

ADWBC seismic survey areas, respectively. These figures represent considerably less than 0.2 and 0.3 percent of the North Atlantic population of common dolphins, respectively. Of these, 91 and 144, respectively, might be exposed to ≥ 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 ≥ 160 dB during the 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 ≥ 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 ≥ 160 dB and the expected impacts at these levels, NMFS has determined that this action will have a negligible impact on the affected species or stocks.

Altogether, the mitigation measures explained in this document (*See Mitigation*) will reduce short-term reactions to disturbance, and minimize any effects on hearing sensitivity.

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 endangered or depleted.

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 still 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 these effects and the relatively low numbers of pinniped species that may be exposed, NMFS has determined that this action will have a negligible impact on the affected species or stocks.

Determinations

Based on the information contained in the LDEO application, the NSF EA, the September 17, 2003, proposed authorization notice (68 FR 54421) and this document, NMFS has determined that conducting two marine seismic surveys, one each by the *Ewing* and the *Knorr*, in the Mid-Atlantic Ocean by LDEO would result in the harassment of small numbers of marine mammals; would have no more than a negligible impact on the affected marine mammal species or stocks; and would not have an unmitigable adverse impact on the availability of stocks for subsistence uses. This activity will result, at worst, in a temporary modification in behavior by affected species of marine mammals. While behavioral modifications may be made by these species as a result of seismic survey activities, this behavioral change is expected to result in no more than a negligible impact on the affected species. Also, while the number of actual 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 and required under the IHA. For these reasons therefore, NMFS has determined that the requirements of section 101(a)(5)(D) of the MMPA have been met and the authorization can be issued.

Endangered Species Act (ESA)

NMFS has concluded consultation under section 7 of the ESA on NMFS' issuance of an IHA to take small numbers of marine mammals, by harassment, incidental to conducting two oceanographic seismic surveys in the Mid-Atlantic Ocean by LDEO. The consultation concluded with a biological opinion that this action is not likely to jeopardize the continued existence of marine species listed as threatened or endangered under the

ESA. No critical habitat has been designated for these species in the equatorial Pacific Ocean; therefore, none will be affected. A copy of the Biological Opinion is available upon request (*see ADDRESSES*).

National Environmental Policy Act (NEPA)

On July 30, 2003, the NSF made a determination, based on information contained within its Environmental Assessment (EA), that implementation of the subject action is not a major Federal action having significant effects on the environment within the meaning of Executive Order 12114. NSF determined therefore, that an environmental impact statement would not be prepared. On September 17, 2003 (68 FR 54421), NMFS noted that the NSF had prepared an EA for the Mid-Atlantic surveys and made it available upon request. In accordance with NOAA Administrative Order 216-6 (Environmental Review Procedures for Implementing the National Environmental Policy Act, May 20, 1999), NMFS has reviewed the information contained in NSF's EA and determined that the NSF EA accurately and completely describes the proposed action alternative, reasonable additional alternatives, and the potential impacts on marine mammals, endangered species, and other marine life that could be impacted by the preferred alternative and the other alternatives. As a result, NMFS has determined that it is not necessary to issue either a new EA, supplemental EA or an environmental impact statement for the issuance of an IHA to LDEO for this activity. Therefore, based on this review and analysis, NMFS is adopting the NSF EA under 40 CFR 1506.3. A copy of the NSF EA for this activity is available upon request (*see ADDRESSES*).

Authorization

NMFS has issued an IHA to take small numbers of marine mammals, by harassment, incidental to conducting two marine seismic surveys, one by the *Ewing* and one by the *Knorr*, in the Mid-Atlantic Ocean to LDEO for a 1-year period, provided the mitigation, monitoring, and reporting requirements described in this document and the IHA are undertaken.

Dated: October 23, 2003.

Phil Williams,

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

[FR Doc. 03-28129 Filed 11-7-03; 8:45 am]

BILLING CODE 3510-22-S