Billing Code: 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC711

Endangered Species; File No. 18102

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

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that the North Carolina Department of Marine Fisheries (NCDMF) has been issued a permit for the incidental take of Atlantic sturgeon (Acipenser oxyrinchus oxyrinchus) Distinct Population Segments (DPSs) associated with the otherwise lawful commercial inshore gillnet fishery in North Carolina.

ADDRESSES: The incidental take permit, final environmental assessment, and other related documents are available on the NMFS Office of Protected Resources website at http://www.nmfs.noaa.gov/pr/permits/esa_review.htm.

FOR FURTHER INFORMATION CONTACT: Heather Coll (ph. 301-427-8455, e-mail Heather.Coll@noaa.gov or Angela Somma (ph. 301-427-8403, e-mail Angela.Somma@noaa.gov).

SUPPLEMENTARY INFORMATION: On July 9, 2013, notice of receipt was published in the Federal Register (78 FR 41034) that a request for a permit for the incidental take of Atlantic sturgeon DPSs (Gulf of Maine, New York Bight, Chesapeake, Carolina, and South Atlantic) associated with the otherwise lawful gillnet fishery in North Carolina inshore waters had been

submitted by NCDMF. The requested permit has been issued under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 et seq.) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222-226).

This permit authorizes the incidental take of specified numbers of Atlantic sturgeon DPSs incidental to the continued commercial harvest of target fish species in gillnets subject to monitor, minimize, and mitigate incidental take as set forth in the conservation plan and the permit for a 10-year period.

The conservation plan includes managing inshore gill net fisheries by dividing estuarine waters into five primary management units (i.e., A1, 2, 3; B; C; D; E). (Management unit A is subdivided into three subunits because quantifiable evidence of differences in Atlantic sturgeon distribution and fishing effort exist within the management unit.) Each of the management units will be monitored seasonally and by fishery. Management Unit A is divided into three subunits:A-1, A-2, and A-3 to allow NCDMF to effectively address subunits where proactive management actions may be taken at a finer scale. Management Subunit A-1 will encompass Albemarle Sound as well as contributing river systems in the unit not crossing a line 36° 4.30'N. –75° 47.64'W. east to a point 36° 2.50'N. -75° 44.27'W. in Currituck Sound or 35° 57.22'N. -75° 48.26'W. east to a point 35° 56.11'N. -75°43.60'W. in Croatan Sound and 36° 58.36'N. -75° 40.07'W. west to a point 35° 56.11'N. -75°43.60'W. in Roanoke Sound. Management Subunit A-2 will encompass Currituck Sound north of a line beginning at 36° 4.30'N. -75° 47.64' east to a point at 36° 2.50'N -75° 44.27'W. as well as the contributing river systems in this unit. Management Subunit A-3 will encompass Croatan Sound waters south from a point at 35° 57.22'N. -75° 48.26'W. east to a point 35° 56.11'N. -75°43.60'W. and Roanoke Sound waters

south from a point 36° 58.36'N. -75° 40.07'W. west to a point 35° 56.11'N. -75°43.60'W. south to 35° 46.30'N. Management Unit B includes all inshore waters south of 35°46.30'N., east of 76°30.00'W. and north of 34°48.2'N. This management unit will include all of Pamlico Sound and the northern portion of Core Sound. Management Unit C includes the Pamlico, Pungo, Bay, and Neuse river drainages west of 76° 30.00'W. Management Unit D includes all inshore waters south of 34°48.27'N. and west o a line running from 34°40.70'N. - 76°22.50'W. to 34°42.48'N. – 76°36.70'W. to the Highway 58 bridge. Management in unit D includes the southern Core Sound, Back Sound, Bogue Sound, North River, and Newport River. Management Unit E includes all inshore 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 prepared by NCDMF describes measures designed to monitor, minimize, and mitigate, to the maximum extent practicable, the incidental take of Atlantic sturgeon Gulf of Maine, New York Bight, Chesapeake, Carolina, and South Atlantic DPSs. Additionally, on July 17, 2014, NMFS signed an implementing agreement (IA) with NCDMF to better delineate responsibilities with regard to implementation of the conservation plan. Because information on Atlantic sturgeon population and trends in the inshore waters of North Carolina is limited or nonexistent, this agreement was necessary. The IA outlines a year 1-3 information gathering and monitoring phase (first phase) and a year 4-10 implementation phase (second phase). It is anticipated by both parties that the results of the first phase could adjust and better predict take numbers for years 4-10 during the second phase, during which information gathering and monitoring will still continue to take place.

The conservation plan specifies that monitoring of the inshore gillnet fisheries will be

done through onboard and alternative platform observers. NCDMF will observe 7–10% ≥5.0 ISM; 1–2% <5.0 ISM) statewide while gillnet fishing occurs. Observer coverage will be concentrated mostly on large mesh, since most takes occur with large mesh. Furthermore, NCDMF will provide weighted coverage in areas with more Atlantic sturgeon interactions. Well over 90% of historic Atlantic sturgeon interactions have occurred in management unit A, which is Albemarle Sound. If NCDMF covers 7-10% of the entire large mesh gill net fishery effort each year with weighted coverage in Albemarle Sound (formerly at 1% coverage), NMFS and NCDMF should start obtaining more data with regard to Atlantic sturgeon population and trends. This is also the reason though for the three year monitoring period outlined in the IA to help gather better data and make appropriate decisions using the best available information. If, in annual reports, it becomes clear that the monitoring is ineffective or not being done to the level agreed, NMFS and NCDMF also have the IA to help our agencies work through disagreements, if any arise. NMFS would need to reinitiate consultation if it becomes evident that the action is not being carried out in the manner described in the permit and conservation plan.

Observer coverage will be based on the types and levels of fishing, Atlantic sturgeon activity, and NCDMF's ability to monitor fishing effort in primary fisheries within five primary management units. Each of the units will be monitored seasonally and by fishery with weighted coverage derived from estimated Atlantic sturgeon takes. Data on sturgeon incidental take will include gear type, soak time, gear parameters (e.g., mesh size), location, condition of individual caught, length, weight, disposition, and whether a tag was applied or fin clip collected. Information on fishing effort, catch, and discards will also be collected. Observers will be debriefed daily and submit reports weekly. In addition to enforcing state regulations, Marine

Patrol officers will inspect fish houses, conduct aerial surveys, check fishing gear and licenses, interview fishermen, and monitor fishing activities. NCDMF will use data collected through the Trip Ticket Program. 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, Atlantic sturgeon bycatch, and level of compliance. All data will be housed in a statewide biological database.

The conservation plan specifies if estimated takes of Atlantic sturgeon approach allowable thresholds in a management unit, NCDMF will issue a proclamation closing the season for the responsible fishery within the applicable management unit. NCDMF will issue proclamations implementing additional restrictions if necessary to provide increased protection of Atlantic sturgeon and other ESA-listed species or lifting gillnet or area restrictions if supported by NCDMF or NMFS biological data. Restrictions may include additional measures to reduce fishing effort, reduced yardage, seasonal/area closures, attendance requirements, other gear limitations or modifications, extensive outreach, and an adaptive Observer Program. NCDMF will also identify and adaptively respond to areas of high potential for Atlantic sturgeon bycatch. These "hotspots" will be defined as any area, determined by geographically enforceable boundaries, where Atlantic sturgeon observations are unusually high within a management unit or subunit, such that the NCDMF Director determines that closure and evaluation is necessary to (1) avoid violation of a take limit, or (2) provide adequate protection or the Atlantic sturgeon, or (3) to allow Atlantic sturgeon to complete a seasonal migration and minimize interactions. Temporary "hotspot" closures may be implemented while data are gathered and analyzed. "Hotspot" areas will be identified and handled proactively and reactively. For any given management unit or subunit during a season that shows high Atlantic sturgeon

abundance, NCDMF may close the management unit or subunit for the duration of the defined season. If an area is closed as a "hotspot" multiple times throughout the year or over a two-year period, NCDMF will take proactive measures to close the area for longer than a defined season. If a particular area within a management unit or subunit can be defined within the unit as the "hotspot" that area can be defined geographically and closed within the unit temporarily or permanently.

The amount of annual incidental take of Atlantic sturgeon DPSs authorized is expressed as either interaction or mortality. Each year for ten years, for both large and small mesh combined, 2,927 (169 of which could be mortalities) Atlantic sturgeon could be taken. These numbers are further broken down by DPS and by large and small mesh. Annual large mesh takes of Carolina DPS fish could be up to 1655 (80 of which could be mortalities). Annual large mesh takes of all other DPS fish could be up to 548 (21 of which could be mortalities). Annual small mesh takes of Carolina DPS fish could be up to 607 (58 of which could be mortalities). Annual small mesh takes of all other DPS fish could be up to 117 (10 of which could be mortalities). Because reaching the level of take for any Atlantic sturgeon would end the incidental take authorization, it is highly unlikely that all DPSs would be impacted at these full levels. Additionally, these levels could change in years 4-10 of the permit due to monitoring population trend data that will come from the year 1-3 monitoring period depicted in the Implementing Agreement.

Issuance of this permit, as required by the ESA, was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of such endangered or

threatened species, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: July 22, 2014.

Angela Somma,
Chief, Endangered Species Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2014-17645 Filed 07/25/2014 at 8:45 am; Publication Date: 07/28/2014]