

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b)(1), upon completion of this administrative review, Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise covered by this review.¹⁴ If Interpipe's weighted-average dumping margin in the final results of this review is not zero or *de minimis* (i.e., greater than or equal to 0.5 percent), we will calculate importer-specific *ad valorem* assessment rates for the merchandise by dividing the total amount of dumping calculated for all reviewed sales to the importer by the total entered value of the merchandise sold to the importer.¹⁵ Where either Interpipe's *ad valorem* weighted-average dumping margin is zero or *de minimis*, or an importer-specific *ad valorem* assessment rate is zero or *de minimis* in the final results of review, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.¹⁶

In accordance with Commerce's "automatic assessment" practice, for entries of subject merchandise during the POR produced by Interpipe for which it did not know was destined for the United States, we intend to instruct CBP to liquidate those entries at the all-others rate (i.e., 23.75 percent)¹⁷ in the original less-than-fair-value (LTFV) investigation if there is no rate for the intermediate company(ies) involved in the transaction.¹⁸

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, Commerce will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (i.e., within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be in effect for all shipments of subject merchandise

entered, or withdrawn from warehouse, for consumption on or after the date of publication of the notice of the final results of this administrative review in the **Federal Register**, as provided for by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for Interpipe will be equal to the weighted-average dumping margin established for Interpipe in the final results of this administrative review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), then the cash deposit rate will be zero; (2) for producers or exporters not covered in this review but that were previously reviewed or investigated in a prior segment of this proceeding, the cash deposit rate will continue to be the rate assigned to the company in the most recently-completed segment of this proceeding in which the producer or exporter was examined; (3) if the exporter of the subject merchandise does not have a company-specific rate but the producer of the subject merchandise does, then the cash deposit rate will be the rate assigned to the producer of the subject merchandise in the most recently completed segment of this proceeding in which the producer was examined; and (4) the cash deposit rate for all other producers or exporters will continue to be the all-others rate of 23.75 percent that was established in the investigation in this proceeding.¹⁹ These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

We are issuing and publishing these preliminary results of review in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.213(h)(2) and 351.221(b)(4).

Dated: September 6, 2024.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the *Order*
- IV. Affiliation/Single Entity
- V. Discussion of the Methodology
- VI. Currency Conversion
- VII. Recommendation

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XE234]

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 NMFS has issued a Letter of Authorization (LOA) to bp Exploration and Production, Inc., (bp) for the take of marine mammals incidental to geophysical survey activity in the Gulf of Mexico (GOM).

DATES: The LOA is effective from September 9, 2024, through February 14, 2025.

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** section).

FOR FURTHER INFORMATION CONTACT: Rachel Wachtendonk, Office of Protected Resources, NMFS, (301) 427–8401.

¹⁴ See 19 CFR 351.212(b)(1).

¹⁵ *Id.*

¹⁶ See 19 CFR 351.106(c)(2); see also *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings; Final Modification*, 77 FR 8101, 8102 (February 14, 2012) (*Final Modification for Reviews*).

¹⁷ See *Order*, 86 FR at 35273.

¹⁸ See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

¹⁹ See *Order*, 86 FR at 35272.

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, sheltering, nursing, breeding, feeding, or shattering (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 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 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 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).

The 2024 final rule made no changes to the specified activities or the specified geographical region in which those activities would be conducted, nor to the original 5-year period of effectiveness. In consideration of the new information, the 2024 rule presented new analyses supporting affirmance of the negligible impact determinations for all species, and affirmed that the existing regulations, which contain mitigation, monitoring, and reporting requirements, are consistent with the “least practicable adverse impact” standard of the MMPA.

Summary of Request and Analysis

Bp plans to conduct a three-dimensional (3D) ocean bottom node (OBN) survey over 325 lease blocks in the Alaminos Canyon, Garden Banks, Keathley Canyon, and East Breaks areas, with water depths ranging from approximately 1,000 to 2,500 m. See section F of the LOA application for a map of the area.

Bp anticipates using two dual-source vessels, and would preferentially use the low-frequency airgun source known as Gemini (also referred to as a dual barbell source). Alternatively, bp may use conventional airgun sources, with each source configured as an array consisting of 28 elements with a total volume of 4,430 cubic inches (in³). Please see bp’s application for additional detail.

The Gemini source was not included in the acoustic exposure modeling developed in support of the rules. However, the Gemini was previously described and evaluated in support of a previous LOA and we rely on that analysis here (88 FR 72739, October 23, 2023). For additional detail 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 rules. NMFS therefore expects that use of modeling results supporting the final rule relating to use of the 32 element, 5,110 in³ airgun array are expected to be conservative as a proxy for use in evaluating potential impacts of use of the Gemini.

The survey effort proposed by bp in its LOA request was used to develop LOA-specific take estimates based on the acoustic exposure modeling results described in our rule preamble (89 FR 31488, April 24, 2024). In order to generate the appropriate take number for authorization, the following information was considered: (1) survey type; (2) location (by modeling zone¹); (3) number of days; (4) source; and (5) month.² In this case, the 5,110 in³ airgun array was selected, as discussed above. 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 3D OBN surveys were included in the modeled survey types, and use of existing proxies (*i.e.*, two-dimensional (2D), 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 (83 FR 29212, 29220, June 22, 2018). 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 114 kilometers squared per day, similar

¹ 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.

² 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.

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

The survey will take place over approximately 142 days with 66 days of sound source operation (12 days planned in zone 5 and 54 days planned in zone 7). The monthly distribution of survey days is not known in advance, so take estimates for each species are based on the time period that produces the greatest value.

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 6 of the rule (89 FR 31488, April 24, 2024).

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 (89 FR 31535, May 24, 2024). For more information please see NMFS’ discussion of small numbers in the 2021 final rule (86 FR 5438, January 19, 2021).

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 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 (86 FR 5404, January 19, 2021; 89 FR 31535, May 24, 2024). 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 86 FR 5391, January 19, 2021). 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	408	172.5	3,007	5.7
<i>Kogia</i> spp.	³ 287	85.3	980	10.8
Beaked whales	547	55.2	803	6.9
Rough-toothed dolphin	1,017	292.0	4,853	6.0
Bottlenose dolphin	363	103.4	165,125	0.1
Clymene dolphin	1,713	491.7	4,619	10.6
Atlantic spotted dolphin	108	30.9	21,506	0.1
Pantropical spotted dolphin	13,612	3,906.5	67,225	5.8
Spinner dolphin	185	52.8	5,548	1.0
Striped dolphin	4,849	1,391.6	5,634	24.7
Fraser’s dolphin	444	127.3	1,665	7.6
Risso’s dolphin	210	62.0	1,974	3.1
Blackfish ⁴	3,384	998.4	6,113	16.3
Short-finned pilot whale	142	42.0	2,741	1.5

¹ Scalar ratios were applied to “Authorized Take” values as described at 86 FR 5322, 5404 (January 19, 2021) 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, and Risso’s dolphin, the larger estimated SAR abundance estimate is used.

³ Includes 19 takes by Level A harassment and 268 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 The “blackfish” guild includes melon-headed whales, false killer whales, pygmy killer whales, and killer whales.

Based on the analysis contained herein of bp’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 bp authorizing the take of marine

mammals incidental to its geophysical survey activity, as described above.

Dated: September 9, 2024.

Kimberly Damon-Randall,

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

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