



## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[RIN 0648-XE850]

#### **Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Texas Parks and Wildlife Fisheries Independent Research Programs**

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

**ACTION:** Notice; receipt of application for Letter of Authorization; request for comments and information.

**SUMMARY:** NMFS has received a request from the Texas Parks and Wildlife Department (TPWD) for authorization to take small numbers of marine mammals incidental to fisheries independent research surveys conducted in the coastal waters of Texas over the course of five years (2025-2030). Pursuant to regulations implementing the Marine Mammal Protection Act (MMPA), NMFS is announcing receipt of the TPWD's request for the development and implementation of regulations governing the incidental taking of marine mammals. NMFS invites the public to provide information, suggestions, and comments on the TPWD's application and request.

**DATES:** Comments and information must be received no later than [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Comments on the applications should be addressed to the Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Physical comments should be sent to 1315 East-West Highway, Silver Spring, MD 20910 and electronic comments should be sent to [ITP.cockrell@noaa.gov](mailto:ITP.cockrell@noaa.gov).

*Instructions:* NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period.

Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted online at

<https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-research-and-other-activities> without change. All personal identifying information (e.g., name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

An electronic copy of the TPWD's application may be obtained online at:

<https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-research-and-other-activities>. In case of problems accessing these documents, please call the contact listed below.

**FOR FURTHER INFORMATION CONTACT:** Craig Cockrell, Office of Protected Resources, NMFS, (301) 427-8401.

**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 (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and 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.

An incidental take authorization shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable

adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, 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.

The MMPA states that the term “take” means to harass, hunt, capture, kill or attempt to harass, hunt, capture, or kill any marine mammal.

Except with respect to certain activities not pertinent here, 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 (Level A harassment); 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 (Level B harassment).

### **Summary of Request**

On October 31, 2023, NMFS received an application from the TPWD requesting authorization for take of marine mammals incidental to fisheries independent research activities related to sampling activities with gillnet gear in the coastal waters of Texas. A revised application was submitted on March 3, 2025, and we determined the application was adequate and complete on May 12, 2025. The requested regulations would be valid for five years (2025-2030). The TPWD plans to conduct necessary work in several coastal bays of Texas including Laguna Madre, Nueces and Corpus Christi Bay, Aransas Bay complex, Matagorda Bay, West Bay, Galveston Bay, and Sabine Lake. It is possible that marine mammals may interact with fishing gear (*e.g.* gillnets) proposed for use in

TPWD's fishery independent, resulting in injury, serious injury, or mortality. Therefore, the TPWD requests authorization to incidentally take marine mammals.

### **Specified Activities**

TPWD conducts a long-term standardized fishery-independent monitoring program to assess the relative abundance and size of finfish and shellfish in Texas bays. The fisheries independent research programs use sampling gear including gillnets, trawls, and dredges to assess finfish and shellfish abundance and health in the surrounding coastal bays of Texas. Results from this program are primarily used by TPWD to manage Texas' marine finfish and shellfish resources. These proposed activities by TPWD would be conducted over the 5-year period of the regulations and subsequent Letter of Authorization.

### **Information Solicited**

Interested persons may submit information, suggestions, and comments concerning the TPWD's request (see **ADDRESSES**). NMFS will consider all information, suggestions, and comments related to the request during the development of proposed regulations governing the incidental taking of marine mammals by the TPWD, if appropriate.

Dated: May 13, 2025.

**Kimberly Damon-Randall,**

*Director, Office of Protected Resources,*

*National Marine Fisheries Service.*

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