



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

Permit No. 27106
Expiration Date: August 31, 2034

PERMIT TO INCIDENTALLY TAKE ENDANGERED/THREATENED SPECIES

I. AUTHORIZATION

This permit is issued to North Carolina Department of Environmental Quality, Division of Marine Fisheries, Kathy Rawls, in their capacity as Director of North Carolina Division of Marine Fisheries (NCDMF; hereinafter NCDMF or "Permit Holder"), 3441 Arendell Street PO Box 769 Morehead City, North Carolina 28557. The Permit Holder is hereby authorized to incidentally take the endangered and threatened sea turtles and sturgeon specified below while prosecuting small and large-mesh anchored gill net fisheries in the internal coastal (inshore) waters of North Carolina (NC) from the date of issuance to August 31, 2034 in the manner specified in the Permit Holder's November 2, 2023 application and Conservation Plan. This permit is subject to the provisions of Section 10 of the Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531-1543); and the regulations governing listed species permits (50 CFR Parts 222 and 223); and conditions of this permit.

It is the permittee's responsibility to comply with all of the terms and conditions set forth herein, including ensuring that the Conservation Plan is implemented and sufficient funds are available for its implementation. Failure to comply with Incidental Take Permit (ITP) No. 27106 could result in a lapse of take coverage and subject anyone operating under the terms and conditions of this permit to civil and criminal penalties.

II. ABSTRACT

On December 2, 2022, NCDMF submitted a complete application for an Endangered Species Act (ESA) section 10(a)(1)(B) ITP, including a Conservation Plan with an adaptive management program for the operation of their commercial inshore large and small-mesh anchored gill net fisheries. On December 22, 2022, NMFS published a notice of receipt of the NCDMF application (File No. 27106) in the *Federal Register* (87 FR 78659). The comment period ended on January 23, 2023. After receiving a request to extend the comment period, on January 23, 2023, NMFS published a notice in the *Federal Register* (88 FR 3971) extending the comment period by 30 days. In response to public comments and additional NMFS review, NCDMF submitted a revised complete application and Conservation Plan on November 3, 2023. No substantial changes were made to the application and Conservation Plan to warrant another comment period.

Gill net fishing in NC is managed by NCDMF through regulations adopted by the North Carolina Marine Fisheries Commission (NC General Statutes § 113-182; 143B-289.51; 143B-289.52) and proclamations issued by the Director (NC General Statutes § 113-221.1). These rules include, but are not limited to mandatory attendance, yardage limits, soak-time restrictions, net shot limits, net height tie down requirements, time/area closures, mesh size restrictions, minimum distance between fishing operations, marking requirements, permit mandates, and observer requirements as described in the revised application and Conservation Plan dated November 2, 2023.

NCDMF's Conservation Plan specifies measures that will, to the maximum extent practicable, minimize, monitor, and mitigate the impacts of incidental take of North Atlantic and South Atlantic Distinct Population Segments (DPSs) of green (*Chelonia mydas*), Kemp's ridley (*Lepidochelys kempii*), hawksbill (*Eretmochelys imbricata*), leatherback (*Dermochelys coriacea*), and Northwest Atlantic Ocean DPS of loggerhead (*Caretta caretta*) sea turtles, New York Bight, Chesapeake, Carolina, and South Atlantic DPSs of Atlantic sturgeon (*Acipenser oxyrinchus oxyrinchus*), and shortnose sturgeon (*Acipenser brevirostrum*), associated with the otherwise lawful commercial fisheries operating in NC internal coastal (inshore) waters using large and small-mesh anchored gill nets. This permit covers all estuarine (inshore) gill net fisheries except for drift and runaround/drop/strike gill nets.

For management purposes, the Conservation Plan divides the inshore waters of NC into six Management Units (MUs; A, B, C, D1, D2, E). Each of the MUs will be monitored by NCDMF seasonally and by fishery. This permit applies only to incidental take that occurs in the areas defined below:

MU A: Internal Coastal and Joint Fishing Waters (estuarine) bound on the south by 35° 46.30' N to the NC/Virginia state line. This includes all of Albemarle, Currituck, Croatan, and Roanoke sounds as well as the contributing river systems in this area.

MU B: Internal Coastal and Joint Fishing Waters of Pamlico Sound, including its bays and tributaries, bounded on the north by 35° 46.3000' N latitude which runs approximately from the north end of Pea Island (old Coast Guard station) westerly to a point on the shore at Point Peter Canal, bounded on the east by barrier islands, bounded on the west by 76 30.000' W longitude, and bounded to the south across the mouth of Core Sound at 35° 0.000' N latitude; including Internal Coastal Fishing Waters of West Bay, West Thorofare Bay, and Long Bay.

- 1. Shallow Water Gillnet Restricted Area (SGNRA) 1:** The area from Portsmouth Island to Ocracoke Inlet bound by the following points: Beginning at a point on Core Banks at 35° 00.000' N – 76° 07.646' W, running west to 35° 00.000' N – 76° 11.760' W, then turning northwest to near Marker # 2CS at the mouth of Wainwright Channel at 35° 00.2780' N – 76° 12.1682' W, then running northeasterly near Marker "HL" at 35° 01.5665' N – 76° 11.4277' W, then running northeasterly near Marker #1 at 35° 09.7058' N – 76° 04.7528' W, then running southeasterly to a point at Beacon Island at 35° 05.9352' N – 76° 02.7408' W, then running south to a point on the northeast corner of Portsmouth Island at 35° 03.7014' N – 76° 02.2595' W, then running southwesterly along the shore of Core Banks to the point of beginning.
- 2. SGNRA 2:** The area from Ocracoke Inlet to Hatteras Inlet bound by the following points: Beginning at a point near Marker #7 at the mouth of Silver Lake at 35° 06.9091' N – 75° 59.3882' W, running north to a point at 35° 08.7925' N – 76° 00.3627' W near Big Foot Slough Entrance, then running easterly to a point at 35° 09.4994' N – 75° 54.2943' W, then running northeasterly to a point at 35° 11.9803' N – 75° 51.6396' W, then running easterly to a point at 35° 13.4489' N – 75° 47.5534' W, then running southerly to just northwest of the Ocracoke/Hatteras Ferry terminal on the Ocracoke side at 35° 11.5985' N – 75° 47.0768' W, then southwesterly along the shore to the point of beginning.

3. **SGNRA 3:** The area from Hatteras to Avon Channel bound by the following points: Beginning at a point near Marker "HR" at 35° 13.3152' N – 75° 41.6694' W, running northwest near Marker "42 RC" at Hatteras Channel at 35° 16.7617' N – 75° 44.2341' W, then running easterly to a point off Marker #2 at Cape Channel at 35° 19.0380' N – 75° 36.2993' W, then running northeasterly near Marker #1 at the Avon Channel Entrance at 35° 22.8212' N – 75° 33.5984' W, then running southeasterly near Marker #6 on Avon Channel at 35° 20.8224' N – 75° 31.5708' W, then running easterly near Marker #8 at 35° 20.9412' N – 75° 30.9058' W, then running to a point on shore at 35° 20.9562' N – 75° 30.8472' W, then following the shoreline in a southerly and westerly direction to the point of beginning.
4. **SGNRA 4:** The area from Avon Channel to Rodanthe bound by the following points: Beginning at a point near Marker #1 at the Avon Channel Entrance at 35° 22.8212' N – 75° 33.5984' W, then running northerly to a point on Gull Island at 35° 28.4495' N – 75° 31.3247' W, then running north near Marker "ICC" at 35° 35.9891' N – 75° 31.2419' W, then running northwesterly to a point at 35° 41.0000' N – 75° 33.8397' W, then running easterly to a point on shore at 35° 41.0000' N – 75° 29.3271' W, then following the shoreline in a southerly direction to a point on shore near Avon Harbor at 35° 20.9562' N – 75° 30.8472' W, then running westerly near Marker #8 at 35° 20.9412' N – 75° 30.9058' W, then running westerly near Marker #6 on Avon Channel at 35° 20.8224' N – 75° 31.5708' W, then running northwesterly to the point of beginning.
5. **Mainland Gillnet Restricted Area (MGNRA):** The area on the mainland side of Pamlico Sound, from the shoreline of Dare, Hyde, Pamlico, and Carteret Counties out to 200 yd between 76° 30.00' W and 75° 42.00' W.
6. **West Bay Gillnet Restricted Area (WBG NRA):** Internal Coastal Fishing Waters of West Bay, West Thorofare Bay, and Long Bay.

MU C: Internal Coastal and Joint Fishing Waters of the Pamlico, Pungo, Bay, and Neuse rivers drainages, Pamlico Sound west of 76° 30.0000' W, and Turnagain Bay.

MU D1: Internal Coastal and Joint Fishing Waters in Core Sound and its tributaries south of 35° 0.000' N latitude running south and west to the Management Units D1 and D2 boundary at 34° 40.6740' N – 76° 37.0000' W to 34° 42.4800' N – 76° 37.0000' W then to the head of Turner Creek, and northerly up the western shoreline of the North River. Management Unit D1 includes Core Sound, Back Sound, The Straits, and North River, including all bays and their tributaries.

1. **Northern D1 Subunit:** Internal Coastal Fishing Waters of Core Sound bounded on the north by a line from 35° 0.000' N - 76° 7.646' W heading west along to 35° 0.000' N - 76° 15.107' W, bounded on the south by a line across Core Sound from 34° 48.270' N, 76° 27.507' W and then east to Core Banks at 34° 48.270' N – 76° 22.120507 W. In Core Sound north of the 35th parallel out to 200 yards from shore. The Northern D1 subunit includes the northern portion of Core Sound.
2. **Southern D1 Subunit:** Internal Coastal Fishing Waters south of latitude 34° 48.2700' N and east of a line running from 34° 40.6740' N – 76° 37.0000' W to 34° 42.4800' N – 76° 37.0000' W then to the head of Turner Creek, and northerly up the

western shoreline of the North River. The Southern D1 subunit includes the southern portion of Core Sound, Back Sound, The Straits, and North River.

MU D2: Internal Coastal Waters west of a line running from 34° 40.6740' N – 76° 37.0000' W to 34° 42.4800' N – 76° 37.0000' W then to the head of Turner Creek, and northerly up the western shoreline of the North River; and east of the NC Hwy 58 Bridge. Management Unit D2 includes Newport River (including the Atlantic Intracoastal Waterway and Harlowe Creek up to NC Hwy 101 Bridge) and Bogue Sound.

MU E: Internal Coastal and Joint Fishing Waters south and west of the Highway 58 Bridge to the North Carolina/South Carolina state line. This includes the Atlantic Intracoastal Waterway and adjacent sounds and the New, Cape Fear, Lockwood Folly, White Oak, and Shallotte rivers.

The Conservation Plan measures include monitoring of the inshore anchored gill net fisheries. Monitoring of the inshore anchored gill net fisheries shall be done through onboard and alternative platform observers as well as NCDMF Marine Patrol. Observer coverage will be distributed state-wide across the six MUs (A, B, C, D1, D2, and E) and four seasons of each ITP year: fall (September–November), winter (December–February), spring (March–May), and summer (June–August). A sea-day schedule of observer trips shall be developed by NCDMF to obtain 7–10 percent observer coverage of the estimated inshore anchored large-mesh gill-net fishing trips, and 1–2 percent observer coverage of the estimated inshore anchored small-mesh gill-net fishing trips per season proportional to fishing effort in each MU within each season. NCDMF shall implement an Observer Trip Scheduling System (OTSS) to schedule observer trips and require the Observers to collect the following data for any observed interactions with listed species described in this ITP, including the date, time, location, condition, species, sex (if determinable), tag numbers, and morphometrics (sea turtles: curved carapace length [CCL, mm], and curved carapace width [CCW, mm]; sturgeon: total length [TL, mm], and fork length [FL, mm]). Photographs of the protected species, videos of sea turtles on deck and when released, and environmental parameters (e.g., salinity, water temperature) will be collected when feasible and safe to do so. Any handling and release of a listed species should be done in a manner that minimizes the risk of injury to the affected species. Data on location, gear parameters, fish catch and bycatch (including regulatory discards) for each haul, depending on the observed trip type (onboard or alternative platform), will also be collected by observers. NCDMF will use data collected through the Trip Ticket Program, which requires fishermen to report on their catch to determine the number of fishing trips. The data collected through onboard and alternative platform observers, Marine Patrol officer reports, and the Trip Ticket Program will be used to estimate fishing effort, sea turtle and sturgeon incidental take, and level of compliance.

Compliance with general statutes, rules, proclamations, and permit conditions is maintained through enforcement by the NC Marine Patrol. Marine Patrol officers will conduct fish house inspections, aerial surveys, on-the-water fishing gear and license checks, and fisher interviews. Marine Patrol will also check gill nets for compliance with configuration, season, and location restrictions.

NCDMF will implement a suite of avoidance and minimization measures, including reduced soak durations and times of day, reduced fishing days, reduced net length, gear configuration restrictions, time/area closures (coincident with hotspots), and net attendance for small-mesh gill nets. For each observed take, the cumulative estimate or observed count will be compared to authorized numbers of

takes in real time. The Conservation Plan specifies that NCDMF will implement adaptive management measures if predicted or observed takes for any species of sea turtle or sturgeon approach authorized threshold levels. These measures are expected to be implemented through proclamations by the NCDMF Director and shall include gear restrictions, season closures, and/or area closures.

The Conservation Plan also describes several mitigation measures NCDMF will implement, including collecting data to support and assist research efforts to monitor and reduce interactions of sea turtles and sturgeon with/mortalities in fisheries. To mitigate impacts of incidental takes of sturgeon and sea turtles in the NC inshore anchored gill net fisheries, the NCDMF will continue to collect and share data to support and assist research efforts to monitor and reduce interactions of sea turtles and sturgeon. NCDMF will also assist with sea turtle cold stun event response. NCDMF will commit funds of up to \$2,000 per year to purchase PIT tags for sturgeon and \$3,000 per year to fund genetic analysis of fin clips to determine the distinct population segment of sturgeon incidentally captured. Finally, the Conservation Plan outlines NCDMF's commitment to mitigate impacts from fishing activities by increasing awareness through education and outreach.

NCDMF considered and rejected three alternatives: (1) no action; no application for a section 10(a)(1)(B) permit; (2) full gear closure; and (3) additional gear regulations. NCDMF rejected these alternatives as they would either be detrimental to the State and its constituents or the listed species, or be non-feasible for the continued operation of the gill net fisheries.

III. INCIDENTAL TAKE AUTHORIZATION

Endangered

Atlantic sturgeon	<i>Acipenser oxyrinchus oxyrinchus</i>
<ul style="list-style-type: none"> • Carolina Distinct population segment (DPS) • Chesapeake Bay DPS • New York Bight DPS • South Atlantic DPS 	

Shortnose sturgeon	<i>Acipenser brevirostrum</i>
Kemp's ridley sea turtle	<i>Lepidochelys kempii</i>
Hawksbill sea turtle	<i>Eretmochelys imbricata</i>
Leatherback sea turtle	<i>Dermochelys coriacea</i>

Threatened

Green sea turtle	<i>Chelonia mydas</i>
<ul style="list-style-type: none"> • North Atlantic DPS • South Atlantic DPS 	
Loggerhead sea turtle	<i>Caretta caretta</i>
<ul style="list-style-type: none"> • Northwest Atlantic Ocean DPS 	

Authorized levels of incidental take are specified in **Tables 1 and 2 below**. The amount of incidental take is expressed as either predicted or observed takes depending on the amount of data available for

modeling predicted takes. Take must be incidental to otherwise lawful activities associated with the large and small mesh gill net fisheries, and as conditioned herein. The permit covers incidental take from the date of issuance through August 31, 2034.

Table 1. Authorized incidental takes by species. Takes include predicted overall takes across the fisheries whenever possible; otherwise takes are based counts of observed takes. Takes are either combined or separate for mesh-size category and disposition. Mesh-size categories are large (≥ 5 ISM [inches stretch mesh], ≥ 12.7 CSM [centimeters stretch mesh]) and small (< 5 ISM, < 12.7 CSM).

Species	Mesh-size Category	Disposition	Predicted or Observed Takes	Authorized 2-year rolling take
Atlantic Sturgeon	Large & Small	Live	Predicted	436
	Large & Small	Dead	Observed	6
Green sea turtle (North and South Atlantic DPSs)	Large & Small	Live	Predicted	542
	Large & Small	Dead	Predicted	170
Kemp's ridley sea turtle	Large	Live	Observed	10
	Large	Dead	Observed	4
	Small	Live or Dead	Observed	4
Loggerhead sea turtle (Northwest Atlantic Ocean DPS)	Large & Small	Live or Dead	Observed	4
Species	Mesh-size Category	Disposition	Predicted or Observed Takes	Total Take over permit duration
Shortnose sturgeon	Large & Small	Live or Dead	Observed	4
Hawksbill sea turtle	Large & Small	Live or Dead	Observed	2
Leatherback sea turtle	Large & Small	Live or Dead	Observed	2

Configuration of Takes Per DPS of Atlantic sturgeon. NCDMF will use the total number of live and also the total number of dead per unit and season to determine if NCDMF is approaching or has

reached allowable Atlantic sturgeon takes, as depicted above. However, there is no “real time” method to determine the actual DPS taken. The required genetic sampling will provide the actual take numbers per DPS, but this will not be determined until after genetic samples are processed and if funding allows for processing every fish. The best available information for estimating takes per DPS is based on proportions provided in Kazyk et al. (2021) for the geographic area “Mid Riverine/Estuarine.” The method for estimation of takes per DPS before capture is outlined in **Section 8.1 and 12** of the Biological Opinion for this permit.

Table 2. Approximate assignment of DPS from the predicted number and observed count of Atlantic sturgeon takes by live or dead status across the 10 years of the requested ITP. Take of Atlantic sturgeon will affect 4 DPSs, at a rate up to 15.9 percent New York Bight DPS, 4.2 percent Chesapeake Bay DPS, 66.2 percent Carolina DPS, and 13.8 percent South Atlantic DPS.

Atlantic Sturgeon Disposition	Predicted or Observed Counts	Takes Across 10-years	New York Bight DPS	Chesapeake DPS	Carolina DPS	South Atlantic DPS
Live	Predicted	2,180	346	91	1443	300
Dead	Observed Counts	30	5	1	20	4

IV. TERMS AND CONDITIONS

The incidental take of North Atlantic and South Atlantic DPSs of green, Kemp’s ridley, hawksbill, leatherback, and Northwest Atlantic Ocean DPS of loggerhead sea turtles, New York Bight, Chesapeake, Carolina, and South Atlantic DPSs of Atlantic sturgeon, and shortnose sturgeon, associated with the otherwise lawful commercial fisheries operating in NC internal coastal (inshore) waters using large and small-mesh anchored gill nets (except for drift and runaround/drop/strike gill nets) is authorized by this permit subject to full and complete compliance with, and implementation of, NCDMF’s application and Conservation Plan, and all specific conditions 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. The permit terms and conditions supersede and take precedence over any inconsistent provisions in the HCP or other program documents.

Under current regulations, NCDMF manages fisheries activities in the Pamlico Sound. If the Permit Holder is in compliance with the terms and conditions of the permit, fishing is allowed in the NMFS seasonal closure in Pamlico Sound, which prohibits the use of gill nets >4.25 ISM (10.8 CSM) from September 1 through December 15 each year (67 FR 56931, September 6, 2002).

A. Duration of Permit

1. The permit covers incidental take from the date of issuance through August 31, 2034.
2. If incidental take (*i.e.*, captures or mortalities) of any species reach or exceed the established levels (**Table 1**), the Permit Holder must consult with NMFS immediately to identify what measures it will impose to prevent future take. Activities authorized under this permit must stop immediately if take has been exceeded. The Permit Holder must submit an Incidental Take Report as described in **Condition C.1**.

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

1. *Management measures to avoid and minimize take.*
 - a. The Permit Holder must implement the inshore anchored gill net fishing regulations as described in the application and Conservation Plan (described in **Table 3 and 1.a.i and 1.a.ii below**). If, during the effective period of this permit, the Permit Holder proposes to amend fishing regulations for commercial inshore large and small-mesh anchored gill net fisheries in a manner that could affect the taking authorized in this permit, the Permit Holder must work with NMFS to ensure that any amended regulations are equally, if not more, effective at avoiding or minimizing the take of species identified in this permit. The following procedures and methods would be expected to continue under this scenario.
 - i. Adaptive fishery management measures and restrictions through state proclamation authority (*e.g.*, gear and/or area restrictions, attendance requirements, increased observer coverage and/or enforcement).
 - ii. Continuation of NC’s regulations for small mesh gillnet attendance requirements, effective on the date this permit was issued.

Table 3. Restrictions implemented for estuarine anchored gill nets greater than or equal to 4 ISM (10.2 CSM).

Management Unit	Soak time	Days of the week	Net length	Gear configuration	Low-profile requirements	Time/Area Closure
A - north of US Hwy 64 bridge	One hour before sunset to one hour after sunrise except for the shad gill-net fishery	-	Maximum net length per fishing operation is 2,000 yd (1.83 km).	-	-	Western Albemarle Sound in the vicinity of the mouth of the Roanoke River including the entire Roanoke River up to the dam in Weldon, permanently closed to all gill nets.

Management Unit	Soak time	Days of the week	Net length	Gear configuration	Low-profile requirements	Time/Area Closure
A - south of US Hwy 64 bridge	One hour before sunset to one hour after sunrise	Monday night - Friday morning	Maximum net length per fishing operation is 2,000 yd (1.83 km).	Net-shot lengths \leq 100 yd (91.4 m) with a 25-yd (22.9-cm) separation between each net-shot	Nets must not exceed 15 meshes in height and must have a lead core or leaded bottom line. Nets must not have cork, floats, or other buoys except those required for identification.	-
B	One hour before sunset to one hour after sunrise	Monday night - Friday morning	Maximum net length per fishing operation is 2,000 yd (1.83 km).	Net-shot lengths \leq 100 yd (91.4 m) with a 25-yd (22.9-cm) separation between each net-shot	Nets must not exceed 15 meshes in height and must have a lead core or leaded bottom line. Nets must not have cork, floats, or other buoys except those required for identification.	Prohibition in the deep-water portions of the Pamlico Sound and in Oregon, Hatteras, and Ocracoke inlets September 1 through December 15.
C	<i>One hour before sunset to one hour after sunrise except for the shad gill-net fishery</i>	-	Maximum net length per fishing operation is 2,000 yd (1.83 km).	-	-	-
D1	One hour before sunset to one hour after sunrise	Monday night - Friday morning	Maximum net length per fishing operation is 2,000 yd (1.83 km).	Net-shot lengths \leq 100 yd (91.4 m) with a 25-yd (22.9-cm) separation between each net-shot	Nets must not exceed 15 meshes in height and must have a lead core or leaded bottom line. Nets must not have cork, floats, or other buoys except those required for identification.	Prohibition south of 34° 48.27' N May 8 through October 14

Management Unit	Soak time	Days of the week	Net length	Gear configuration	Low-profile requirements	Time/Area Closure
D2	One hour before sunset to one hour after sunrise	Sunday night - Friday morning	Maximum net length per fishing operation is 1,000 yd (0.91 km).	Net-shot lengths \leq 100 yd (91.4 m) with a 25-yd (22.9-cm) separation between each net-shot	Nets must not exceed 15 meshes in height and must have a lead core or leaded bottom line. Nets must not have cork, floats, or other buoys except those required for identification.	-
E	One hour before sunset to one hour after sunrise	Sunday night - Friday morning	Maximum net length per fishing operation is 1,000 yd (0.91 km).	Net-shot lengths \leq 100 yd (91.4 m) with a 25-yd (22.9-cm) separation between each net-shot	Nets must not exceed 15 meshes in height and must have a lead core or leaded bottom line. Nets must not have cork, floats, or other buoys except those required for identification.	<i>Upper Cape Fear River closed to anchored gill nets with a mesh-size of 4-6.5 ISM (10.2-16.5 CSM) (Proclamation M-5-2016)</i>

- b. The Permit Holder must require (*i.e.*, issue a proclamation, require through the state Estuarine Gill-Net Permit, or other means) that all commercial and recreational fishermen report all incidental captures (whether live or dead) of sea turtles and sturgeon to NCDMF within 24 hours of the incidental capture. The Permit Holder must provide safe handling, resuscitation, and disposition of any incidentally captured sea turtles or sturgeon instructions (approved by NMFS) with all Estuarine Gill-Net Permits and require that fishermen follow these instructions. Human safety is paramount and will supersede these requirements as necessary.
- i. Live, uninjured sturgeon or sea turtles incidentally captured by fishermen must be released unharmed into the waters from which they were taken. The release location should be far enough from the nets to avoid immediate recapture but within the vicinity of where the animal was captured. Sea turtles and sturgeon must be released over the stern or side of the boat with the engine out of gear in an area where they are unlikely to be recaptured by other nets or injured by vessels.
 - ii. If incidentally captured sea turtles are injured, lethargic, or dead, fishermen must immediately contact the NCDMF Marine Patrol and transfer the turtle to an NCDMF patrol vessel. If no NCDMF patrol vessel is in the vicinity, fishermen must transport the turtle immediately to the nearest U.S. Coast Guard Station and contact the North Carolina Wildlife Resources Commission (NCWRC) Sea Turtle Stranding Hotline at (252) 241-7367 immediately to

- arrange for transfer of the turtle to a rehabilitation facility.
- iii. Injured sturgeon should be reported to NOAA Fisheries Southeast at (844) STURG-911 or (844) 788-7491, or send us an email at noaa.sturg911@noaa.gov.
 - iv. Any incidentally captured sturgeon found to be dead may not be retained, consumed, sold, landed, off loaded, or transported. Dead sturgeon should immediately be returned to the waters from which they were retrieved and reported to NOAA Fisheries Southeast at (844) STURG-911 or (844) 788-7491, or send us an email at noaa.sturg911@noaa.gov.
2. *Enforcement.* Adequate enforcement measures must be employed to ensure compliance by fishermen with all conditions of the Permit. Enforcement presence must be conducted on a variable schedule to prevent anticipation of enforcement presence at any given time.
 3. *Monitoring.* The Permit Holder must implement the monitoring requirements described in the Conservation Plan and herein to remain in compliance with the conditions of this permit. This includes:
 - a. The Permit Holder will maintain a monitoring program that consists of a combination of onboard and alternative platform observers, trip ticket program, as NCDMF Marine Patrol (when needed). Observer coverage will be distributed state-wide across the six Management Units (MUs; A, B, C, D1, D2, and E) and across four seasons of each ITP year: fall (September–November), winter (December–February), spring (March–May), and summer (June–August).
 - i. Large-mesh gill nets – NCDMF will monitor at least 7 percent (with a goal of 10 percent) of large-mesh (≥ 5.0 ISM) of the estimated gill net trips in each of the six MUs during each of four seasons as defined in the Conservation Plan.
 - ii. Small-mesh gill nets – NCDMF will monitor at least 1 percent (with a goal of 2 percent) of small-mesh (< 5.0 ISM) of the estimated gill net trips in each of the six MUs during each of four seasons as defined in the Conservation Plan.
 - iii. NCDMF will develop a sea-day schedule of observer trips for each season. Estimates of gill nets trips for each season will be based on the previous five-year average of reported fishing trips unless a shorter time period provides the best available information due to changes in fishing effort. NCDMF must send NMFS an observer coverage plan at least annually, requesting concurrence for each season. The plan must include the methods and data used to estimate fishing trips and the proposed number of observed trips in each MU.
 - b. The Permit Holder must implement an Observer Trip Scheduling System (OTSS). The OTSS will be beta-tested during the 2024 ITP year and implemented by the 2025 ITP year. The Permit Holder must ensure this System is functioning properly, and any issues with the system must be reported to NMFS within 48 hours of the issue being identified. The Permit Holder must inform NMFS of the steps they will take to rectify the System's issues.
 - c. The Permit Holder will close areas or MUs, when no fishermen have reported planned fishing trips within a specific area or MU.

- d. The Permit Holder must ensure all Observers are trained and equipped with the necessary skills to identify and evaluate the condition of both sturgeon and sea turtles. Observers must be trained to collect biological and environmental data, trained in safe handling techniques, and must adhere to the best practices established by NMFS as described in the Conservation Plan.
- e. During monitoring, the Permit Holder must gather data, to the greatest extent practicable, on post-release injury and mortality of sea turtles and sturgeon.
- f. Atlantic sturgeon incidentally captured by a vessel upon which an Observer is present must be tagged by a passive integrated transponders (PIT) and/or T-bar tag and fin clipped for genetic processing as described in the Conservation Plan before being released into the waters from which they were taken, when feasible and safe to do so.
 - i. 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.
 - ii. 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.
 - iii. PIT tags must be inserted immediately anterior to the dorsal fin of the sturgeon.
 - iv. Sturgeon less than or equal to 330 mm (~13 inches) TL will not be PIT tagged.
 - v. Sturgeon less than or equal to 250 mm (~10 inches) TL will not receive a t-bar tag.
- g. If practicable, NCDMF staff may retain incidentally captured dead sturgeon and submit an Incidental Take Report as described in Condition C.1. If retaining dead sturgeon is not practicable, they should immediately be returned to the waters from which they were retrieved and submit an Incidental Take Report. Upon submission of the Incidental Take Report, NCDMF will report the dead sturgeon to NOAA Fisheries Southeast at (844) STURG-911 or (844) 788-7491, or send an email to noaa.sturg911@noaa.gov for direction on the final disposition of dead sturgeon.
- h. If incidentally captured sea turtles are injured or lethargic Observers should immediately contact the NCWRC Sea Turtle Stranding Hotline at (252) 241-7367. All dead sea turtles should be retained and transferred to the NCWRC.
- i. The Permit Holder will use data collected through the Observer Program using the methodologies outlined in the Conservation Plan to conduct annual analyses to better understand bycatch estimates for the covered species. For each observed take, the cumulative estimate or observed count will be compared to authorized numbers of takes in real time to ensure authorized estimated and/or observed take levels are not being approached. The Permit Holder shall inform NMFS promptly if the authorized take levels are being approached. NCDMF will monitor data collected and identify, in a timely manner (within two days), whether unusually high bycatch occurred within a MU or subunit, such that the Permit Holder determines that adaptive management measures are necessary to (1) avoid approaching a take limit or (2) provide adequate protection for listed species by implementing additional avoidance and/or minimization measures, or (3) to allow listed species to complete a seasonal migration and minimize interactions. The Permit Holder will confer with the NMFS to identify hotspots and determine what

additional measures might be required. Adaptive management measures should be implemented within three business days through proclamations by the NCDMF Director and may include, among other measures, gear restrictions, season closures, and/or area closures.

4. *Mitigation.* The Permit Holder must implement the mitigation described in the Conservation Plan to remain in compliance with the conditions of this permit. This includes:
 - a. Identifying, to the maximum extent practicable, all participants in the inshore gill net fishery prior to the opening of the season annually. All participants shall be provided with educational materials related to the gill net fishery and its potential effects to listed species, including materials that address individual participants' legal obligations.
 - b. Provide education and outreach for identifying sea turtle and sturgeon species, and proper handling of sturgeon, including their safe release to waters from where they were taken and disposition of dead or injured animals.
 - c. The Permit Holder, will help, to the extent possible, respond to cold-stun events that occur in NC. The Permit Holder will help provide transportation of staff, supplies, and sea turtles using Observer Program staff, vehicles, and vessels to the extent possible. These efforts would apply to the release of rehabilitated sea turtles regardless of the reason they were first brought into care.
 - d. The Permit Holder will commit funds of up to \$2,000 per year to purchase PIT tags
 - e. The Permit Holder will commit up to \$3,000 per year to fund genetic analysis; this funding provides for the analysis of approximately 30 fin clips per year.
 - i. The NCDMF will consult with NMFS to ensure samples collected during the current ITP and future samples collected under the requested ITP are appropriately selected based on criteria such as sturgeon length, location, and season. Should fewer than 30 fin clips be collected for a given year, any funds not expended from this allocation would be used for analysis of historical samples provided by NCDMF.
 - f. The NCDMF will continue to support and assist research efforts and facilitate the establishment of relationships with the commercial fishing industry.
 - g. The Permit Holder will continue to support the Coastal Habitat Protection Plan (CHPP).
 - i. The NCDMF will continue to participate in the implementation of the CHPP Amendments and be an integral part of the future program reviews.

C. Reporting Requirements

1. *24 Hour Incidental Take Reports.*
 - a. The Permit Holder must report all incidental takes of covered species to NMFS Office of Protected Resources (OPR) via email to PR.ESA.incidentaltakepermits@noaa.gov within 24 hours of receiving notification of an occurrence from either an Observer or a fisherman.

- i. Reports of sea turtle incidental takes will also be submitted to the NCWRC who will include the report in the National Sea Turtle Stranding and Salvage Network (STSSN).
 - ii. Reports of incidental take must include (as available) the date of the take, the condition of the animal, photographs, video, and any other pertinent details of the circumstances of the taking (*e.g.*, location, gear description - gear type, length of net, total soak time, and number of net sets).
2. *Monthly Incidental Take Reports.*
 - a. All incidental takes of covered species in this permit must be reported monthly and in writing to:
 - i. PR.ESA.incidentaltakepermits@noaa.gov
 - ii. Chief, Endangered Species Conservation Division Office of Protected Resources National Marine Fisheries Service 1315 East-West Highway Silver Spring, Maryland 20910 Phone: (301) 427-8403.
 - b. Monthly reports should be submitted no later than the last day of the first month following a given month for each month of the permit. Monthly reports should be compiled for each month in a given season such that the last month of that season would serve as a seasonal report. Monthly take reports must include:
 - i. A summary of incidental take data collected from reports submitted by fisherman and direct observations of incidental take by NDCMF during the month and across months in a season.
 - ii. Estimate of observer coverage (by MU and mesh-size category).
 - iii. Comparison of estimates and/or counts of incidental takes to authorized takes.
3. *Annual Incidental Take Reports.*
 - a. The Permit Holder must submit annual reports to NMFS by the following March 15. A year is defined as beginning September 1 and ending the following August 31. The annual report must be submitted to:
 - i. PR.ESA.incidentaltakepermits@noaa.gov
 - ii. Chief, Endangered Species Conservation Division Office of Protected Resources National Marine Fisheries Service 1315 East-West Highway Silver Spring, Maryland 20910 Phone: (301) 427-8403.
 - b. Annual reports must include:
 - i. A summary of incidental take data collected from reports submitted by fisherman and direct observations of incidental take by NDCMF during the month and across months in a season.
 - ii. Actual and estimated observer coverage rates (by MU and mesh-size category).
 - iii. Actual and estimated incidental takes (including mortality) and the level of uncertainty of the estimates (*e.g.*, confidence intervals) of each covered species.
 - iv. Comparison of estimates and/or counts of incidental takes to authorized takes.

- v. Size composition, disposition (alive/dead), location, and dates of incidental take of covered species as described in the application and Conservation Plan.
 - vi. One or more maps or graphical representations illustrating the geographic distribution of all observed large and small-mesh gill net hauls and the locations of all observed incidental takes of covered species.
 - vii. A description of the minimization activities, adaptive management actions, mitigation activities, and enforcement activities conducted.
4. *Final Incidental Take Report.*
- a. 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 whether the listed species was dead, alive, and the state in which it was released. The final report must be submitted to the address in Conditions C.2.a and C.3.a.

D. General Permit Conditions

1. NMFS may suspend or revoke the permit that it issued for cause in accordance with applicable laws and regulations (See 5 U.S.C. § 558; 50 C.F.R. § 222.306; 15 C.F.R. § 904.). 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, NCDMF, 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 the Office of Protected Resources, 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 the Office of Protected Resources in accordance with the "no surprises" rule (63 FR 8859; February 23, 1998).
5. In the event any ESA-listed species not authorized by this permit is killed, injured, or collected during the course of activities in the action area of this permit, the Permit Holder must notify NMFS as soon as possible, but not later than two days after the event. If the individual animal 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 Conservation Division describing the circumstances of the unauthorized take (see Condition C. Reporting Requirements for contact information). Pending review of these circumstances, NMFS may suspend or amend this permit.

6. The Permit Holder is responsible for ensuring that any individual(s) that seeks incidental take coverage under the authority of this permit is informed of, and agrees to comply with, all terms and conditions set forth herein. The Permit Holder shall include all terms and conditions of the ITP in any individual's permit, authorization, license, or other document authorizing their participation in the large and small mesh anchored gill net fisheries in the internal coastal (inshore) waters of NC.
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, including suspension or revocation of the permit.
8. 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.
9. 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 and annual budget for the Conservation Plan, which will be subject to review and approval by NMFS OPR.
10. 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.
11. This permit does not relieve the Permit Holder or any other individual(s) operating under the authority of this permit from compliance with other applicable law.
12. The Permit Holder and any other individual(s) operating under the authority of this permit are encouraged to coordinate with the U.S. Fish and Wildlife Service (USFWS) to limit interactions and avoid injury to the endangered Florida manatee, which is known to overlap in time and space within the action area. Information may be obtained from the USFWS, Eastern North Carolina Ecological Services Field Office, 551F Pylon Drive, Raleigh NC 27606, Phone: 919-856-4520, email: pete_benjamin@fws.gov.

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Kimberly Damon-Randall
Director, Office of Protected Resources

October 1, 2024

Date

This permit becomes effective upon signature of the permittee. Acceptance of the permit serves as evidence that the permittee identified below has read, understands, and agrees to abide by and implement all conditions identified in ITP No. 27106.



Kathy Rawls
Director, North Carolina Division of Marine Fisheries
Permit Holder

10-2-2024

Date