



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF611]

Endangered Species Act; Taking of Endangered and Threatened Species Incidental to Texas Parks and Wildlife Department’s Fisheries-Independent Gill Net Surveys in Texas Waters

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

ACTION: Notice; receipt of application; request for comments and information.

SUMMARY: Notice is hereby given that the Texas Parks and Wildlife Department (TPWD) has applied for an incidental take permit (ITP) pursuant to the Endangered Species Act of 1973, as amended (ESA). The permit application is for the incidental take of ESA-listed sea turtles associated with otherwise lawful fishery-independent gill net surveys within Texas bays and estuaries. NMFS is publishing this notice to allow other agencies and the public an opportunity to review and comment on the application and Conservation Plan. All comments received will become part of the public record and will be available for review.

DATES: Comments and information must be received no later than [INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE **FEDERAL REGISTER**].

ADDRESSES: The application is available for download and review at <https://www.fisheries.noaa.gov/national/endangered-species-conservation/incidental-take-permits> and at <http://www.regulations.gov>. The application is also available upon request (see **FOR FURTHER INFORMATION CONTACT**).

You may submit comments, identified by NOAA-NMFS-2026-0958, by Electronic Submission: Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov> and enter [NOAA-NMFS-2026-0958] in the Search box. Click on the “Comment Now!” 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 <http://www.regulations.gov> without change. All Personal Identifying Information (*e.g.*, name, address, *etc.*) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. We will accept anonymous comments (enter “N/A” in the required fields, if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Kim Corcoran, Office of Protected Resources, NMFS, (301) 427-8453, kim.corcoran@noaa.gov OR Celeste Stout, Office of Protected Resources, NMFS, (301) 427-8436, celeste.stout@noaa.gov.

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.

Applicants seeking ITPs must submit an application and Conservation Plan that includes the requirements specified in Section 10(a)(2)(A) (see **Conservation Plan**

section for details of what is required to be included in a Conservation Plan). If, following opportunity for public comment and evaluation of the application and Conservation Plan, NMFS finds that: (i) the taking will be incidental; (ii) the applicant will, to the maximum extent practicable, minimize and mitigate the impacts of such taking; (iii) the applicant will ensure that adequate funding for the plan will be provided; (iv) the taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; and (v) the applicant will implement any other measures NMFS may require as being necessary and appropriate, NMFS shall issue the ITP.

Species Covered in this Notice

The following species are included in the permit application and Conservation Plan: green (*Chelonia mydas*), loggerhead (*Caretta caretta*), hawksbill (*Eretmochelys imbricata*), and Kemp's ridley (*Lepidochelys kempii*) sea turtles.

Background

On July 24, 2024, TPWD submitted an initial full draft application and Conservation Plan requesting take of ESA-listed species of sea turtles associated with their otherwise lawful fisheries-independent gill net surveys within the Texas bays and estuaries as well as a small portion of Sabine Lake, LA. TPWD submitted revised draft applications and associated Conservation Plans on May 19, 2025 and December 22, 2025. Following review of these drafts, NMFS and TPWD held further discussions regarding the statutory and regulatory requirements for the application and Conservation Plan. On February 13, 2026, TPWD submitted a revised application for an ITP, including an updated Conservation Plan to monitor, minimize and mitigate the impacts of sea turtle entanglements incidental to their fisheries-independent gill net surveys, to the maximum extent practicable. NMFS deemed the application and Conservation Plan adequate and complete on February 26, 2026.

Purpose and Objectives of TPWD's Activities

The purpose and objectives of TPWD’s proposed activity are to monitor trends in finfish, shark, and macroinvertebrate communities throughout the estuarine waters of Texas to inform fisheries management. The data collected from TPWD fisheries-independent gill net surveys are used to inform stock status, inform listing status, manage Gulf of America-wide fisheries, create management plans, and generate scientific research. The existing gill net data spans nearly 50 years and TPWD relies on its continuity for management decisions.

Sea Turtle Take Estimates

TPWD is requesting take of each sea turtle species on a 3-year rolling time period (*i.e.*, take that occurs over any 3-year period). TPWD predicted total annual entanglements in TPWD gill nets using linear modeling and also used a simplified approach of estimating entanglements based on historical data (1983-2024; please see TPWD’s application and Conservation Plan for more information). After comparing model estimates to historical data, TPWD requested take based on the maximum number of entanglements within any given three-year period (see Table 1).

Table 1 -- TPWD’s requested take of ESA-listed sea turtles.

Species	Historical Maximum Turtles entangled in a 3-year period	Historical Percentage of Live Entanglements	Rolling 3-year Requested Live Take	Rolling 3-year Requested Mortality Take	Rolling 3 -year Requested Total Take
Green	74	58.15	48	32	74
Loggerhead	2	75.00	2	1	3*
Hawksbill	2	50.00	1	1	2
Kemp’s ridley	6	78.26	5	1	6

**Standard rounding convention to whole numbers led to sum greater than the maximum historic entanglements.*

Conservation Plan

Section 10 of the ESA specifies that no permit may be issued by NMFS unless an applicant submits a Conservation Plan that specifies: (1) the impact which will likely

result from such taking; (2) what steps the applicant will take to minimize and mitigate such impacts, and the funding that will be available to implement such steps; (3) what alternative actions to such taking the applicant considered and the reasons why such alternatives are not being utilized; (4) such other measures that NMFS may require as being necessary or appropriate for purposes of the plan.

TPWD's Conservation Plan addresses each of the required elements of Section 10(a)(2)(A) and 50 CFR 222.307(b). In particular, TPWD has included measures to monitor, minimize, and mitigate the take of ESA-listed sea turtles incidental to fishery-independent gill net surveying. To avoid and minimize take of green, loggerhead, Kemp's ridley, and hawksbill sea turtles, TPWD will constrain the sampling season to two 10-week seasons (fall and spring); identify hot spot grids (1-minute latitude by 1-minute latitude square grids where gill nets can be set and sampled in Texas bays and estuaries) to implement additional species protections such as the "last in/first out" strategy to reduce gill net soak times; sampling grid removal from future surveys after one endangered species entanglement in that grid; net configurations, such as reducing net slack, and marker buoy attachment to improve visibility for monitoring entanglements and reducing the potential for entanglements; extended pre-deployment observation period; following Sea Turtle Stranding and Salvage Network protocols and appropriate release and resuscitation protocols upon discovery of an entangled sea turtle; conducting surveys on "best" available weather days for gill net deployment; and continuous net repair to eliminate holes larger than 6 inch (in; 15.24 cm) stretched mesh.

TPWD also provided NMFS with assurances that adequate funding will be provided to support its Conservation Plan, including funds to support cold stunning recovery activities, shrimp fishery management and law enforcement, and habitat protection within Texas state bays and estuaries throughout the duration of the permit. The Conservation Plan also includes outreach, education, and a debris removal program,

funded through state appropriations and supplemented by other sources such as Natural Resource Disaster Assessment and Sport Fish Restoration, as funded by U.S. Fish and Wildlife Service, with regular reporting requirements.

TPWD considered and rejected the following alternatives: (1) no-Action; (2) no setting of gill nets; (3) shifting from overnight setting of gill nets to daytime only sampling; (4) significantly shortening the duration gill nets are deployed; (5) reducing the number of gill nets set each season; (6) continuously monitoring (tending) gill nets while they are deployed; and (7) removing gill net mesh panels with mesh size greater than 5 in (12.7 cm) stretch mesh in size.

Please refer to TPWD's ITP application and Conservation Plan, which can be found at <https://www.fisheries.noaa.gov/national/endangered-species-conservation/incidental-take-permits> for detailed information.

National Environmental Policy Act

Issuing an ESA section 10(a)(1)(B) permit constitutes a Federal action requiring NMFS to comply with the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order 216-6, Environmental Review Procedures for Implementing the National Policy Act (1999). NMFS will conduct the appropriate NEPA review prior to making a final decision on TPWD's request for an ITP.

Next Steps

This notice is provided pursuant to section 10(c) of the ESA. NMFS will evaluate the application, associated documents, and comments received during the comment period to determine whether the application meets the requirements of section 10(a)(1)(B) of the ESA. If NMFS determines that the requirements are met, a permit will be issued for incidental takes of ESA-listed sea turtles. NMFS will publish a notice of its final action in the **Federal Register**.

Dated: March 13, 2026.

Shannon Bettridge,

Chief, Marine Mammal and Sea Turtle Conservation Division,

Office of Protected Resources,

National Marine Fisheries Service.

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