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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XF914]

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Geophysical Surveys Related to Oil and Gas Activities in the Gulf of America

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

ACTION: Notice; issuance of letter of authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA), as amended, its implementing regulations, and NMFS' MMPA regulations for taking marine mammals incidental to geophysical surveys related to oil and gas activities in the Gulf of America (GOA), notification is hereby given that a Letter of Authorization (LOA) has been issued to WesternGeco, LLC (WesternGeco) for the take of marine mammals incidental to geophysical survey activity in the GOA.

DATES: The LOA is effective from August 11, 2026 through August 30, 2027.

ADDRESSES: The LOA, LOA request, and supporting documentation are available online at: *https://www.fisheries.noaa.gov/action/incidental-take-authorization-oil-and-gas-industry-geophysical-survey-activity-gulf-mexico*. In case of problems accessing these documents, please call the contact listed below (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Alyssa Clevenstine, 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 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 authorization for incidental takings 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.

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).

On January 19, 2021, we issued a final rule with regulations to govern the unintentional taking of marine mammals incidental to geophysical survey activities conducted by oil and gas industry operators, and those persons authorized to conduct activities on their behalf (collectively "industry operators"), in U.S. waters of the GOA[1] over the course of 5 years (86 FR 5322, January 19, 2021). The rule was based on our findings that the total taking from the specified activities over the 5-year period will have a negligible impact on the affected species or stock(s) of marine mammals and will not have an unmitigable adverse impact on the availability of those species or stocks for subsistence uses, and became effective on April 19, 2021.

The regulations at 50 CFR 217.180 *et seq*. allow for the issuance of LOAs to industry operators for the incidental take of marine mammals during geophysical survey activities and prescribe the permissible methods of taking and other means of effecting the least practicable adverse impact on marine mammal species or stocks and their habitat (often referred to as mitigation), as well as requirements pertaining to the monitoring and reporting of such taking. Under 50 CFR 217.186(e), issuance of an LOA shall be based on a determination that the level of taking will be consistent with the findings made for the total taking allowable under these regulations and a determination that the amount of take authorized under the LOA is of no more than small numbers.

NMFS subsequently discovered that the 2021 rule was based on erroneous take estimates. We conducted another rulemaking using correct take estimates and other newly available and pertinent information relevant to the analyses supporting some of the

[1] Pursuant to Executive Order 14172, "Restoring Names That Honor American Greatness," and Department of the Interior Secretarial Order 3423, "The Gulf of America," the body of water formerly known as the Gulf of Mexico is now called the Gulf of America. Accordingly, NMFS amended the incidental take regulations to reflect the change. See 90 FR 38001 (August 7, 2025).

findings in the 2021 final rule and the taking allowable under the regulations. We issued a final rule in April 2024, effective May 24, 2024 (89 FR 31488, April 24, 2024).

On August 28, 2025, NMFS Office of Protected Resources (OPR) received a request from NMFS Office of Policy (Policy) for reimplementation of the current Incidental Take Regulation (ITR) to avoid a lapse in ITRs offering incidental take coverage for GOA geophysical survey activities. On October 20, 2025, Bureau of Ocean Energy Management (the original petitioner for the current ITRs) submitted a request to be included in the process as a co-petitioner. In response to these requests, NMFS issued a new final rule, effective April 20, 2026, through April 19, 2031 (91 FR 20784, April 17, 2026).

The reimplementation of the regulations continues the established framework for authorization of incidental take through LOAs. The final rule made no changes to the specified activities or the specified geographical region in which those activities would be conducted, and there are no changes to the associated mitigation, monitoring, and reporting requirements.

Summary of Request and Analysis

WesternGeco plans to conduct a long offset sparse bottom node (OBN) survey over 1,023 lease blocks in the Keathley Canyon, Alaminos Canyon, Garden Banks, and East Banks areas, with water depths ranging from approximately 900 to 3,000 meters (m). See section F of the LOA application for a map of the area. WesternGeco anticipates using two source vessels with either a conventional airgun array source consisting of 28 elements with a total volume of 5,000 cubic inches (in^3) (0.082 cubic meter) or a low-frequency tuned pulse source (TPS) in tandem with a conventional 28-element, 5,000 in^3

airgun array. Each source vessel will be towing identical sources but the sources will not be used simultaneously. Please see the LOA application for additional detail.

The TPS was not included in the acoustic exposure modeling developed in support of the rule; however, the TPS was previously described and evaluated in support of previous LOAs (86 FR 37309, 37310, July 15, 2021; 87 FR 55790, 55791, September 12, 2022). We rely on the prior analyses for the TPS here. For additional details regarding sources, see section C of the LOA application. Based on this information we have determined there will be no effects of a magnitude or intensity different from those evaluated in support of the rule. Because WesternGeco's proposed survey plan includes use of the TPS paired with the conventional 5,000 in^3 airgun array (they do not plan to use the TPS source by itself), the 5,000 in^3 airgun array was used to evaluate take as it is the most impactful source planned for use.

Consistent with the preamble to the final rule, the survey effort proposed by WesternGeco in its LOA request was used to develop LOA-specific take estimates based on the acoustic exposure modeling results described in the preamble (91 FR 20784, April 17, 2026). In order to generate the appropriate take number for authorization, the following information was considered: (1) survey type; (2) location (by modeling zone[2]); (3) number of days; (4) source; and (5) month[3]. To determine the most appropriate proxy array from the exposure modeling, the directionally dependent source level in a plane parallel to the sea surface was compared to the three airgun array sources which were

[2] For purposes of acoustic exposure modeling, the GOA was divided into seven zones. Zone 1 is not included in the geographic scope of the rule.

[3] Acoustic propagation modeling was performed for two seasons: Winter (December-March) and Summer (April-November). Marine mammal density data is generally available on a monthly basis, and therefore further refines take estimates temporally.

originally modeled, including the 4,130, 5,110, and 8,000 in^3 arrays. Out of these three proxies, the source which had the smallest relative error (arithmetic mean difference taken over the azimuthal or vessel bearing angle) was chosen as the most representative proxy. In this case, because WesternGeco plans to use the specified 28-element, 5,000 in^3 airgun array source, the 5,110 in^3 had the lowest mean error (1.1 decibels (dB)) and was the airgun array proxy that was selected as most appropriate for the planned survey. The acoustic exposure modeling performed in support of the rule provides 24-hour exposure estimates for each species, specific to each modeled source and survey type in each zone and month.

No OBN surveys were included in the modeled survey types, and use of existing proxies (*i.e.*, two-dimensional (2D), three-dimensional (3D) narrow-azimuth (NAZ), 3D wide-azimuth (WAZ), Coil) is generally conservative for use in evaluation of 3D OBN survey effort, largely due to the greater area covered by the modeled proxies. Summary descriptions of these modeled survey geometries are available in the preamble to the proposed rule (91 FR 9014, 9018, February 24, 2026). Coil was selected as the best available proxy survey type in this case because the spatial coverage of the planned survey is most similar to the coil survey pattern. The planned OBN survey will involve two source vessels sailing along closely spaced survey lines, with daily survey area coverage of approximately 66 square kilometers (km^2) per day (33 km^2 per day per vessel), most similar to that assumed for the coil survey proxy. Among the different parameters of the modeled survey patterns (*e.g.*, area covered, line spacing, number of sources, shot interval, total simulated pulses), NMFS considers area covered per day to be most influential on daily modeled exposures exceeding Level B harassment criteria.

Although WesternGeco is not proposing to perform a survey using the coil geometry, the coil proxy is most representative of the effort planned by WesternGeco in terms of predicted Level B harassment exposures.

The survey will take place over approximately 150 days with 100 days of sound source operation, with approximately 7 days planned in Zone 5, 68 days planned in Zone 6, and approximately 25 days planned in Zone 7. The monthly distribution of survey days is not known in advance, though we assume that the planned 100 days of source operation would occur contiguously. Take estimates for each species are based on the time period that produces the greatest value.

For the Rice's whale, take estimates based on the modeling yielded results that are not realistically likely to occur when considered in light of other relevant information concerning Rice's whale habitat preferences considered during the rulemaking process. NMFS' 2026 proposed rule provided detailed discussion regarding Rice's whale habitat (see 91 FR 9014, 9026, February 24, 2026). In summary, recent survey data, sightings, and acoustic data support Rice's whale occurrence in waters throughout the GOA between approximately 100 m and 400 m depth along the continental shelf break, and associated habitat-based density modeling has identified similar habitat (*i.e.,* approximately 100-400 m water depths along the continental shelf break) as being Rice's whale habitat (Garrison *et al.*, 2023; Soldevilla *et al.*, 2022, 2024).

Although Rice's whales may occur outside of the general depth range expected to provide suitable habitat, we expect that any such occurrence would be rare. WesternGeco's planned activities will occur in water depths of approximately 900-3,000 m in the central GOA. Thus, NMFS does not expect that take of Rice's whale is likely in

association with this survey and, accordingly, does not authorize take of Rice's whale through the LOA.

Based on the results of our analysis, NMFS has determined that the level of taking expected for this survey and authorized through the LOA is consistent with the findings made for the total taking allowable under the regulations. See table 1 in this notice and table 7 of the rule (91 FR 20784, April 17, 2026).

Small Numbers Determination

Under the rule, NMFS may not authorize incidental take of marine mammals in an LOA if it will exceed "small numbers." In short, when an acceptable estimate of the individual marine mammals taken is available, if the estimated number of individual animals taken is up to, but not greater than, one-third of the best available abundance estimate, NMFS will determine that the numbers of marine mammals taken of a species or stock are small (see 91 FR 20784, April 17, 2026). For more information, please see NMFS' discussion of small numbers in the 2026 final rule (91 FR 20784, April 17, 2026).

The take numbers for authorization are determined as described above in the **Summary of Request and Analysis** section. Subsequently, the total incidents of harassment for each species are multiplied by scalar ratios (except in the cases where the take estimate has been rounded up to reflect a group size) to produce a derived product that better reflects the number of individuals likely to be taken within a survey (as compared to the total number of instances of take), accounting for the likelihood that some individual marine mammals may be taken on more than 1 day (see 91 FR 20784, April 17, 2026). The output of this scaling, where appropriate, is incorporated into

adjusted total take estimates that are the basis for NMFS' small numbers determinations, as depicted in table 1.

This product is used by NMFS in making the necessary small numbers determinations through comparison with the best available abundance estimates (see discussion at 91 FR 20784, 20812, April 17, 2026). For this comparison, NMFS' approach is to use the maximum theoretical population, determined through review of current stock assessment reports (SAR; *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments*) and model-predicted abundance information (*https://seamap.env.duke.edu/models/Duke/GOM/*). Information supporting the small numbers determinations is provided in table 1.

Table 1 -- Take Analysis

Species	Authorized take	Scaled take [1]	Abundance [2]	Percent abundance
Rice's whale	0	N/A	51	N/A
Sperm whale	757	320	2,451	13.1
Kogia spp.	351 [3]	106	1,385	9.2
Beaked whales	520	52	1,038	5.1
Rough-toothed dolphin	1,970	566	4,853	11.7
Bottlenose dolphin	2,334	670	166,538	<1
Clymene dolphin	3,390	973	6,136	15.9
Atlantic spotted dolphin	3,680	1,056	21,506	4.9
Pantropical spotted dolphin	17,612	5,055	50,209	10.1
Spinner dolphin	152 [4]	N/A	2,991	5.1
Striped dolphin	4,054	1,163	16,102	7.2
Fraser's dolphin	799	229	1,665	13.8
Risso's dolphin	525	155	1,974	7.8
Blackfish [5]	5,596	1,651	9,535	17.3
Short-finned pilot whale	2,276	671	3,277	20.5

[1] Scalar ratios were applied to "Authorized Take" values as described at 91 FR 20784 (April 17, 2026) to derive scaled take numbers shown here.
[2] Best abundance estimate. For most taxa, the best abundance estimate for purposes of comparison with take estimates is considered here to be the model-predicted abundance (Garrison *et al.*, 2023). For Rice's whale, Atlantic spotted dolphin, spinner dolphin, and Risso's dolphin, the estimated SAR abundance estimate is used.
[3] Includes 21 takes by Level A harassment and 330 takes by Level B harassment. Scalar ratio is applied to takes by Level B harassment only; small numbers determination made on basis of scaled Level B harassment take plus authorized Level A harassment take.
[4] Modeled take of 111 increased to account for potential encounter with a group of average size (Maze-Foley and Mullin, 2006).
[5] The "blackfish" guild includes melon-headed whales, false killer whales, pygmy killer whales, and killer whales.

Based on the analysis contained herein of WesternGeco's planned survey activity described in its LOA application and the anticipated take of marine mammals, NMFS finds that small numbers of marine mammals will be taken relative to the affected species or stock sizes (*i.e.*, less than one-third of the best available abundance estimate) and therefore the taking is of no more than small numbers.

Authorization

NMFS has determined that the level of taking for this LOA request is consistent with the findings made for the total taking allowable under the incidental take regulations and that the amount of take authorized under the LOA is of no more than small numbers. Accordingly, we have issued an LOA to WesternGeco authorizing the take of marine mammals incidental to its geophysical survey activity, as described above.

Dated: August 11, 2026.

Kimberly Damon-Randall,

Director, Office of Protected Resources,

National Marine Fisheries Service.

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