



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XF616]

Endangered Species; File No. 21316

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

ACTION: Notice; Transfer and Issuance of Incidental Take Permit.

SUMMARY: On August 4, 2020, under the Endangered Species Act (ESA), the NMFS issued an incidental take permit (ITP) to Barney Davis, LLC, authorizing take of threatened green sea turtles (*Chelonia mydas*; North Atlantic distinct population segment) and endangered Kemp's ridley sea turtles (*Lepidochelys kempii*) incidental to otherwise lawful activities associated with the operation of the Barney Davis Energy Center (the Center), located in Corpus Christi, TX. Subsequently, CPS Energy acquired ownership and operational control of the Center. Notice is hereby given that NMFS has transferred ITP No. 21316 to CPS Energy.

DATES: This ITP is effective through August 31, 2030.

ADDRESSES: The ITP, conservation plan, and transfer agreement, along with other related documents, are available on the NMFS Office of Protected Resources website at <https://www.fisheries.noaa.gov/action/incidental-take-permit-barney-davis-llc>.

FOR FURTHER INFORMATION CONTACT: NMFS Office of Protected Resources, Kim Corcoran at kim.corcoran@noaa.gov, (301) 427-8453, or Celeste Stout at Celeste.Stout@noaa.gov or (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 in 50 CFR 222.307.

Section 222.305(a), as revised, allows for the transferability of permits issued under 50 CFR parts 222, 223, and 224 through a joint submission by the permittee and the proposed transferee provided that NMFS determines in writing that the proposed transferee: (1) meets all qualifications for holding a permit; (2) has provided adequate written assurances that it will provide sufficient funding for the conservation plan or other agreement or plan associated with the permit and will implement the relevant terms and conditions of the permit, including any outstanding minimization and mitigation requirements; and (3) has provided such other information as NMFS determines is relevant to process the transfer.

Background

NMFS issued an ITP to Barney Davis, LLC, on August 4, 2020, for the incidental take of threatened green sea turtles (*Chelonia mydas*; North Atlantic distinct population segment) and endangered Kemp's ridley sea turtles (*Lepidochelys kempii*) during the conduct of otherwise lawful activities associated with the operation of the Center, located in Corpus Christi, TX. The ITP was issued for 10 years and expires on August 31, 2030. Please see the **Federal Register** notification (85 FR 48508, August 11, 2020) for additional details regarding the ITP and the covered activities.

On November 19, 2024, Barney Davis, LLC and CPS Energy submitted a joint request to transfer ITP No. 21316 from Barney Davis, LLC to CPS Energy. This transfer request was due to CPS Energy's acquisition of ownership and operational

control of the Center on December 4, 2024. CPS Energy has formally confirmed that it meets all statutory and regulatory qualifications for holding the ITP, as outlined in 50 CFR Parts 222. This includes providing written assurance of sufficient funding for the permit's associated Conservation Plan and a commitment to implement the permit's relevant terms and conditions, including any minimization and mitigation requirements, upon acquisition of the Center. NMFS reviewed and accepted the signed transfer agreement on December 23, 2024.

Notice is hereby given that, on April 23, 2026, as authorized by the provisions of the ESA, the NMFS issued ITP (No. 21316) to CPS Energy subject to certain conditions set forth therein.

Authority

This notice is provided by NMFS under the authority of the Endangered Species Act (16 U.S.C. 1531 *et seq.*), and the regulations governing the transfer of incidental take permits (50 CFR 222.305). Additionally, the notice complies with the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) as implemented by the NOAA Administrative Order 216-6A, Policy and Procedures for Compliance with the National Environmental Policy Act and Related Authorities (2025).

Dated: August 28, 2026.

Kimberly Damon-Randall,

Director, Office of Protected Resources,

National Marine Fisheries Service.