



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XF162]

Endangered and Threatened Species; File No. 27490

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

ACTION: Notice; issuance of permit.

SUMMARY: Notice is hereby given that the University of Massachusetts Dartmouth School for Marine Science and Technology (SMAST) has been issued a permit for the incidental take of Endangered Species Act (ESA) listed sea turtles and sturgeon associated with the otherwise lawful fisheries survey activities.

ADDRESSES: The incidental take permit, final Environmental Assessment, and other related documents are available on the NMFS Office of Protected Resources website at <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).

FOR FURTHER INFORMATION CONTACT: Celeste Stout, NMFS, Office of Protected Resources at Celeste.stout@noaa.gov, 301-427-8436.

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 a mechanism for authorizing

incidental take of listed species. NMFS regulations governing permits for threatened and endangered species are located at 50 CFR 222.307.

Species Covered in this Permit

The following species are included in this permit:

Endangered

Kemp's ridley (*Lepidochelys kempii*) and leatherback (*Dermochelys coriacea*) sea turtles, and the New York Bight, Chesapeake, Carolina, and South Atlantic distinct population segments (DPSs) of Atlantic sturgeon (*Acipenser oxyrinchus oxyrinchus*).

Threatened

North Atlantic DPSs of green (*Chelonia mydas*) and Northwest Atlantic Ocean DPS of loggerhead (*Caretta caretta*) sea turtles, and the Gulf of Maine DPS 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 revised application and NMFS determined SMAST's application to be adequate and complete. On July 6, 2023, we published a notice of receipt (88 FR 43082) of the application and conservation plan from SMAST for an incidental take permit. In that notice, we made the Incidental Take Permit (ITP) application and associated conservation plan available for a 30-day public comment period. Two requests to extend the comment period were submitted on August 7, 2023, the last day of the open comment period. In response to the extension requests, on August 16, 2023, NMFS published a notice in the **Federal Register** (88 FR 55668) reopening the comment period for 15 days. The second public comment period ended on August 31, 2023, and three comments were received. The comments received and their

accompanying responses are located in Appendix A of the Environmental Assessment (EA). In response to public comments and after additional discussions between NMFS and the applicant, additional revisions were made to the application and conservation plan to address these comments, as appropriate, and a revised application was submitted to NMFS for review on November 30, 2023. The application and conservation plan were further revised to remove a project from the “covered activities,” and an updated version was submitted to NMFS on December 3, 2024. Revisions applicable to the SMAST’s proposed action and conservation plan were included in the draft EA. On January 8, 2025, NMFS published a **Federal Register** notice to inform the public of the availability of and request for comments on the draft EA (90 FR 1448). The public comment period ended on February 7, 2025, and no comments were received. Revisions applicable to SMAST’s proposed action and conservation plan are included in the Final EA. SMAST agreed to implement additional monitoring and avoidance measures, and NMFS updated the EA, as well as the findings of the section 7 Biological Opinion, to incorporate those measures.

NMFS has issued the requested incidental take permit under the authority of the ESA, as amended (16 U.S.C. 1531 *et seq.*) and the section 10 implementing regulations (50 CFR Part 222).

Incidental take by species in rolling 2-year (ITP year) intervals for the 10-year ITP duration that are authorized under the permit were based on calculated interaction rates using observed takes in similar fisheries surveys (*i.e.*, Northeast Fisheries Science Center (NEFSC) trawl surveys), and sea turtle takes were further informed by observed sea turtle takes in commercial fisheries (please see section 2.2.2.2, Requested number of incidental takes in the final EA) see table 1 below.

Table 1 -- Authorized Non-Lethal Incidental Take by Species

Species	Authorized 2-year rolling take	Maximum Authorized Take for 10-year ITP duration
Atlantic Sturgeon (Gulf of Maine, Carolina, Chesapeake Bay, New York Bight, South Atlantic DPSs)	10	50
Green (North Atlantic DPS)	2	10
Kemp's Ridley	2	10
Leatherback	2	10
Loggerhead (Northwest Atlantic Ocean DPS)	2	10

Incidental take of Atlantic sturgeon is allocated based on their respective DPS. Below, we describe the approximate assignment of DPS from the estimated Atlantic sturgeon take across the 10 years of the requested ITP, based on proportions provided in Kazyk *et al.* (2021) for the geographic area “MID Offshore.” The approximate assignment by DPS from the estimated Atlantic sturgeon takes for the 2-year intervals across the 10 years of the ITP are indicated in table 2 below. Take of Atlantic sturgeon will affect five DPSs, at a rate of up to 55.3 percent of the New York Bight DPS, 22.9 percent of the Chesapeake Bay DPS, 13.6 percent of the South Atlantic DPS, 5.8 percent of the Carolina DPS, and 2.4 percent of the Gulf of Maine DPS. Due to uncertainty about the exact proportion of each DPS in the offshore waters of the MA/RI WEA, the estimated breakdown may not perfectly represent the actual proportion of each DPS. This expected variation is influenced by natural seasonal and annual fluctuations in the proportions of each DPS. Therefore, it is not possible to precisely estimate the exact number of individual takes and proportion of each DPS to be taken.

Table 2 -- Anticipated Assignment of DPS in SMAST Trawl Survey Derived from NEFSC Trawl Surveys¹

Atlantic Sturgeon Disp.	Maximum Authorized Take for 10-year ITP duration	New York Bight DPS (55.3%)	Chesapeake DPS (22.9%)	South Atlantic DPS (13.6%)	Carolina DPS (5.8%)	Gulf of Maine DPS (2.4%)
Live	50	10	10	10	10	10
¹ DPS percentages listed are the percentage values representing the genetics mixed stock analysis results above (Kazyak et al., 2021). Rounding up fractions of animals to a whole number, this results in one Atlantic sturgeon captured per year from each DPS.						

Conservation Plan

As part of their conservation plan, SMAST will implement measures to monitor, minimize, and mitigate take of ESA-listed species. These measures include the use of trained observers aboard the research vessel, adherence to safe handling and release procedures for captured ESA-listed species, and commitment to data collection and reporting protocols for any ESA-listed species observed or taken during covered activities (please see Section 4.2 Measures to minimize, mitigate and monitor protected species in the SMAST conservation plan and 2.2.2.1 Monitoring, Minimization, and Mitigation of Potential Interactions and Impacts of Interactions in the EA).

SMAST assures that funds will be available to conduct the proposed work and associated monitoring, minimization, and mitigation strategies. The estimated cost for implementing the conservation plan is \$100,000. The associated project developer provides funding for the surveys and the implementation of the conservation plan to SMAST. SMAST has committed to ensuring the availability of funding to process all genetic samples acquired from Atlantic sturgeon and has committed to having trained observers on board the vessel with proper training in handling protocols for protected species.

Criteria for Issuing an Incidental Take Permit

Issuance criteria are described in ESA section 10(a)(2)(B) and associated implementing regulations (50 CFR 222.307(c)(2)). Under section 10(a)(2)(B) of the

ESA, NMFS shall issue the requested incidental take permit, if NMFS finds that the following criteria are met:

- (i) The taking will be incidental;
- (ii) The applicant will, to the maximum extent practicable, monitor, minimize, and mitigate the impacts of such taking;
- (iii) The taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild;
- (iv) The applicant has amended the conservation plan to include any measures (not originally proposed by the applicant) that the Assistant Administrator determines are necessary or appropriate; and
- (v) There are adequate assurances that the conservation plan will be funded and implemented, including any measures required by the Assistant Administrator.

NMFS found that SMAST met the criteria for the issuance of an incidental take permit, and as such, NMFS issued an incidental take permit 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 MA/RI WEA in southern New England offshore waters.

Dated: May 5, 2026.

Kimberly Damon-Randall,

Director, Office of Protected Resources,

National Marine Fisheries Service.

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