 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 either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Permission may be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses and that the permissible methods of taking and requirements pertaining to the monitoring and reporting of such takings are set forth. NMFS has defined "negligible impact" in 50 CFR 216.103 as "...an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival."

Subsection 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Under Section 3(18)(A), the MMPA defines "harassment" as:

any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering.

The term "Level A harassment" means harassment described in subparagraph (A)(i). The term "Level B harassment" means harassment described in subparagraph (A)(ii).

Subsection 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.

##### **Summary of Request**

On July 21, 2003, NMFS received an application from LDEO for the taking, by harassment, of several species of marine mammals incidental to conducting a seismic survey program. As presently scheduled, two seismic surveys will be conducted in the Mid-Atlantic Ocean. The Trans-Atlantic Geotransect (TAG) cruise will be centered at 26°N and 45°W in the Mid-Atlantic Ocean during mid- to late-October 2003, for a total of six days of seismic surveying. The Atlantic Deep Western Boundary Current (ADWBC) cruise will occur between 39° and 42°N and between 45° and 52.5°W, and will take place at an, as of yet, unscheduled date (likely in July, 2004) for a total of approximately 20 days of surveying. These operations will take place in international waters.

The seismic survey work conducted during the TAG cruise is part of a multi-disciplinary experiment, taking place in the TAG Active Mound area over a period of nine months. The TAG active mound (26°N on the Mid-Atlantic Ridge), which is one of the largest hydrothermal deposits found to date on the seafloor, is a large, focused mineral deposit on a slow-spreading ridge. The purpose of the TAG cruise is to delineate the nature, position, and size of any heat sources (low-velocity zones) that might drive convection at the TAG active mound, and more generally, to

provide an understanding of crustal architecture in the TAG region. More specifically, the TAG experiment will address key issues at the TAG site: (1) the nature of the heat source driving circulation, (2) the relationship between faulting on the eastern flank and fluid flow at the mound, (3) the possible existence of a low-velocity zone beneath the rise axis, and (4) the hydraulic connectivity of the shallow TAG mound.

The ADWBC cruise will determine the configuration, age, and paleoceanographic significance of the sedimentary sequences on J Anomaly Ridge and Southeast Newfoundland Ridge, which may show evidence for strong boundary currents dating to the early Paleocene. Proposed tracklines for the seismic survey were chosen with four primary objectives in mind: (1) to map the main reflection sequences across the full extent of the ridges and onto the edges of adjacent abyssal plains, (2) to obtain continuity in tracing sequences by profiling around major interruptions (seamounts) and optimizing track crossings, (3) to provide abundant crossing lines in areas where existing seismic and bathymetric data suggest that there are outcrops of pre-Neogene strata, and (4) to take advantage of good-quality seismic data, where they exist (e.g., Conrad 2510 MCS), in order to make loop correlations between tracks.

##### **Description of the Activity**

The TAG seismic survey will involve a single vessel which will conduct the seismic work, the *R/V Maurice Ewing*, operated by LDEO under a cooperative agreement with the U.S. National Science Foundation (NSF), owner of the vessel. The *Maurice Ewing* will deploy an array of 20 airguns as an energy source, and will deploy and retrieve Ocean Bottom Hydrophones (OBHs). A hydrophone streamer will not be towed during the TAG cruise. The energy to the airgun array is compressed air supplied by compressors on board the source vessel. As the airgun array is towed along the survey lines, the OBHs and Ocean Bottom Seismometers (OBSs) will receive the reflected signals and transfer the data to the onboard processing system. All planned geophysical data acquisition activities will be conducted by LDEO scientists with onboard assistance by the scientists who proposed the study. The TAG program will consist of 185 km (100 n.mi.) of survey lines. There will be a total of three seismic lines, two along- and one across-axis of the TAG. Water depths in the area will vary from 1500 to 4500 m (4921–14,764 ft).

The ADWBC cruise will likely involve the oceanographic research vessel *R/V Knorr*, a U.S. Navy-owned ship operated by the Woods Hole Oceanographic Institution (WHOI). However, another vessel may ultimately be chosen for the survey. Other possible vessels include, but are not limited to, the *R/V Maurice Ewing* or a vessel from the University-National Oceanographic Laboratory System (UNOLS). The vessel would be using a portable LDEO seismic system to conduct the seismic survey. The vessel will deploy 2 General Injector guns as an energy source, plus a towed streamer containing hydrophones to receive the returning acoustic signals. The hydrophone array will consist of a 600-m (1969 ft) solid state streamer with a 200-m (656 ft) tow leader. The energy to the airgun array is compressed air supplied by compressors on board the source vessel. As the 2 GI guns are towed along the survey line, the hydrophone array will receive the returning signals and transfer the data to the onboard processing system. All planned geophysical activities will be conducted by the scientists who have proposed the study, while LDEO will provide the portable high-resolution seismic system that will support the seismic surveys for the proposed study. The ADWBC program will consist of 4334 km (2340 n.mi.) of seismic profiles that will be shot over a period of 20 days. The most detailed grids of seismic lines are proposed for the southern end of J Anomaly Ridge and for moats around seamounts on the crest of the Southeast Newfoundland Ridge - both are areas where there appear to be extensive pre-Neogene outcrops. Water depths in the area will vary from 4000 to 5000 m (13,124–16,405 ft).

The procedures to be used for the two seismic studies will be similar to those used during previous seismic surveys by LDEO, e.g., in the equatorial Pacific Ocean (Carbotte *et al.*, 1998, 2000). The proposed seismic surveys will use conventional seismic methodology with a towed airgun array as the energy source, and either a towed hydrophone streamer or OBH and OBS receivers placed on the bottom to receive the reflected signals. For the TAG survey, eighteen OBHs will be deployed (and recovered) by the *Maurice Ewing* - eight along each of the long axis lines and two on the across axis line. After the seismic lines are shot, the data will be downloaded and the OBSs will be retrieved during an, as of yet, unscheduled cruise in the summer of 2004 (during which no seismic sound sources will be used). Along three selected seismic lines, 13 OBS receivers

will be placed in the proposed study area by the *R/V Alvin* from 7–24 June 2003, before the arrival of the *Maurice Ewing*. In addition, a multi-beam bathymetric sonar will be operated from the source vessel continuously throughout both cruises, and a lower-energy sub-bottom profiler will also be operated during most of both surveys. During the ADWBC study, coring of numerous sedimentary outcrops known to exist on the ridges will also take place. During both cruises, there will be additional operations associated with equipment testing, startup, line changes, and repeat coverage of any areas where initial data quality is sub-standard.

The *R/V Maurice Ewing* will be used as the source vessel during the TAG cruise, and the *R/V Knorr* will likely be used as the source vessel during the ADWBC cruise. Both vessels will tow airgun arrays along predetermined lines, and will also serve as platforms from which vessel-based marine mammal observers will watch for marine mammals before and during airgun operations.

During TAG-study airgun operations, the vessel will travel at 7.4–9.3 km/hr (4–5 knots), and seismic pulses will be emitted at intervals of 60–90 seconds (OBS lines during the TAG cruise). The 60–90 sec. spacing along OBS lines is to minimize reverberation from previous shot noise during OBS data acquisition, and the exact spacing will depend on water depth. The airgun array to be used will consist of 20 2000 psi Bolt airguns, towed at a depth of 7.5 m (24.5 ft). The 20-gun array will include airguns ranging in chamber volume from 80 to 850 in<sup>3</sup>, with a total volume of 8,575 in<sup>3</sup>. These airguns will be spaced in an approximate rectangle with dimensions of 35 m (115 ft) (across track) by 9 m (30 ft) (along track).

The ADWBC seismic survey will be high-resolution, consisting of two 105 in<sup>3</sup> GI airguns with a total volume of approximately 210 in<sup>3</sup>, spaced 7.8 m (26 ft) apart, and towed 37 m (121 ft) behind the vessel at a depth of 2–3 m (7–10 ft). Towing airguns at this shallow depth is accomplished by suspending the guns from floats, and the resulting short-period free surface “ghosting” keeps the spectral content broad with usable signals up to 300–350 Hz. These airguns produce an unusually clean impulse with sufficient energy to penetrate many hundreds of meters of sediment. Airgun firing, timing, and synchronizing is handled by a LDEO-built controller, which is integrated with a SUN workstation-based DGPS navigation, data logging, and fire control system. The air is produced by a standalone Price Co. 2000 psi compressor, and the

seismic signals are detected by a solid state ITI hydrophone “Stealtharray”, with 48 12.5-m (41 ft) long channels, and a total length of 600 m (1969 ft).

The dominant frequency components for both airgun arrays is 0 - 188 Hz. The 2-airgun array will have a peak sound source output level of 237 dB re 1 μPa or 243 dB peak-to-peak (P-P). The 20-airgun array will have a peak sound source output level of 255 dB re 1 μPa or 262 dB P-P. Because the actual source is a distributed sound source (2 or 20 airguns) rather than a single point source, the highest sound levels measurable at any location in the water will be less than the nominal source level. Also, because of the downward directional nature of the sound from these airgun arrays, the effective source level for sound propagating in near-horizontal directions will be substantially lower.

Along with the airgun operations, several additional acoustical data acquisition systems will be operated during most or all of the cruises. The ocean floor will be mapped with an Atlas Hydrosweep DS-2 multi-beam 15.5-kHz bathymetric sonar, and/or a 3.5-kHz sub-bottom profiler. These mid-frequency sound sources are commonly operated from research vessels simultaneous with airgun arrays as well as in the absence of airgun activity.

The Atlas Hydrosweep sonar will be used during cruises by the *R/V Maurice Ewing*, is mounted in the hull of the vessel, and operates in three modes depending on the water depth. The first is a shallow-water mode when water depth is <400 m (1312.3 ft); source output is 210 dB re 1 μPa-m rms and a single 1-millisecond (ms) pulse or “ping” per second is transmitted, with a beamwidth of 2.67 degrees fore-aft and 90 degrees in athwartship. The beamwidth is measured to the -3 dB point, as is usually quoted for sonars. The other two modes are deep-water modes: The Omni mode is identical to the shallow-water mode except that the source output is 220 dB rms (normally used only during start up). The Rotational Directional Transmission (RDT) mode is normally used during deep-water operation and has a 237 dB rms source output. In the RDT mode, each “ping” consists of five successive transmissions, each ensonifying a beam that extends 2.67 degrees fore-aft and approximately 30 degrees in the cross-track direction. The five successive transmissions (segments) sweep from port to starboard with minor overlap, spanning an overall cross-track angular extent of about 140 degrees, with tiny (<1 millisecond) gaps between the pulses for successive 30-degree segments. The

total duration of the “ping”, including all 5 successive segments, varies with water depth but is 1 ms in water depths <500 m (1640.4 ft) and 10 ms in the deepest water. For each segment, ping duration is 1/5th of these values or 2/5th for a receiver in the overlap area ensonified by two beam segments. The “ping” interval during RDT operations depends on water depth and varies from once per second in <500 m (1640.5 ft) water depth to once per 15 seconds in the deepest water.

If the *R/V Knorr* is used for the ADWBC cruise, the SeaBeam 2100/12 multibeam 12 kHz bathymetric sonar system will be used, with a source output of 237 dB re 1 μPa-m. Operation of this system is similar to that of the Atlas Hydrosweep (described above). The SeaBeam 2100/12 system has a swath width of about 3 times the water depth, so it will provide data over swaths 10–15 km (5–8 n.mi.) wide during most of the survey.

The sub-bottom profiler is normally operated to provide information about the sedimentary features and bottom topography that is simultaneously being mapped by the Hydrosweep. The energy from the sub-bottom profiler is directed downward by a 3.5-kHz transducer mounted in the hull of the vessel. The output varies with water depth from 50 watts in shallow water to 800 watts in deep water. Pulse interval is 1 sec. but a common mode of operation is to broadcast five pulses at 1-sec. intervals followed by a 5-sec. pause. The beamwidth is approximately 30° and is directed downward. Maximum source output is 204 dB re 1 μPa, 800 watts, while nominal source output is 200 dB re 1 μPa, 500 watts. Pulse duration will be 4, 2, or 1 ms, and the bandwidth of pulses will be 1.0 kHz, 0.5 kHz, or 0.25 kHz, respectively.

For the ADWBC cruise, the multibeam bathymetry and sub-bottom profiling will be used to define windows where erosion or non-deposition has exposed deeper sequences suitable for piston coring. Coring transects across these windows will provide biostratigraphic

age determinations that can be used to constrain the age of reflections throughout the study area. There will be five days of piston coring following completion of the ADWBC seismic survey.

Additional information on the airgun arrays, bathymetric sonars, and sub-bottom profiler specifications is contained in the application, which is available upon request (see **ADDRESSES**).

**Description of Habitat and Marine Mammals Affected by the Activity**

A detailed description of the Mid-Atlantic Ocean and its associated marine mammals can be found in a number of documents referenced in the LDEO application as well as in the LDEO application itself, and is not repeated here. There will be differences in species composition between the two study sites in the Mid-Atlantic, since the ADWBC cruise will take place at a more northern latitude than the TAG cruise. Therefore, species with more northerly distributions are only likely to be sighted during the ADWBC cruise, and species with more southerly/tropical distributions will only be encountered during the TAG cruise, if at all. The two proposed cruises are also scheduled to occur in different seasons, and that could have an effect on the species and numbers present in the area. Approximately 34 species of cetaceans are known to occur within the proposed study areas in the Mid-Atlantic Ocean, six of which only rarely occur in the areas. These species are the sperm whale (*Physeter macrocephalus*), pygmy sperm whale (*Kogia breviceps*), dwarf sperm whale (*Kogia sima*), Cuvier’s beaked whale (*Ziphius cavirostris*), northern bottlenose whale (*Hyperoodon ampullatus*), True’s beaked whale (*Mesoplodon mirus*), Gervais’ beaked whale (*Mesoplodon europaeus*), Sowerby’s beaked whale (*Mesoplodon bidens*), Blainville’s beaked whale (*Mesoplodon densirostris*), rough-toothed dolphin (*Steno bredanensis*), bottlenose dolphin (*Tursiops truncatus*), Pantropical spotted dolphin (*Stenella*

*attenuata*), Atlantic spotted dolphin (*Stenella frontalis*), spinner dolphin (*Stenella longirostris*), clymene dolphin (*Stenella clymene*), striped dolphin (*Stenella coeruleoalba*), short-beaked common dolphin (*Delphinus delphis*), Fraser’s dolphin (*Lagenodelphis hosei*), white-beaked dolphin (*Lagenorhynchus albirostris*), Atlantic white-sided dolphin (*Lagenorhynchus acutus*), Risso’s dolphin (*Grampus griseus*), melon-headed whale (*Peponocephala electra*), pygmy killer whale (*Feresa attenuata*), false killer whale (*Pseudorca crassidens*), killer whale (*Orcinus orca*), long-finned pilot whale (*Globicephala melas*), short-finned pilot whale (*Globicephala macrorhynchus*), North Atlantic right whale (*Eubalaena glacialis*), humpback whale (*Megaptera novaeangliae*), minke whale (*Balaenoptera acutorostrata*), Bryde’s whale (*Balaenoptera edeni*), sei whale (*Balaenoptera borealis*), fin whale (*Balaenoptera physalus*), and blue whale (*Balaenoptera musculus*). Also, six species of pinnipeds could potentially be encountered during the proposed seismic surveys, although their occurrence in the study area is unlikely. These include the bearded seal (*Erignathus barbatus*), hooded seal (*Cystophora cristata*), harbor seal (*Phoca vitulina*), ringed seal (*Pusa hispida*), grey seal (*Halichoerus grypus*), and the harp seal (*Pagophilus groenlandicus*). Additional information on most of these species is contained in Caretta *et al.* (2001, 2002) which is available at: [http://www.nmfs.noaa.gov/prot\\_res/PR2/Stock\\_Assessment\\_Program/sars.html](http://www.nmfs.noaa.gov/prot_res/PR2/Stock_Assessment_Program/sars.html).

**Potential Effects on Marine Mammals**

The sound pressure fields for the 2–GI and 20–gun arrays have been modeled by LDEO, in relation to distance and direction from the airguns. Table 1 in the application (LDEO Mid-Atlantic 2003) shows the maximum distances from the arrays where sound levels of ≥190, 180, 170, and 160 dB re 1 μPa (rms) are predicted to be received:

Airgun Array	Predicted RMS Radii in meters/ft			
	190 dB	180 dB	170 dB	160 dB
2 GI guns .....	17/56	54/177	175/574	510/1673
20 airguns .....	275/902	900/2953	2600/8531	9000/29,529

Notice of a previous (LDEO) application and proposed IHA was published in the **Federal Register** on April 14, 2003 (68 FR 17909). That notice described, in detail, the characteristics of the *Ewing’s* acoustic

sources and, in general, the anticipated effects on marine mammals including masking, disturbance, and potential hearing impairment and other physical effects. That information is not repeated here. However, possible effects of the

sub-bottom profiler, which was not used in the project described in that notice, are described below. Details on acoustic sources from the 2–GI gun array, which will be installed on the *R/V Knorr* for the ADWBC cruise as part of an LDEO

portable high-resolution seismic system, were described in an earlier **Federal Register** notice on April 11, 2003 (68 FR 17773). The current LDEO Mid-Atlantic application also provides information on what is known about the effects on marine mammals of the types of seismic operations planned by LDEO.

#### *Possible Effects of the Sub-bottom Profiler Signals*

Sound levels have not been measured for the sub-bottom profiler used by the *Maurice Ewing*, but Burgess and Lawson (2000) measured the sounds propagating more or less horizontally from a similar unit with similar source output (205 dB re 1  $\mu$ Pa-m). The 160 and 180 dB re 1  $\mu$ Pa (rms) radii, in the horizontal direction, were estimated to be near 20 m (66 ft) and 8 m (26 ft), respectively, from the source, as measured in 13 m (43 ft) water depth. The corresponding distances for an animal in the beam below the transducer would be greater, on the order of 180 m (591 ft) and 18 m (59 ft), assuming spherical spreading.

The sub-bottom profiler on the *Maurice Ewing* has a maximum source level of 204 dB re 1  $\mu$ Pa-m. Thus the received level would be expected to decrease to 160 and 180 dB at about 160 m (525 ft) and 16 m (52 ft) below the transducer, respectively (assuming spherical spreading). Corresponding distances in the horizontal plane would be lower, given the directionality of this source (30° beamwidth) and the measurements of Burgess and Lawson (2000).

#### *Masking by Sub-bottom Profiler Signals*

There is little chance that marine mammal communications will be masked appreciably by the sub-bottom profiler signals given its relatively low power output, the low duty cycle, directionality, and the brief period when an individual mammal is likely to be within its beam. Furthermore, in the case of baleen whales, the sonar signals do not overlap with the predominant frequencies in the animals' calls, which would avoid significant masking.

#### *Behavioral Responses Resulting from Sub-bottom Profiler Signals*

Marine mammal behavioral reactions to pulsed sound sources and responses to the sub-bottom profiler are likely to be similar to those of other pulsed sources at the same received levels. However, the pulsed signals from the sub-bottom profiler are much weaker than those from the airgun array and the multi-beam sonar. Therefore behavioral responses rising to Level B harassment are not expected unless marine mammals are very close to the source,

e.g. within about 160 m (525 ft) below the vessel, or a lesser distance to the side. Because simple momentary behavioral reactions that are within normal behavioral patterns for that species are not considered to be a taking, the very brief exposure of cetaceans to signals from the sub-bottom profiler is unlikely to result in a "take" by harassment.

#### *Hearing Impairment and Other Physical Effects*

Source levels of the sub-bottom profiler are much lower than those of the airguns and the multi-beam sonar that will be used during the planned project. Furthermore, received levels of pulsed sounds that are necessary to cause temporary or permanent hearing impairment in marine mammals appear to be higher than 180 dB. Thus, it is unlikely that the sub-bottom profiler produces pulse levels strong enough to cause hearing impairment or other physical injuries even in an animal that is briefly in a position immediately adjacent to the source.

Furthermore, the sub-bottom profiler is usually operated simultaneously with other higher-power acoustic sources. Many marine mammals will move away in response to the approaching higher-power sources before the mammals would be close enough to be affected by the less intense sounds from the sub-bottom profiler. In the event that mammals do not avoid the approaching vessel and its various sound sources, mitigation measures that would be applied to minimize effects of the higher-power sources (discussed later in this document) would further reduce or eliminate any minor effects of the sub-bottom profiler.

#### *Estimates of Take by Harassment for the two Mid-Atlantic Cruises*

As described previously (68 FR 17909, April 14 2003), animals subjected to sound levels  $\leq$ 160 dB may alter their behavior or distribution, and therefore might be considered to be taken by Level B harassment. However, the 160-dB criterion is based on studies of baleen whales (mysticetes), which are low frequency hearing specialists. In contrast, odontocete hearing at low frequencies is relatively insensitive, and dolphins and pilot whales generally appear to be more tolerant of strong sounds than are most baleen whales. Delphinidae have their best hearing in the higher frequencies and are unlikely to be as sensitive as the mysticete whales to the low frequency of the airgun array. Therefore, LDEO believes they are less likely to experience Level B harassment at 160 dB, and a more

likely threshold for onset of Level B harassment in response to seismic sounds is at about 170 dB.

The estimates of takes by harassment are based on the number of marine mammals that may be exposed to seismic sounds  $\geq$ 160 dB re 1  $\mu$ Pa (rms) by operations with the 20-airgun array and the 2 GI guns, during the TAG and ADWBC cruises, respectively. Based on marine mammal density sightings and effort data collected during a survey of offshore waters northeast of the Azores by Lens (1991), LDEO used their estimates of marine mammal density to compute the best (and maximum) estimates of the number of marine mammals that may be exposed to received levels  $\geq$ 160-dB re 1  $\mu$ Pa (rms) (NMFS' current criterion for onset of Level B harassment). The best estimates of densities were then multiplied by the linear extent of the proposed survey effort and by twice the 160 dB radius around the applicable airgun array. The proposed survey effort is 185 km (100 n.mi.) for the TAG cruise, and 4329 km (2340 n.mi.) for the ADWBC cruise. The 160-dB radius for the TAG cruise (20-airgun array) is 9000 m (29,529 ft), whereas that for the ADWBC cruise (2 GI guns) is 510 m (1673 ft). For large cetaceans, LDEO used 0.5x the densities seen during the Lens (1991) survey to calculate the numbers that might be exposed to seismic sounds, but even this reduced number is likely a high estimate, because the proposed survey areas are likely less productive, so feeding aggregations similar to those seen by Lens (1991) are not likely to be seen. In particular, the two areas where the proposed surveys will be conducted are farther offshore and likely in less productive waters than the area surveys northeast of the Azores (Lens 1991). Thus, densities are likely to be much lower in the two proposed survey areas than in the Lens (1991) survey area.

Based on this method, tables 3 and 4 of LDEO's application give the best estimates, as well as maximum estimates, of densities for each species or species group of cetacean in the proposed seismic survey areas during the TAG and ADWBC cruises, respectively, that might be exposed to received levels  $\geq$ 160 dB re 1  $\mu$ Pa (rms), and thus potentially taken by Level B harassment, during seismic surveys in the proposed study areas of the Mid-Atlantic Ocean. During the TAG cruise, 38 of the marine mammals exposed to sounds  $\geq$ 160 dB re 1  $\mu$ Pa (rms) would be endangered species, primarily fin (18) and sperm whales (15). During the ADWBC cruise, 49 of the marine mammals exposed to sounds  $\geq$ 160 dB re 1  $\mu$ Pa (rms) would be endangered

species, primarily fin (24) and sperm whales (20). During both research cruises, Delphinidae would account for 92 percent of the overall estimate for potential taking by harassment during each of the proposed seismic surveys (i.e., 709 of 772 (TAG) and 943 of 1028 (ADWBC)). While there is no agreement regarding any alternative "take" criterion for dolphins exposed to airgun pulses, if only those dolphins exposed to  $\geq 170$  dB re 1  $\mu$ Pa (rms) were to be affected sufficiently to be considered taken by Level B harassment, then the best estimate for common dolphins (the most abundant dolphin in the area) would be 91 rather than 316 during the TAG cruise, and 144 rather than 419 during the ADWBC cruise. These are based on the predicted 170-dB radius around the 20- and 2-airgun arrays (2600 and 175 m (8530 and 574 ft), respectively), and are considered to be more realistic estimates of the number of each species of delphinid that may be disturbed. Therefore, the total number of animals likely to react behaviorally is considerably lower than the 772 (TAG cruise) or 1028 (ADWBC cruise) animals that LDEO has estimated in Table 3 and 4 (LDEO Mid-Atlantic, 2003).

#### *Conclusions-Effects on Cetaceans*

Strong avoidance reactions by several species of mysticetes to seismic vessels have been observed at ranges up to 6 to 8 km (3.2 to 4.3 nm) and occasionally as far as 20–30 km (10.8–16.2 nm) from the source vessel. Some bowhead whales avoided waters within 30 km (16.2 nm) of the seismic operation. However, reactions at such long distances appear to be atypical of other species of mysticetes, and even for bowheads may only apply during migration.

Odontocete reactions to seismic pulses, or at least those of dolphins, are expected to extend to lesser distances than are those of mysticetes. Odontocete low-frequency hearing is less sensitive than that of mysticetes, and dolphins are often seen from seismic vessels. In fact, there are documented instances of dolphins approaching active seismic vessels. However, dolphins as well as some other types of odontocetes sometimes show avoidance responses and/or other changes in behavior when near operating seismic vessels.

Taking account of the mitigation measures that are planned, effects on cetaceans are generally expected to be limited to avoidance of the area around the seismic operation and short-term changes in behavior, falling within the MMPA definition of "Level B harassment." In the cases of mysticetes, these reactions are expected to involve

small numbers of individual cetaceans because few mysticetes occur in the area where seismic surveys are proposed. For Bryde's whales, LDEO's best estimate is that 1 animal during each of the cruises, which translates to 3 percent of the North Atlantic population for this species in the area of the TAG survey, and 1.5 percent of the North Atlantic population for this species in the area of the ADWBC survey, has the potential to be exposed to sound levels  $\geq 160$  dB re 1  $\mu$ Pa (rms) and potentially affected. LDEO's best estimate is that 18 (TAG) and 24 (ADWBC) fin whales, both of which are  $< 0.1$  percent of the estimated North Atlantic fin whale population (IWC 2003), will be exposed to sound levels  $< 160$  dB re 1  $\mu$ Pa (rms) and potentially affected. Similarly, only 15 (TAG) and 20 (ADWBC) sperm whales, or approximately 0.1 and 0.2 percent of the estimated North Atlantic sperm whale population would receive seismic sounds  $\geq 160$  dB. Therefore, based on the relatively low numbers of marine mammals that will be exposed at levels  $\geq 160$  dB and the expected impacts at these levels, NMFS has preliminarily determined that this action will have a negligible impact on the affected species or stocks.

Larger numbers of odontocetes may be affected by the proposed activities, but the population sizes of the main species are large and the numbers potentially affected are small relative to the population sizes. The best estimate of the total number of odontocetes that might be exposed to  $\geq 160$  dB re 1  $\mu$ Pa (rms) in the proposed survey areas in the Mid-Atlantic Ocean is 746 for the TAG cruise, and 991 for the ADWBC cruise. Of these, 709 (TAG cruise) and 943 (ADWBC cruise) are Delphinidae, and of these about 204 (TAG cruise) and 322 (ADWBC cruise) might be exposed to  $\geq 170$  dB. Only 316 and 419 common dolphins (the most abundant delphinid in the proposed survey areas) are expected to be exposed to seismic sounds  $\geq 160$  dB in the proposed TAG and ADWBC seismic survey areas, respectively. This represents considerably less than 0.2 and 0.3 percent of the North Atlantic population of common dolphins. Of these, 91 and 144, respectively, might be exposed to  $\geq 170$  dB. These figures are much less than 0.1 percent of the North Atlantic population and the 170-dB values (91 and 144) are believed to be a more accurate estimate of the number potentially affected. Smaller numbers of other species of dolphins will be exposed to seismic sounds  $\geq 160$  dB during the proposed surveys, and the numbers for each species represent

considerably less than 0.1 to 0.7 percent of each population. The numbers that might be exposed to  $\geq 170$  dB are even smaller and represent considerably less than 0.1 to 0.2 percent of each population; these latter percentages are believed to be a more accurate estimate of the numbers potentially affected. Based on the relatively low numbers of marine mammals that will be exposed at levels  $\geq 160$  dB and the expected impacts at these levels, NMFS has preliminarily determined that this action will have a negligible impact on the affected species or stocks.

Altogether, proposed mitigation measures such as controlled speed, course alteration, look-outs, non-pursuit, ramp-ups, and power-downs when marine mammals are seen within defined ranges (See Mitigation) will reduce short-term reactions to disturbance, and minimize any effects on hearing sensitivity.

#### *Conclusions-Effects on Pinnipeds*

Very few if any pinnipeds are expected to be encountered during the proposed seismic surveys in the Mid-Atlantic Ocean. Most have a coastal distribution or are distributed along the pack-ice edge. Therefore, it is unlikely that pinnipeds will be encountered in either study area. However, if pinnipeds are encountered, they are more likely to be seen during the ADWBC cruise in the northern Mid-Atlantic than during the TAG cruise. A few gray seals, which are normally found in coastal areas might be seen during the ADWBC cruise. In addition, a few vagrant harbor seals, harp seals, or hooded seals might be encountered. None of the pinniped species is considered endangered or vulnerable.

Because no seismic surveys will take place in coastal and nearshore areas, the best estimate of the numbers of each of the more common (but unlikely) species that might be taken by Level B harassment is no more than 2 and is most likely 0. For the other less-common species the best estimate is zero. If pinnipeds are encountered, the proposed seismic activities would have, at most, a short-term effect on their behavior and no long-term impacts on individual seals or their populations. Responses of pinnipeds to acoustic disturbance are variable, but usually quite limited. Effects are expected to be limited to short-term and localized behavioral changes falling within the MMPA definition of Level B harassment. Therefore, based on the relatively low numbers of marine mammals that will be exposed, NMFS has preliminarily determined that this

action will have a negligible impact on the affected species or stocks.

### Mitigation

For the proposed TAG seismic survey, LDEO will use a 20-gun array with a total volume of 8575 in<sup>3</sup>. Individual airguns will range in size from 80 to 850 in<sup>3</sup>. For the ADWBC cruise, LDEO will use 2 GI guns with a total volume of 210 in<sup>3</sup>. The airguns comprising these arrays will be spread out horizontally, so that the energy from the arrays will be directed mostly downward.

The sound pressure fields were modeled by LDEO in relation to distance and direction from the 2 GI guns and the 20-gun array, as shown in Figures 5 and 6 (LDEO Mid-Atlantic, 2003). The radii around the arrays where the received level would be 180-dB re 1  $\mu$ Pa (rms) (NMFS' threshold level for onset of Level A harassment applicable to cetaceans) were estimated as 54 m (177 ft) and 900 m (2953 ft), respectively, for the 2-GI and 20-gun array. The radii around the 2 GI guns and the 20-gun array where the received level would be 190 dB re 1  $\mu$ Pa (rms), (NMFS' threshold level for onset of Level A harassment applicable to pinnipeds), were estimated as 17 m (56 ft) and 275 m (902 ft), respectively. A calibration study was conducted prior to these surveys to determine the actual radii corresponding to each sound level. These actual radii will be used to define the safety radii to be used for this study. Until then, or if those measurements appear defective, LDEO will use a precautionary 1.5 times the modeled 180- (cetaceans) and 190- (pinnipeds) dB radii as the safety radii.

Vessel-based observers will monitor marine mammals in the vicinity of the arrays. LDEO proposes to power-down the airguns if marine mammals are observed within the proposed safety radii. Also, LDEO proposes to use a ramp-up procedure when commencing operations using the 20-gun array. Ramp-up will begin with the smallest gun in the array (80 in<sup>3</sup>), and guns will be added in a sequence such that the source level of the array will increase at a rate no greater than 6 dB per 5-minute period over a total duration of about 25 minutes. Ramp-up will not occur for the 2-GI gun array because the total air discharge volume is small (210 in<sup>3</sup>). Please refer to LDEO's application for more detailed information about the mitigation measures that are an integral part of the planned activity.

The directional nature of the 6-airgun array to be used in this project is an important mitigating factor, resulting in lower sound levels at any given horizontal distance than would be

expected at that distance if the source were omnidirectional with the stated nominal source level. Because the actual seismic source is a distributed sound source (2 or 20 guns) rather than a single point source, the highest sound levels measurable at any location in the water will be less than the nominal source level.

### Marine Mammal Monitoring

At least two vessel-based observers will be stationed aboard LDEO's seismic survey vessel during seismic operations in the Mid-Atlantic Ocean. It is proposed that one or two marine mammal observers aboard the seismic vessel will search for and observe marine mammals whenever seismic operations are in progress during daylight hours, and if feasible, during periods without seismic activity. Vessel-based observers will monitor for marine mammals near the seismic source vessel for at least 30 minutes prior to and during all daylight ramp-up and airgun operations, and during any nighttime startups of the airguns. Airgun operations will be suspended when marine mammals are observed within, or about to enter, the designated safety radii. Observers will not be on duty during ongoing seismic operations at night; bridge personnel will watch for marine mammals during this period and will call for the airguns to be powered down if marine mammals are observed in or about to enter the safety radii. At least one marine mammal observer will be on "standby" at night, in case bridge personnel see a marine mammal. An image-intensifier night-vision device (NVD) will be available for use at night. If the airguns are started up at night, two marine mammal observers will monitor for marine mammals near the source vessel for 30 minutes prior to start up using NVDs. The 30-minute observation period is only required prior to commencing seismic operations following an extended shut down period. After 30 minutes of observation, the ramp-up procedure will be followed.

The observers will watch for marine mammals from the highest practical vantage point on the vessel, which is either the flying bridge or the bridge. On the *R/V Maurice Ewing*, the observer's eye level will be approximately 11 m (36 ft) above sea level when stationed on the bridge, allowing for good visibility within a 210° arc. If observers are stationed on the flying bridge, the eye level will be 14.4 m (47.2 ft) above sea level. The proposed monitoring plan is summarized later in this document.

### Mitigation During Operations

The following mitigation measures, as well as marine mammal monitoring, will be adopted during the proposed Mid-Atlantic seismic surveys, provided that doing so will not compromise operational safety requirements: (1) Speed or course alteration; (2) Power-down procedures; (3) Shut-down procedures; and (4) Ramp-up procedures.

### Course Alteration

If a marine mammal is detected outside the safety radius and, based on its position and the relative motion, is likely to enter the safety radius, the vessel's speed and/or direct course will be changed in a manner that also minimizes the effect to the planned science objectives. The marine mammal activities and movements relative to the seismic vessel will be closely monitored to ensure that the marine mammal does not approach within the safety radius. If the mammal appears likely to enter the safety radius, further mitigative actions will be taken, i.e., either further course alterations or shutdown of the airguns.

### Power-down and Shut-down Procedures

Received sound levels have been modeled for the 2-GI and 20-gun arrays. Based on the modeling, estimates of the 190-, 180-, 170-, and 160-dB re 1  $\mu$ Pa (rms) distances (safety radii) for these arrays have been provided previously in this document.

Airgun operations will be powered-down (or shut-down) immediately when cetaceans or pinnipeds are seen within or about to enter the appropriate 180-dB (rms) or 190-dB (rms) radius, respectively. These 180- and 190-dB criteria are consistent with guidelines listed for cetaceans and pinnipeds by NMFS (2000) and other guidance by NMFS. If a marine mammal is detected outside the safety radius but is likely to enter the safety radius, and if the vessel's course and/or speed cannot be changed to avoid having the marine mammal enter the safety radius, the airguns will be powered-down before the mammal is within the safety radius. Likewise, if a mammal is already within the safety radius when first detected, the airguns will be powered-down immediately. If a marine mammal is seen within the appropriate safety radius of the array while the guns are powered-down, airgun operations will be shut-down. For the power-down procedure for the 20-gun array, one 80 in<sup>3</sup> airgun will be operated during the interruption of seismic survey. When the 2 GI guns are in use, a shut-down

rather than a power-down will likely be necessary. Airgun activity (after both power-down and shut-down procedures) will not resume until the marine mammal has cleared the safety radius. The animal has cleared the safety radius if it is visually observed to have left the safety radius, or if it has not been seen within the zone for 15 min (small odontocetes and pinnipeds) or 30 min (mysticetes and large odontocetes, including sperm, pygmy sperm, dwarf sperm, beaked, and bottlenose whales).

#### Ramp-up Procedure

A "ramp-up" procedure will be followed when the airgun arrays begin operating after a specified duration without airgun operations. Under normal operational conditions (vessel speed 4 knots, or 7.4 km/hr), a ramp-up would be required after a power-down or shut-down period lasting about 8 minutes or longer if the *Ewing* was towing the 20-gun array. At 4 knots, the source vessel would travel 900 m (2953 ft) during an 8-minute period. If the towing speed is reduced to 3 knots or less, as sometimes required when maneuvering in shallow water, it is proposed that a ramp-up would be required after a "no shooting" period lasting 10 minutes or longer. At towing speeds not exceeding 3 knots, the source vessel would travel no more than 900 m (3117 ft) in 10 minutes. Based on the same calculation, a ramp-up procedure would be required after a 6 minute period if the speed of the source vessel was 5 knots. During the ramp-up procedures, the safety radii for the full gun array will be maintained.

Ramp-up will not occur if the safety radius has not been visible for at least 30 min prior to the start of operations in either daylight or nighttime. If the safety radius has not been visible for that 30 minute period (e.g., during darkness or fog), ramp-up will not commence unless one airgun with a sound pressure level (SPL) of at least 180 dB has been maintained during the interruption of seismic activity. Therefore, it is likely that the 20-gun array will not be ramped up from a shut-down at night or in thick fog, since the safety radii for this array will not be visible during those conditions.

#### Monitoring and Reporting

LDEO proposes to conduct marine mammal monitoring of its 2003 Mid-Atlantic seismic programs in order to satisfy the anticipated requirements of the IHA.

#### Vessel-based Visual Monitoring

The observer(s) will systematically scan the area around the vessel with reticle binoculars (e.g., 7 X 50 Fujinon) and with the naked eye during the daytime. At night, NVDs will be available (ITT F500 Series Generation 3 binocular image intensifier or equivalent). Laser rangefinding binoculars (Leica LRF 1200 laser rangefinder or equivalent) will be available to assist with distance estimation.

At least two observers will be based aboard the vessel, and at least one will be an experienced marine mammal observer. Observers will be appointed by LDEO with NMFS concurrence. Observers will be on duty in shifts of duration no longer than 4 hours. The second observer will also be on watch part of the time, including the 30 minute periods preceding startup of the airguns and during ramp-ups. Use of two simultaneous observers will increase the proportion of the marine mammals present near the source vessel that are detected. LDEO bridge personnel additional to the dedicated marine mammal observers will also assist in detecting marine mammals and implementing mitigation requirements whenever possible (they will be given instruction on how to do so), especially during ongoing operations at night, when designated observers will not be on duty. If ramp-up procedures must be performed at night, two observers will be on duty 30 minutes prior to the start of airgun operations and during the subsequent ramp-up procedures. Ramp-up is not required for the 2 GI gun array, but observers must watch for 30 minutes prior to operation of the 2 GI guns and the safety radii must be visible.

#### Reporting

The vessel-based monitoring will provide data required to estimate the numbers of marine mammals exposed to various received sound levels, to document any apparent disturbance reactions, and thus to estimate the numbers of mammals potentially taken by Level B harassment. It will also provide the information needed in order to shut down the airguns at times when mammals are present in or near the safety zones. When a mammal sighting is made, the following information about the sighting will be recorded: (1) Species, group size, age/size/sex categories (if determinable), behavior when first sighted and after initial sighting, heading (if consistent), bearing and distance from seismic vessel, sighting cue, apparent reaction to seismic vessel (e.g., none, avoidance,

approach, paralleling, etc.), and behavioral pace; and (2) time, location, heading, speed, activity of the vessel (shooting or not), sea state, visibility, cloud cover, and sun glare. The data listed under (2) will also be recorded at the start and end of each observation watch and during a watch, whenever there is a change in one or more of the variables.

All mammal observations and airgun power- and shut-downs will be recorded in a standardized format. Data will be entered into a custom database using a laptop computer when observers are off-duty. The accuracy of the data entry will be verified by computerized validity data checks as the data are entered and by subsequent manual checking of the database. These procedures will allow initial summaries of data to be prepared during and shortly after the field program, and will facilitate transfer of the data to statistical, graphical or other programs for further processing and archiving.

Results from the vessel-based observations will provide (1) the basis for real-time mitigation (airgun power-down or shut-down); (2) information needed to estimate the number of marine mammals potentially taken by harassment, which must be reported to NMFS; (3) data on the occurrence, distribution, and activities of marine mammals in the area where the seismic study is conducted; (4) information to compare the distance and distribution of marine mammals relative to the source vessel at times with and without seismic activity; and (5) data on the behavior and movement patterns of marine mammals seen at times with and without seismic activity.

A report will be submitted to NMFS within 90 days after the end of each cruise in the Mid-Atlantic Ocean. The end of the TAG cruise is predicted to occur on or about October 30, 2003. The end of the ADWBC cruise is unknown at this time. The report will describe the operations that were conducted and the marine mammals that were detected. The report will be submitted to NMFS, providing full documentation of methods, results, and interpretation pertaining to all monitoring tasks. The 90-day report will summarize the dates and locations of seismic operations, marine mammal sightings (dates, times, locations, activities, associated seismic survey activities), and estimates of the amount and nature of potential take of marine mammals by harassment or in other ways. The draft report will be considered the final report unless comments and suggestions are provided by NMFS within 60 days of its receipt of the draft report.



**Endangered Species Act (ESA)**

Under section 7 of the ESA, NMFS has begun consultation on the proposed issuance of an IHA under section 101(a)(5)(D) of the MMPA for this activity. Consultation will be concluded prior to the issuance of an IHA.

**National Environmental Policy Act (NEPA)**

The NSF has prepared an Environmental Assessment (EA) for the two Mid-Atlantic surveys. NMFS is reviewing this EA and will either adopt it or prepare its own NEPA document before making a determination on the issuance of an IHA. A copy of the NSF EA for this activity is available upon request (see **ADDRESSES**).

**Preliminary Conclusions**

NMFS has preliminarily determined that the impact of conducting two seismic surveys in the Mid-Atlantic Ocean will result, at worst, in a temporary modification in behavior by certain species of marine mammals. This activity is expected to result in no more than a negligible impact on the affected species.

While the number of potential incidental harassment takes will depend on the distribution and abundance of marine mammals in the vicinity of the survey activity, the number of potential harassment takings is estimated to be small. In addition, no take by injury and/or death is anticipated, and the potential for temporary or permanent hearing impairment is low and will be avoided through the incorporation of the mitigation measures mentioned in this document. In addition, the proposed seismic program is not expected to interfere with any subsistence hunts, since operations in the whaling and sealing areas will be limited.

**Proposed Authorization**

NMFS proposes to issue an IHA to LDEO for conducting two seismic surveys in the Mid-Atlantic Ocean, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. NMFS has preliminarily determined that the proposed activity would result in the harassment of small numbers of marine mammals; would have no more than a negligible impact on the affected marine mammal stocks; and would not have an unmitigable adverse impact on the availability of stocks for subsistence uses.

**Information Solicited**

NMFS requests interested persons to submit comments and information concerning this request (see **ADDRESSES**).

Dated: September 11, 2003.

**Laurie K. Allen,**

*Acting Director, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 03-23766 Filed 9-16-03; 8:45 am]

**BILLING CODE 3510-22-S**

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration**

[I.D. 080703A]

**Marine Mammals; File No. 358-1585-04**

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

**ACTION:** Issuance of permit amendment.

**SUMMARY:** Notice is hereby given that the Alaska Department of Fish and Game, P.O. Box 25526, Juneau, Alaska 99802-5526 [Principal Investigator: Robert Small, Ph.D.] has been issued an amendment to scientific research Permit No. 358-1585-02 as amended by a minor change [No. -03].

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

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713-2289; fax (301)713-0376; and Assistant Regional Administrator for Protected Resources, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802-1668; phone (907)586-7235; fax (907)586-7012.

**FOR FURTHER INFORMATION CONTACT:**

Ruth Johnson or Carrie Hubard, (301)713-2289.

**SUPPLEMENTARY INFORMATION:** On June 7, 2003, notice was published in the **Federal Register** (68 FR 33477) that an amendment of Permit No. 358-1585, issued September 30, 2002 (67 FR 64098), had been requested by the above-named organization. The requested amendment has been granted under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

The amendment authorizes the Holder to conduct additional activities on harbor seals that include:

permanently marking females that receive implanted VHF transmitters to enable identification from a distance without further disturbance to determine if female has a pup; applying a Passive Integrated Transponder (PIT) tag to identify recaptured individuals to assess change in health or contaminant loads over time; using ultrasound to diagnose pregnancy and reproductive condition of females; attaching a sonic tag for realtime tracking of foraging behavior while simultaneously conducting acoustical surveys of prey availability; and attaching an Underwater Timed Picture Recorder (UTPR) with Time Depth Recorder to view prey selection and readily calculate pursuit and handling times.

Dated: September 9, 2003.

**Stephen L. Leathery,**

*Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 03-23765 Filed 9-16-03; 8:45 am]

**BILLING CODE 3510-22-S**

**DEPARTMENT OF COMMERCE****Notice of availability of a draft regional restoration plan**

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of Availability of a Draft Regional Restoration Plan: Region 2, for the Louisiana Regional Restoration Planning Program.

**SUMMARY:** Notice is hereby given that a document entitled, "Draft Louisiana Regional Restoration Plan: Region 2" is available for public review and comment. This document has been prepared by the state and federal natural resource trustee agencies (National Oceanic and Atmospheric Administration (NOAA); U.S. Department of the Interior (DOI); Louisiana Oil Spill Coordinator's Office (LOSCO); and Louisiana Departments of Environmental Quality (LDEQ); Natural Resources (LDNR); and Wildlife and Fisheries (LDWF)) to address natural resource injuries resulting from discharges of oil in Region 2 of the State of Louisiana.

The draft Region 2 Restoration Plan (RRP-2) is the first of nine regional plans being prepared under the statewide Louisiana Regional Restoration Planning Program (RRP Program) developed by NOAA, DOI and the State of Louisiana. The purposes of the RRP Program include expediting restoration of natural resources injured by oil spills and reducing the cost of