

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC623

Incidental Taking of Marine Mammals; Taking of Marine Mammals Incidental to the Explosive Removal of Offshore Structures in the Gulf of Mexico

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

ACTION: Notice; issuance of Letters of Authorization (LOA).

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA) and implementing regulations, notification is hereby given that NMFS has issued LOAs to take marine mammals incidental to the explosive removal of offshore oil and gas structures (EROS) in the Gulf of Mexico.

DATES: These authorizations are effective from April 15, 2013 through July 19, 2013.

ADDRESSES: The application and LOAs are available for review by writing to P. Michael Payne, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3235 or by telephoning the contact listed here (see **FOR FURTHER INFORMATION CONTACT**), or online at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm>. Documents cited in this notice may be viewed, by appointment,

during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Howard Goldstein or Jolie Harrison, Office of Protected Resources, NMFS, 301–427–8401.

SUPPLEMENTARY INFORMATION: Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce (who has delegated the authority to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by United States citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region, if certain findings are made and regulations are issued. Under the MMPA, the term “take” means to harass, hunt, capture, or kill or to attempt to harass, hunt, capture, or kill any marine mammal.

Authorization for incidental taking, in the form of annual LOAs, may be granted by NMFS for periods up to five years if NMFS finds, after notice and opportunity for public comment, that the total taking over the five-year period will have a negligible impact on the species or stock(s) of marine mammals, and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant). In addition, NMFS must prescribe regulations that include permissible methods of taking and other means of effecting the least practicable adverse impact on the species and its habitat (i.e., mitigation), and on the availability of the species for subsistence uses, paying particular attention to rookeries, mating rounds,

and areas of similar significance. The regulations also must include requirements pertaining to the monitoring and reporting of such taking.

Regulations governing the taking of marine mammals incidental to EROS were published on June 19, 2008 (73 FR 34875), and remain in effect through July 19, 2013. For detailed information on this action, please refer to that **Federal Register** notice. The species that applicants may take in small numbers during EROS activities are bottlenose dolphins (*Tursiops truncatus*), Atlantic spotted dolphins (*Stenella frontalis*), pantropical spotted dolphins (*Stenella attenuata*), Clymene dolphins (*Stenella clymene*), striped dolphins (*Stenella coeruleoalba*), spinner dolphins (*Stenella longirostris*), rough-toothed dolphins (*Steno bredanensis*), Risso’s dolphins (*Grampus griseus*), melon-headed whales (*Peponocephala electra*), short-finned pilot whales (*Globicephala macrorhynchus*), and sperm whales (*Physeter macrocephalus*). NMFS received requests for LOAs from W&T Offshore, Inc. (W&T Offshore) and W&T Energy VI, LLC (W&T Energy) for activities covered by EROS regulations.

Reporting

NMFS Galveston Laboratory’s Platform Removal Observer Program (PROP) has provided reports for W&T Offshore’s removal of offshore structures during 2012. W&T Energy does not have reports for any operations to date. NMFS PROP observers and non-NMFS observers reported the following during W&T Offshore’s EROS operations in 2012:

Company	Structure	Dates	Marine mammals sighted (individuals)	Biological impacts observed to marine mammals
W&T Offshore	Eugene Island Area, Block 196, Platform B	March 27 to 30, 2012	Bottlenose dolphins (2)	None.
W&T Offshore	Eugene Island Area, Block 205, Platform D	April 9 to 12, 16 to 17, 23 to 25, 2012.	Spotted dolphins (60)	None.

Pursuant to these regulations, NMFS has issued LOAs to W&T Offshore and W&T Energy. Issuance of the LOAs is based on a finding made in the preamble to the final rule that the total taking over the five-year period (with monitoring, mitigation, and reporting measures) will have a negligible impact on the affected species or stock(s) of marine mammals and will not have an unmitigable adverse impact on subsistence uses. NMFS will review reports to ensure that the applicants are in compliance with meeting the

requirements contained in the implementing regulations and LOA, including monitoring, mitigation, and reporting requirements.

Dated: April 11, 2013.
Helen M. Golde,
Acting Director, Office of Protected Resources, National Marine Fisheries Service.
 [FR Doc. 2013–08857 Filed 4–15–13; 8:45 am]
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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XB155

Endangered Species; File No. 16549

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

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that the S.O. Conte Anadromous Fish Research Center, U.S. Geological Survey; Box 796, 1 Migratory Way, Turners Falls, MA 01376 [Barnaby Watten: Responsible Party], has been issued a permit [File No. 16549] to take shortnose sturgeon (*Acipenser brevirostrum*) for purposes of scientific research.

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

- Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427-8401; fax (301) 713-0376; and
- Northeast Region, NMFS, 55 Great Republic Drive, Gloucester, MA 01930; phone (978) 281-9328; fax (978) 281-9394.

FOR FURTHER INFORMATION CONTACT: Malcolm Mohead or Colette Cairns, (301) 427-8401.

SUPPLEMENTARY INFORMATION: On April 11, 2012, notice was published in the *Federal Register* (77 FR 21750) that a request for a scientific research permit to take shortnose sturgeon had been submitted by the above-named applicant. The requested permit has been issued under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222-226).

The Permit Holder is issued a five-year permit to study shortnose sturgeon in the wild and in captivity, determining up and downstream migrations, habitat use, spawning periodicity, seasonal movements of shortnose sturgeon in the Connecticut River from Agawam, MA to Montague, MA. He will also perform captive animal research in laboratory tests of up- and downstream fish passage studies, swimming performance tests, tagging studies, anesthesiology, behavior, physiology and contaminant studies, as well as producing progeny for further research. Additionally, the Permit Holder will collect fertilized embryo from each of the following rivers: Merrimack River (MA), and the Kennebec and Androscoggin Rivers (ME).

Issuance of this permit, as required by the ESA, was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of such endangered or threatened species, and (3) is consistent

with the purposes and policies set forth in section 2 of the ESA.

Dated: April 11, 2013.

P. Michael Payne,

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

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CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC-2011-0081]

Request for Information Regarding Third Party Testing for Lead Content, Phthalate Content, and the Solubility of the Eight Elements Listed in ASTM F963-11

AGENCY: U.S. Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: The Consumer Product Safety Commission (CPSC, or Commission) is issuing a notice seeking information on whether there are materials that can be determined not to include a prohibited element (lead or certain other elements) or chemical (six prohibited phthalates), such that third party testing is not required. The Commission also seeks information on materials that do not, and will not, contain the prohibited elements or chemicals in concentrations above their applicable maximum limit.

DATES: Written comments must be submitted by June 17, 2013.

ADDRESSES: You may submit comments, identified by Docket No. CPSC-2010-0037 by any of the following methods:

Electronic Submissions: Submit electronic comments in the following way:

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments. To ensure timely processing of comments, the Commission is no longer accepting comments submitted by electronic mail (email) except through <http://www.regulations.gov>.

Written Submissions: Submit written submissions in the following way:

Mail/Hand delivery/Courier (for paper, disk, or CD-ROM submissions) preferably in five copies, to: Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504-7923.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received may be posted without change to <http://www.regulations.gov>, including any personal information provided. Do not submit confidential business information, trade secret information, or other sensitive or protected information (such as a Social Security Number) electronically; if furnished at all, such information should be submitted in writing.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Randy Butturini, Project Manager, Office of Hazard Identification and Reduction, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; 301-504-7562; email: RButturini@cpsc.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Consumer Product Safety Act (CPSA) generally requires that children's products be tested by a third party CPSC-accepted laboratory for compliance with the applicable children's product safety rules. The Commission notes, regardless of any third party testing obligation, compliance with the children's products requirements discussed in this Request for Information (RFI) is always required.

This RFI seeks information on whether there are materials, used in the manufacture of consumer products, that can be determined not to include a prohibited element (lead or certain other elements) or chemical (the six prohibited phthalates that are listed in section 108 of the Consumer Product Safety Improvement Act of 2008 (CPSIA)), such that third party testing is not required. This RFI also seeks information on materials that do not, and will not, contain the prohibited elements or chemicals in concentrations above the legally allowable limit. Information provided by the public concerning the characteristics of such materials will be used to develop recommended courses of action for the Commission.

This RFI consists of four parts, seeking data and information concerning the following children's products and materials used to manufacture those products:

- Toys subject to ASTM F963-11, *Standard Consumer Safety Specification for Toy Safety*, and the presence, if any, or at what levels, of the eight elements designated in section 4.3.5 of the standard. The solubility of each element is limited to no more than the levels listed in Tables 1 and 2 of the standard. Additionally, for accessible