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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XF285

Endangered Species; File No. 21293

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that NMFS has received an application for an incidental take permit (permit) from Mr. Jack Rudloe, Gulf Specimen Marine Laboratories, Inc. (GSML), pursuant to the Endangered Species Act of 1973, as amended (ESA). As required by the ESA, GSML's application includes a conservation plan designed to minimize and mitigate the impacts of any take of endangered or threatened species. The permit application is for the incidental take of ESA-listed adult and juvenile sea turtles associated with otherwise lawful trawling activities in Florida state waters of Bay, Gulf, Franklin, and Wakulla Counties to harvest marine organisms for the purpose of supplying entities conducting scientific research and educational activities. The duration of the proposed permit is for 18 years. NMFS is furnishing this notice in order to allow other agencies and the public an opportunity to review and comment on this document. All comments received will become part of the public record and will be available for review.

DATES: Written comments must be received at the appropriate address or fax number (see **ADDRESSES**) on or before *[insert date 30 days after date of publication in the Federal Register]*.

ADDRESSES: The application is available for download and review at

http://www.nmfs.noaa.gov/pr/permits/esa_review.htm under the section heading ESA Section 10(a)(1)(B) Permits and Applications. The application is also available upon written request or by appointment in the following office: Endangered Species Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13752, Silver Spring, MD 20910; phone (301) 427-8403; fax (301) 713-4060.

You may submit comments, identified by NOAA-NMFS-2017-0035, by any of the following methods:

- **Electronic Submissions:** Submit all electronic public comments via the Federal eRulemaking Portal. Go to www.regulations.gov#!/docketDetail;D=NOAA-NMFS-2017-0035 click the “Comment Now” icon, complete the required fields, and enter or attach your comments.
- **Fax:** (301) 713-4060; Attn: Ron Dean or Lisa Manning.
- **Mail:** Submit written comments to Endangered Species Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13535, Silver Spring, MD 20910; Attn: Ron Dean or Lisa Manning.

Instructions: You must submit comments by one of the above methods to ensure that we receive, document, and consider them. Comments sent by any other method, to any other address or individual, or received after the end of the comment period may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on <http://www.regulations.gov> without change. All personal identifying information (e.g., name, address, etc.) confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. We will accept

anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Ron Dean or Lisa Manning, (301) 427-8403.

SUPPLEMENTARY INFORMATION: Section 9 of the ESA and Federal regulations prohibit the ‘taking’ of a species listed as endangered or threatened. The ESA defines “take” to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. NMFS may issue permits, under limited circumstances to take listed species incidental to, and not the purpose of, otherwise lawful activities. Section 10(a)(1)(B) of the ESA provides for authorizing incidental take of listed species. NMFS regulations governing permits for threatened and endangered species are promulgated at 50 CFR 222.307.

Background

Pursuant to the ESA, GSML has submitted an application to NMFS for the incidental take of ESA-listed adult and juvenile sea turtles associated with otherwise lawful trawling activities in Florida state waters of Bay, Gulf, Franklin, and Wakulla Counties to harvest marine organisms for the purpose of supplying entities conducting scientific research and educational activities. The species identified in the application were: loggerhead (*Caretta caretta* Northwest Atlantic Ocean Distinct Population Segment), green (*Chelonia mydas* North Atlantic Distinct Population Segment), and Kemp’s ridley (*Lepidochelys kempii*) sea turtles.

NMFS received a draft permit application from GSML on February 4, 2016. Based on our review of the application, we requested further information and clarification. On July

22, 2016, GSML submitted supplemental information to its application. NMFS and GSML held further discussions on amount and extent of anticipated takes and clarifications of gear type to be used. During these discussions, NMFS determined that leatherback sea turtles (*Dermochelys coriacea*) and Gulf sturgeon (*Acipenser oxyrinchus desotoi*) also occur in the action area specified in the permit application. Thus, NMFS included these species in its analysis of the permit application. On March 16, 2017, NMFS notified GSML of this approach, and GSML confirmed the updated approach on March 21, 2017.

The duration of the proposed permit is 18 years. GSML uses small trawls (under 500 square feet) without Turtle Excluder Devices (TEDs) and trawl times are less than thirty minutes in duration. Turtle Excluder Devices often expel the desired stingrays, electric rays, horseshoe crabs and other benthic invertebrates and fish that are required for the laboratory's ongoing operations, and are not practical in the collection of these specimens.

A take of one turtle and one gulf sturgeon every three years is anticipated, given the nature of the activities and the location of the species in the area where the activities will occur. No mortalities or injury are expected should this take occur. As data are gathered through monitoring, NMFS will amend the permit to reflect any changes in the take estimate, if appropriate.

Conservation Plan

Section 10 of the ESA specifies that no permit may be issued unless an applicant submits an adequate conservation plan. The conservation plan prepared by GSML describes measures designed to minimize and mitigate the impacts of any incidental takes of ESA-listed sea turtles. It includes provisions to ensure that any captured sea turtles in need of resuscitation are provided such care, per NMFS guidelines. Additionally, any animals

needing medical attention or rehabilitation will be cared for by authorized persons and facilities.

The conservation plan will mitigate the impacts of any incidental takes of ESA-listed sea turtles that are harmed due to interactions with other fisheries in the area. Specifically, GSML will remove, taking into account any human safety considerations, any turtles it encounters ensnared in fishing lines, nets, and trap ropes. If any of these sea turtles require care, GSML will transport them to a rehabilitation facility.

The applicant's conservation plan did not include procedures for handling Gulf sturgeon. However, the applicant will follow specific handling procedures for Gulf sturgeon to minimize impacts to this species in the unlikely event an interaction should occur.

This conservation plan will be funded through GSML revenues derived from the sale of the marine fish, invertebrates, and algae collected via trawling; donations from membership in its aquarium; and grants and contracts.

GSML considered and rejected two other alternatives: (1) reduced trawl times; and (2) alternative methods. GSML cannot practicably further reduce the trawl times or employ alternative methodologies.

National Environmental Policy Act

This notice is provided pursuant to section 10(c) of the ESA and the National Environmental Policy Act regulations (40 CFR 1506.6). NMFS will evaluate the application, associated documents, and submitted comments to determine whether the application meets the requirements of the ESA Section 10(a)(1)(B) permitting process. If it is determined that the requirements are met, a permit will be issued for incidental takes of ESA-listed sea turtles and Gulf sturgeon under the jurisdiction of NMFS.

The final permit determinations will not be completed until after the end of the 30-day comment period and will fully consider all public comments received during the comment period. NMFS will publish a record of its final action in the **Federal Register**.

Dated: April 7, 2017.

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

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