



**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
NATIONAL MARINE FISHERIES SERVICE  
1315 East-West Highway  
Silver Spring, Maryland 20910

**Permit No.:** 27551

**Expiration Date:** December 31, 2034

**Monthly Reports Due:** End of February, March, April, and May (when appropriate)

**Annual Report Due:** July 31

## PERMIT TO INCIDENTALLY TAKE ENDANGERED/THREATENED SPECIES

### I. AUTHORIZATION

The Georgia Department of Natural Resources [GA DNR; Principal Officers Ted Will and Doug Haymans] and all persons conducting covered activities described in the Permit Holder's application, Conservation Plan, and supporting documents, are hereby authorized to incidentally take the endangered and threatened sturgeon specified below in the Georgia commercial shad fishery. This permit is subject to the provisions of Section 10 of the Endangered Species Act of 1973 (ESA)(16 U.S.C." 1531-1543), the National Marine Fisheries Service (NMFS) regulations governing listed species permits (50 CFR Part 222), and the conditions in this permit.

### II. ABSTRACT

On December 2, 2022, GA DNR submitted an application for an incidental take permit (ITP) for ESA-listed shortnose and Atlantic sturgeon that may be caught incidental to the otherwise lawful Georgia commercial shad fishery. After discussion and modification to the permit, GA DNR submitted a complete application and conservation plan. On August 21, 2023, NMFS published a notice of receipt of GA DNR's application (File No. 27551) in the Federal Register (88 FR 56804). The comment period ended on September 21, 2023; no comments were received.

The State of Georgia has amended their commercial fishing regulations for the Georgia shad fishery to minimize the incidental capture of ESA-listed shortnose sturgeon (*Acipenser brevirostrum*) and Atlantic sturgeon (*A. oxyrinchus*, including South Atlantic, Carolina, Chesapeake Bay, New York Bight, and Gulf of Maine Distinct Population Segments). The new regulations restrict fishing to the lower portions of the Savannah, and Altamaha Rivers. The Georgia shad fishery is open from January 1 to as late as April 30 each year, but would typically end March 31. Georgia regulations require that sturgeon captured in shad nets must be released unharmed into the waters from which they were taken.

GA DNR requested 3-year running averages for takes to account for the potential for a high-take year before or after low-take years. GA DNR estimates that incidental bycatch would not exceed 60 shortnose sturgeon per year (no more than 180 in a 3-year period) and Atlantic sturgeon 40 per year (no more than 120 in a 3-year period) in the Altamaha River, shortnose sturgeon 15 per year (no more than 45 in a 3-year period) and 25 Atlantic sturgeon per year (no more than 75 in a 3-year period) in the Savannah River (**Table 1**). Commercial fishing has been closed in Ogeechee, Satilla, and St. Mary's river.



In addition to sturgeon incidentally captured by fishermen, GA DNR is also expected to incidentally capture sturgeon during monitoring of the shad run. GA DNR will set drift nets in the Altamaha River during the fishing season to monitor the shad and approximate the rate of incidentally captured shortnose and Atlantic sturgeon. Nets would be 4.5-5 in stretch. GA DNR would generally monitor the shad run:

- 1 day per week the first 3 weeks in January.
- 2 days per week from late-January through mid-March.
- 1 day per week in late March when the shad run begins to taper off.

During processing of the permit application and Conservation Plan, GA DNR agreed to PIT tag and collect genetic samples from Atlantic sturgeon incidentally captured during monitoring in order to better determine what DPSs of Atlantic sturgeon are being captured in the fishery. NMFS believes these monitoring measures are important to properly evaluate and predict incidental take authorized under the permit and thus considers the take to be incidental and appropriately covered under the Section 10(a)(1)(B) permit.

A consultation with NMFS' Endangered Species Act Interagency Cooperation Division under section 7 of the ESA resulted in the determination, described in its Biological Opinion, that issuance of the permit and the impacts of the authorized incidental take are not likely to jeopardize the continued existence of NMFS ESA-listed species or to result in the destruction or adverse modification of designated critical habitat. The taking authorized by this permit, therefore, will not appreciably reduce the likelihood of survival or recovery of any covered species in the wild.

GA DNR's conservation plan describes measures that NMFS has determined will minimize, monitor, and mitigate the impacts of incidental take of ESA-listed sturgeon to the maximum extent practicable. The conservation plan includes continued implementation of Georgia's amended commercial fishing regulations for the Georgia shad fishery, which are expected to minimize the bycatch of sturgeon by closing to shad fishing sections of the rivers that previously had the highest bycatch rates. These closures would also protect known and suspected sturgeon spawning sites.

GA DNR will identify all participants in the commercial shad fishery prior to the opening of the season annually and will provide educational materials to those participants on identifying sturgeon species, safely handling and releasing captured animals unharmed, and proper reporting through completion of modified trip tickets. GA DNR will use a combination of a trip ticket system (self-reporting by fishermen), direct observations of fisherman, and setting drift nets to monitor the incidental take of sturgeon in the commercial shad fishery. Other monitoring or mitigation actions will be undertaken as required. Monitoring will be funded by GA DNR's Annual Operating Budget.

### III. INCIDENTAL TAKE AUTHORIZATION

Listed Species Affected:

Endangered

Shortnose sturgeon

*Acipenser brevirostrum*

Atlantic sturgeon

*A. oxyrinchus*

South Atlantic DPS

Carolina DPS

Chesapeake Bay DPS

New York Bight

Threatened

Gulf of Maine DPS

Table 1. Authorized annual take, 3-year, and total take under Permit No. 27551

Species	Maximum No. incidental captures (live release) per year/over 3 consecutive years/over the life of the permit	
	Altamaha River	Savannah River
Sturgeon, shortnose	60/180/600	15/45/150
	<i>From the above maximum number of incidental over the life of the permit no more than 17 may result in injury and no more than 8 mortalities may occur.</i>	
Sturgeon, Atlantic <sup>1</sup>	40/120/480	25/75/250
	<i>From the above maximum number of incidental over the life of the permit no more than 17 may result in injury and no more than 8 mortalities may occur.</i>	
* Due to the risks posed by capture in set and drift gill nets, 10% of fish that are captured are expected to be injured and 2.3% to suffer mortality for both shortnose and Atlantic sturgeon associated with the GA shad fishery.		

### IV. CONDITIONS OF PERMIT

The incidental take of ESA-listed sturgeon is authorized during otherwise lawful commercial shad fishing and monitoring activities as described in the application, Conservation Plan, and supporting documents and subject to both the provisions of the conservation plan and the conditions specified in this permit. The monitoring, minimization and mitigation measures are incorporated as conditions of this permit. NMFS has included additional conditions determined necessary or appropriate to minimize the impacts of incidental take to the covered species.

<sup>1</sup> NMFS expects the maximum intercept rate for each Atlantic sturgeon DPS to be: South Atlantic DPS 95%; Chesapeake Bay DPS 20%; Carolina DPS 15%; New York Bight DPS 10%; and Gulf of Maine DPS 2% of the total number of incidental captures.

#### A. Duration of Permit

1. This permit covers incidental take from the date of issuance through December 31, 2034.
2. If incidental captures or mortalities of any species in any river reach or exceed the established levels (**Tables 1**), activities authorized under this permit must stop and the Permit Holder must submit an Incident Report as described in Condition C.4.

#### B. Conditions to Monitor, Minimize, and Mitigate Impacts to Listed Species

1. GA DNR must continue to implement the commercial shad fishing regulations as amended and presented in the Conservation Plan. If during the effective period of this permit the State of GA proposes to amend commercial shad fishing regulations in a manner that could affect the taking authorized in this permit, GA DNR must work with NMFS to ensure that amended regulations are not less protective of the species covered by this permit.
2. Sturgeon incidentally captured by fisherman must be released unharmed into the waters from which they were taken. Fishermen must abide by safe handling instructions provided by GA DNR and report any incidental take on modified trip tickets provided by GA DNR.
3. Atlantic sturgeon incidentally captured by GA DNR staff must be PIT tagged and fin clipped as described in the monitoring plan, before being released into the waters from which they were taken
  - a. Extreme care must be used when collecting genetic samples. Instruments must be disinfected and gloves must be changed between each fish sampled to avoid possible disease transmission or cross contamination of genetic material.
  - b. Prior to placement of PIT tags, the entire dorsal surface of each fish must be scanned with a PIT tag reader to ensure detection of fish tagged in other studies. Previously tagged fish must not be retagged.
  - c. PIT tags must be inserted immediately anterior to the dorsal fin of the sturgeon.
  - d. Researchers must not insert PIT tags larger than 11.5 mm x 2.1 mm into juvenile sturgeon less than 330 mm in length.
  - e. Sturgeon less than 250 mm (10 inches) must not be tagged.
4. If sturgeon incidentally captured by fishermen are retrieved dead from shad nets, they may not be retained, consumed, sold, landed, offloaded, or transported. Dead sturgeon should immediately be returned to the waters from which they were retrieved and fishermen should report them to GA DNR on modified trip tickets.

5. If sturgeon incidentally captured by GA DNR staff are retrieved dead from shad nets, monitoring activities that could result in take must stop as specified in Condition A.2 and the Permit Holder must submit an Incident Report as described in Condition C.4.
6. If practicable, GA DNR staff may retain dead sturgeon retrieved from shad nets and submit an Incident Report as described in Condition C.4. Upon submission of the Incident Report, the Endangered Species Conservation Division will direct GA DNR on the final disposition of dead sturgeon. If retaining dead sturgeon is not practicable, they should immediately be returned to the waters from which they were retrieved.
7. GA DNR must implement the mitigation and monitoring described in the Conservation Plan to remain in compliance with the conditions of this permit. This includes:
  - a. Identifying all participants in the commercial shad fishery prior to the opening of the season annually to provide educational materials and trip tickets.
  - b. Educating commercial shad fisherman on identification of sturgeon species; proper handling techniques to minimize impacts to incidentally captured sturgeon, including the importance of frequently checking nets and immediately releasing sturgeon that were incidentally captured; the biological and legal importance of reporting incidental capture of sturgeon; and the importance of accurately recording sturgeon intercepts and returning the trip tickets in a timely manner.
  - c. Collecting trip tickets from authorized commercial fishermen to monitor incidental captures of shortnose and Atlantic sturgeon.
  - d. Conducting direct observations on a minimum of 10% of commercial shad fishing trips annually on each of the rivers where commercial shad fishing is authorized. Monitoring efforts will be adaptive to the timing of the sturgeon spawning migration and the number of observed sturgeon intercepts.
  - e. Setting drift nets in the Altamaha River during the fishing season to monitor the shad run and approximate the rate of incidentally captured shortnose and Atlantic sturgeon.
  - f. During monitoring conducted under conditions B.7.d and B.7.e above, GA DNR must gather data, to the greatest extent practicable, on post-release injury and mortality of sturgeon.
  - g. Using information from monitoring of the shad run to make adjustments to efforts to conduct direct observations of commercial shad fishing trips.
  - h. GA DNR will PIT tag each sturgeon that lacks a PIT tag and collect genetic samples from an estimated 15 fish each year. Cost associated with the PIT tagging

and genetic sampling components will be funded through the sources identified in the application.

- i. Increasing law enforcement presence and educational efforts if unusually high sturgeon catch rates are observed.
- j. Evaluating modifications to the commercial shad fishing regulations for the next year if unusually high sturgeon catch rates are observed.

### C. Reporting Requirements

1. *Take Reports.* All incidental takes of sturgeon covered by this permit must be reported to the Chief, Endangered Species Conservation Division, Office of Protected Resources, NMFS. Data collected from trip tickets submitted by fisherman and direct observations by GA DNR must be summarized and provided to NMFS no later than the end of February, March, April, and May (if appropriate) each year to the address in Condition C.2. Reports of the incidental take should include the date of the take, the condition of the sturgeon, the species (if known), the river fished, gear type (set or drift net), length of net, total soak time, and number of net sets.
2. *Annual Report.* An annual report must be submitted to:  
[pr.esa.incidentaltakepermits@noaa.gov](mailto:pr.esa.incidentaltakepermits@noaa.gov) on or before July 31 each year.  
  
The annual report must include:
  - a. A report of the total sturgeon takes during the fishing and monitoring activities authorized by the permit.
  - b. The number of fishermen permitted by GA DNR to participate in the commercial shad fishery.
  - c. The percentage of permitted fishermen that returned trip tickets each month.
  - d. The number of direct observations of commercial shad fishing activities conducted each month, for each river.
  - e. The number of days GA DNR set nets.
  - f. Number of sturgeon PIT tagged and/or number of Atlantic sturgeon where genetic samples were collected.
  - g. Any violations of the commercial fishing regulations for the Georgia shad fishery.
3. *Final Report:* The Permit Holder must submit a final report within one hundred eighty (180) days of the expiration of this Permit summarizing the total take that

occurred under the permit and the circumstances surrounding it. Reports must be submitted to the address in Condition C.2.

4. *Incident report:* The Permit Holder must submit an incident report as soon as possible after reaching or exceeding authorized takes, as specified in Condition A.2. Reports must be submitted to the address in Condition C.2.
  - a. The incident report must include a complete description of the events and identification of steps that will be taken to reduce the potential for additional exceedance of authorized take.
  - b. In addition to the written report, the Permit Holder must contact the Endangered Species Conservation Division by email (pr.esa.incidentaltakepermits@noaa.gov) as soon as possible, but no later than within two business days of the incident.
  - c. The Endangered Species Conservation Division may grant authorization to resume permitted activities based on review of the incident report and in consideration of the Terms and Conditions of this permit.

#### D. General Permit Conditions

1. NMFS may suspend or revoke the permit that it issued for cause in accordance with applicable law. Such suspension or revocation may apply to an entire permit, or only to specified Covered Species, Permit Areas, or covered activities.
2. The Permit Holder may not transfer or assign this permit to any other person(s), as person is defined in Section 3(12) of the ESA. This permit is not in force or effective if transferred or assigned to any other person.
3. Upon request by the Director of OPR, the Permit Holder must permit any employee(s) of NMFS, or any other person(s) duly designated by the Director, to inspect the Permit Holder's records and facilities if such records and facilities pertain to activities for which a take of ESA-listed species is authorized by this permit, relate to ESA-listed species covered by this permit, or pertain to the Director's responsibilities under the ESA.
4. The provisions of this permit may be amended upon reasonable notice by the Director of OPR, in accordance with applicable law.
5. In the event any ESA-listed species not authorized by this or another incidental take permit is killed, injured, or collected during the course of activities in the restricted area, the Permit Holder must notify the NMFS OPR Chief of the Endangered Species Conservation Division as soon as possible, but not later than two days after the event. If the individual is killed, it must be retained for scientific analysis. The Permit Holder must then submit a written report to the Chief of the Endangered Species Division describing the circumstances of the unauthorized take. Pending review of these circumstances, NMFS may suspend or amend this permit.
6. The Permit Holder is responsible for the activities of any individual who is operating

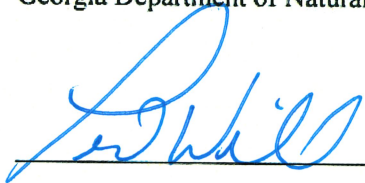
under the authority of this permit. Such activities include capturing, handling, releasing, transporting, maintaining, and caring for any animal authorized to be taken by this permit.

7. Under the terms of the ESA regulations, a violation of any of the terms and conditions of this permit will subject the Permit Holder, and/or any individual who is operating under the authority of this permit, to penalties as provided for in the ESA.
8. NMFS OPR will annually review this permit and determine whether it needs to be suspended or amended. Yearly evaluation of this permit by NMFS OPR will include re-analyses of all data and a re-assessment of the take levels.
9. 50 CFR Section 222.23(d)(8) provides for a reasonable fee to be charged to cover the costs of issuance of permits under the ESA. The fee for this permit has been waived.
10. The Permit Holder is required to adequately fund the Conservation Plan. Upon request by NMFS OPR, the Permittee shall provide documentation that the Conservation Plan is receiving adequate funding. If NMFS OPR reasonably believes that the Conservation Plan is not being adequately funded, then NMFS OPR may require the Permit Holder to produce an annual budget for the Conservation Plan, which will be subject to review and approval by NMFS OPR.
11. The Permit Holder shall strictly adhere to the Conservation Plan and conditions of this Permit. If the Permit Holder is not implementing or adhering to the Conservation Plan or the conditions of this Permit, then the take authorization provided by this Permit shall not apply.
12. This permit does not relieve the Permittee from compliance with other applicable law.

Kimberly Damon-Randall  
Director  
Office of Protected Resources

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Ted Will  
Director, Wildlife Resources Division  
Georgia Department of Natural Resources



Doug Haymans  
Director, Coastal Resources Division  
Georgia Department of Natural Resources







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1315 East-West Highway  
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**Georgia Department of Natural Resources**

Doug Haymans  
Director, Coastal Resources Division  
One Conservation Way  
Brunswick, GA 31520

Ted Will  
Director, Wildlife Resources Division  
2067 U.S. Hwy 278 SE  
Social Circle, GA 30025

Dear Mr. Haymans and Mr. Will

Enclosed is Permit No. 27551, issued under the authority of Section 10(a)1(B) of the Endangered Species Act of 1973. This permit authorizes the incidental take of ESA-listed shortnose (*Acipenser brevirostrum*) and Atlantic sturgeon (*A. oxyrinchus*) associated with the otherwise lawful commercial shad fishery in Georgia.

Please see Section IV.C. of this permit, which describes reporting requirements. This permit expires on December 31, 2034. However, please note that yearly evaluation of this permit by the National Marine Fisheries Service will include review of the annual report and the reported take to determine whether the permit needs to be suspended or amended.

Please note that Permit No. 27551 is not valid until our office receives the signed copy from you. You may submit the copy by email to [pr.esa.incidentaltakepermits@noaa.gov](mailto:pr.esa.incidentaltakepermits@noaa.gov).

If you have any questions concerning the permit, please contact Celeste Stout at [celeste.stout@noaa.gov](mailto:celeste.stout@noaa.gov) or (301) 427-8436.

Sincerely,

**SOMMA.ANGEL** Digitally signed by  
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Kimberly Damon-Randall  
Director, Office of Protected Resource

