



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XE603]

Notice of Availability of Draft Environmental Assessment on the Effects of Issuing Incidental Take Permit No. 27490

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

ACTION: Notice; availability of a Draft Environmental Assessment; request for
comments.

SUMMARY: NMFS announces the availability of the Draft Environmental Assessment
(EA) on the effects of issuing an Incidental Take Permit (ITP) (No. 27490) to the
University of Massachusetts Dartmouth School for Marine Science and Technology
(SMAST), pursuant to the Endangered Species Act (ESA) of 1973, as amended, for the
incidental take of ESA-listed sea turtles and sturgeon associated with the otherwise
lawful fisheries survey activities within and adjacent to the Massachusetts/Rhode Island
Wind Energy Area. The duration of the requested permit is 10 years. NMFS is requesting
comment on the draft EA.

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 EA is available for download and review at
<https://www.regulations.gov> (enter NOAA-NMFS-2023-0090 in the Search box) and at
[https://www.fisheries.noaa.gov/national/endangered-species-conservation/incidental-
take-permits](https://www.fisheries.noaa.gov/national/endangered-species-conservation/incidental-take-permits) under the section heading Related Documents for the Incidental Take Permit
to the University of Massachusetts Dartmouth School for Marine Science and

Technology (Sea Turtles and Sturgeon). The draft EA is also available upon written request (see **FOR FURTHER INFORMATION CONTACT**).

You may submit comments on the draft EA identified by NOAA-NMFS-2023-0090, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter **NOAA-NMFS-2023-0090** in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

Instructions: 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 by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on 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. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Alison Verkade, NMFS, Office of Protected Resources at alison.verkade@noaa.gov, 301-427-8074.

SUPPLEMENTARY INFORMATION: Publication of this notice begins the official public comment period for this draft EA. Per the National Environmental Policy Act (NEPA), the purpose of the draft EA is to evaluate the potential direct, indirect, and cumulative impacts caused by the issuance of Permit No. 27490 to SMAST for the incidental take of ESA-listed sea turtles and sturgeon associated with the otherwise lawful fisheries survey activities within and adjacent to the Massachusetts/Rhode Island Wind Energy Area. All comments received will become part of the public record and will be available for review.

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 (16 U.S.C. 1532(19)). Section 10(a)(1)(B) of the ESA provides a mechanism for authorizing incidental take of listed species. NMFS is authorized to issue permits under section 10(a)(1)(B) of the ESA, in certain circumstances, to take listed species incidental to, and not the purpose of, otherwise lawful activities. NMFS regulations governing permits for threatened and endangered species are promulgated at 50 CFR 222.307.

Species Covered in this Notice

The following species are included in the EA: the North Atlantic distinct population segments (DPS) of green (*Chelonia mydas*), Kemp’s ridley (*Lepidochelys kempii*), and leatherback (*Dermochelys coriacea*) sea turtles; the Northwest Atlantic Ocean DPS of loggerhead (*Caretta caretta*) sea turtles; and the Gulf of Maine, New York Bight, Chesapeake, Carolina, and South Atlantic DPSs of Atlantic sturgeon (*Acipenser oxyrinchus oxyrinchus*).

Background

NMFS received a draft permit application and conservation plan from SMAST on September 29, 2022. Based on our review of the draft application, we requested further information and clarification. After several draft submissions and reviews, on June 13, 2023, SMAST submitted a complete revised application for the incidental take of ESA-listed sea turtles and sturgeon. On July 6, 2023, we published a notice of receipt (88 FR 43082) of application and conservation plan from SMAST for an incidental take permit. In that notice, we made the ITP application and associated conservation plan available for public comment. During the comment period, we received two requests to extend the public comment period. NMFS provided an additional 15-day public comment period (88 FR 55668, August 16, 2023) to the comment period, which closed on August 31, 2023.

We received three comments on the application and conservation plan, and responses to these comments are available in the draft EA.

National Environmental Policy Act

This notice is provided pursuant to section 10(c) of the ESA and the NEPA regulations (40 CFR 1506.6). The draft EA was prepared in accordance with NEPA (42 U.S.C. 4321, *et seq.*, 40 CFR 1500-1508) and applicable NOAA policy and procedures (NOAA Administrative Order (NAO) 216-6A and the NOAA Companion Manual (CM) for the NAO 216-6A).

Alternatives Considered

NMFS' proposed action is issuance of an ITP to S Mast would authorize take of threatened and endangered sea turtle and sturgeon species associated with the otherwise lawful fisheries survey activities within and adjacent to the Massachusetts/Rhode Island Wind Energy Area and require implementation of a conservation plan, in accordance with the requirements of the ESA. In preparing the draft EA, NMFS considered the following two alternatives for the proposed action.

Alternative 1: No Action. In accordance with the CM for NAO 216-6A, section 6.B.i, NMFS is defining the no action alternative as not authorizing the requested incidental take of ESA-listed sea turtles and sturgeon. This is consistent with our statutory obligation under section 10(a)(1)(B) of the ESA to either: (1) deny the requested ITP or (2) grant the requested ITP and prescribe mitigation, monitoring, and reporting requirements. Under the no action alternative, NMFS would not issue the ITP, in which case, we assume S Mast would either not complete the fisheries surveys, or would use alternative methods to collect fisheries information and the full suite of specific mitigation measures, monitoring, reporting explained in the Conservation Plan would not be implemented. The Council on Environmental Quality (CEQ) regulations and the CM for NAO 216-6A require consideration and analysis of a no action alternative for the

purposes of presenting a comparative analysis to the action alternatives. The no action alternative, serves as a baseline against which the impacts of the action alternatives will be compared and contrasted.

Alternative 2: Issue Permit as Requested in Application (Preferred alternative):

Under Alternative 2, an ITP would be issued to exempt SMAST from the ESA prohibition on taking sturgeon and sea turtles during operation of the otherwise lawful fisheries survey activities within and adjacent to the Massachusetts/Rhode Island Wind Energy Area. As required under section 10(a)(1)(B), the ITP would require SMAST to operate as described in the application and conservation plan to avoid, minimize, and mitigate take of ESA-listed sea turtles and sturgeon.

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: January 2, 2025.

Lisa Manning,

Acting Chief, Endangered Species Conservation Division,

Office of Protected Resources, National Marine Fisheries Service.

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