

exempted fishing and exempted educational activity reports to ensure activities are carried out as described in the permit, document the catch for inclusion in the total catch, and consider the permittee for future permits.

Eligible researchers on board federally permitted fishing vessels that plan to temporarily possess fish in a manner not compliant with applicable fishing regulations for the purpose of collecting scientific data on catch may submit a request for a temporary possession letter of authorization. The researchers are requested to submit reports of their scientific research activity after its completion.

## II. Method of Collection

Responses are typically received electronically. However, information may also be submitted on paper or by telephone.

## III. Data

*OMB Control Number:* 0648–0309.

*Form Number(s):* None.

*Type of Review:* Regular submission (extension of a current information collection).

*Affected Public:* Business or other for-profit; individuals or households; not for profit organizations; state, local or tribal governments.

*Estimated Number of Respondents:* 121.

*Estimated Time per Response:* Scientific research plans, 13 hours; scientific research reports, 6 hours; exempted fishing permit requests, 10 hours; exempted fishing permit reports, 4.5 hours; exempted educational requests, 5 hours; exempted educational reports, 2.5 hours.

*Estimated Total Annual Burden Hours:* 2,141.

*Estimated Total Annual Cost to Public:* \$0.

*Respondent's Obligation:* Mix of Voluntary, Required to Obtain or Retain Benefits, or Mandatory.

*Legal Authority:* The Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*).

## IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c)

Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this information collection request. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**Sheleen Dumas,**

*Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.*

[FR Doc. 2021–18881 Filed 8–31–21; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[RTID 0648–XB346]

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

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

**ACTION:** Notice of 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 Mexico, notification is hereby given that a Letter of Authorization (LOA) has been issued to Fugro USA Marine, Inc. (Fugro) for the take of marine mammals incidental to geophysical survey activity in the Gulf of Mexico.

**DATES:** The LOA is effective from December 1, 2021, through November 30, 2022.

**ADDRESSES:** The LOA, LOA request, and supporting documentation are available online at: [www.fisheries.noaa.gov/action/incidental-take-authorization-oil-and-gas-industry-geophysical-survey-activity-gulf-mexico](http://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:** Kim Corcoran, 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 Federal waters of the U.S. Gulf of Mexico (GOM) 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 five-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. The rule became effective on April 19, 2021.

Our 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.

**Summary of Request and Analysis**

Fugro plans to conduct a 3D Ultra-Ultra High Resolution (3DUUHR) seismic survey in the Mississippi Canyon Block 20 using two sparkers and a multibeam echosounder. The objective of the 3DUUHR survey is to provide targeted subsurface data in the vicinity of the well bay where gas in the shallow section can be seen to attenuate high frequency sub bottom data. Please see Fugro’s application for additional detail.

Consistent with the preamble to the final rule, the survey effort proposed by Fugro in its LOA request was used to develop LOA-specific take estimates based on the acoustic exposure modeling results described in the preamble (86 FR 5322, 5398; January 19, 2021). In order to generate the appropriate take number for

authorization, the following information was considered: (1) Survey type; (2) location (by modeling zone<sup>1</sup>); (3) number of days; and (4) season.<sup>2</sup> The acoustic exposure modeling performed in support of the rule provides 24-hour exposure estimates for each species, specific to each modeled survey type in each zone and season.

Exposure modeling results were generated using the single airgun proxy. Because those results assume use of a 90-in<sup>3</sup> airgun, the take numbers authorized through this LOA are considered conservative (*i.e.*, they likely overestimate take) due to differences in the sound source planned for use by Fugro, as compared to those modeled for the rule. The survey is planned to occur for 10 days in Zone 5 during the winter, which provides the basis for the take estimation.

In this case, use of the exposure modeling produces results that are substantially smaller than average GOM group sizes for multiple species<sup>3</sup> (*i.e.*, estimated exposure values are less than 10 percent of assumed average group size for the majority of species) (Maze-Foley and Mullin, 2006). NMFS’ typical practice in such a situation is to increase exposure estimates to the assumed average group size for a species in order to ensure that, if the species is encountered, exposures will not exceed the authorized take number. However, other relevant considerations here lead to a determination that increasing the estimated exposures to average group sizes would likely lead to an overestimate of actual potential take. In this circumstance, the very short survey duration and relatively small Level B harassment isopleths produced through use of the sparker (compared with an airgun array) mean that it is unlikely that certain species would be encountered at all, much less that the encounter would result in exposure of a greater number of individuals than is estimated through use of the exposure modeling results. As a result, in this case NMFS has not increased the estimated exposure values to assumed average group sizes in authorizing take.

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 document and Table 9 of the rule (86 FR 5322; January 19, 2021).

**Small Numbers Determination**

Under the GOM 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. For more information please see NMFS’ discussion of the MMPA’s small numbers requirement provided in the final rule (86 FR 5322, 5438; January 19, 2021).

The take numbers for authorization, which are determined as described above, are used by NMFS in making the necessary small numbers determinations, through comparison with the best available abundance estimates (see discussion at 86 FR 5322, 5391; January 19, 2021). For this comparison, NMFS’ approach is to use the maximum theoretical population, determined through review of current stock abundance reports (SAR; [www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments](http://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/>). For the latter, for taxa where a density surface model could be produced, we use the maximum mean seasonal (*i.e.*, 3-month) abundance prediction for purposes of comparison as a precautionary smoothing of month-to-month fluctuations and in consideration of a corresponding lack of data in the literature regarding seasonal distribution of marine mammals in the GOM. Information supporting the small numbers determinations is provided in Table 1.

TABLE 1—TAKE ANALYSIS

Species	Authorized take <sup>1</sup>	Abundance <sup>2</sup>	Percent abundance
Rice’s whale <sup>3</sup> .....	0	51	n/a

<sup>1</sup> For purposes of acoustic exposure modeling, the GOM was divided into seven zones. Zone 1 is not included in the geographic scope of the rule.

<sup>2</sup> For purposes of acoustic exposure modeling, seasons include Winter (December–March) and Summer (April–November).

<sup>3</sup> These species include: Bottlenose dolphins, short-finned pilot whales, Atlantic spotted dolphin,

Clymene dolphin, false killer whale, Fraser’s dolphin, melon-headed whale, pantropical spotted dolphin, pygmy killer whale, Risso’s dolphin, rough-toothed dolphin, spinner dolphin, striped dolphin.

TABLE 1—TAKE ANALYSIS—Continued

Species	Authorized take <sup>1</sup>	Abundance <sup>2</sup>	Percent abundance
Kogia spp. ....	2	4,373	0.0
Beaked whales .....	158	3,768	4.2
Bottlenose dolphin .....	16	176,108	0.0
Short-finned pilot whale .....	2	1,981	0.1
Sperm whale .....	8	2,207	0.3
Atlantic spotted dolphin .....	6	74,785	0.0
Clymene dolphin .....	8	11,895	0.1
False killer whale .....	2	3,204	0.1
Fraser's dolphin .....	1	1,665	0.1
Killer whale .....	0	267	n/a
Melon-headed whale .....	6	7,003	0.1
Pantropical spotted dolphin .....	34	102,361	0.0
Pygmy killer whale .....	1	2,126	0.0
Risso's dolphin .....	2	3,764	0.1
Rough-toothed dolphin .....	2	4,853	0.0
Spinner dolphin .....	9	25,114	0.0
Striped dolphin .....	3	5,229	0.1

<sup>1</sup> Scalar ratios were not applied in this case due to brief survey duration.

<sup>2</sup> 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 (Roberts *et al.*, 2016). For those taxa where a density surface model predicting abundance by month was produced, the maximum mean seasonal abundance was used. For those taxa where abundance is not predicted by month, only mean annual abundance is available. For the killer whale, the larger estimated SAR abundance estimate is used.

<sup>3</sup> The final rule refers to the GOM Bryde's whale (*Balaenoptera edeni*). These whales were subsequently described as a new species, Rice's whale (*Balaenoptera ricei*) (86 FR 47022; August 23, 2021).

Based on the analysis contained herein of Fugro's proposed 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 Taylor authorizing the take of marine mammals incidental to its geophysical survey activity, as described above.

Dated: August 27, 2021.

#### Catherine Marzin,

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

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BILLING CODE 3510-22-P

## DEPARTMENT OF COMMERCE

### Patent and Trademark Office

[Docket No. PTO-C-2021-0036]

### Performance Review Board

**AGENCY:** United States Patent and Trademark Office, Commerce.

**ACTION:** Notice of revised board members.

**SUMMARY:** In conformance with the Civil Service Reform Act of 1978, the United States Patent and Trademark Office (USPTO) announces the appointment of persons to serve as members of its Performance Review Board (PRB). This is an update to the recently published **Federal Register** notice (published on August 4, 2021), to reflect the changes made to the board members serving in the Chair and Acting General Counsel positions due to the departure of Coke Stewart, who was Performing the Functions and Duties of the Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the USPTO.

**ADDRESSES:** Office of Human Resources, USPTO, P.O. Box 1450, Alexandria, VA 22313-1450.

**FOR FURTHER INFORMATION CONTACT:** Lari B. Washington, Acting Director, Human Capital Management, USPTO, at 571-272-5187.

**SUPPLEMENTARY INFORMATION:** The membership of the USPTO PRB is as follows:

David L. Berdan, Chair, Performing the Functions and Duties of the Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the USPTO.

Frederick W. Steckler, Vice Chair, Chief Administrative Officer, USPTO.

Andrew I. Faile, Acting Commissioner for Patents, USPTO.

David S. Gooder, Commissioner for Trademarks, USPTO.

Dennis J. Hoffman, Chief Financial Officer, USPTO.

Henry J. Holcombe, Chief Information Officer, USPTO.

David M. Shewchuk, Acting General Counsel, USPTO.

Mary Critharis, Chief Policy Officer and Director for International Affairs, USPTO.

Gerard F. Rogers, Chief Administrative Trademark Judge, USPTO.

Scott R. Boalick, Chief Administrative Patent Judge, USPTO.

Bismarck Myrick, Director of the Office of Equal Employment Opportunity and Diversity, USPTO.

Cara Duckworth, Acting Chief Communications Officer, USPTO.

Alternates:

Richard Seidel, Deputy Commissioner for Patents, USPTO.