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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XF751

Notice of Availability of Draft Environmental Assessment on the Effects of Issuing an Incidental Take Permit No. 21293

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

ACTION: Notice of availability of a Draft Environmental Assessment; request for comments.

SUMMARY: NMFS announces the availability of the “Draft Environmental Assessment (EA) on the Effects of Issuing an Incidental Take Permit (ITP) (No. 21293) to Mr. Jack Rudloe, Gulf Specimen Marine Laboratories, Inc. (GSML), pursuant to the Endangered Species Act of 1973, as amended (ESA). Publication of this notice begins the official public comment period for this draft EA. Per the National Environmental Policy Act (NEPA), the purpose of the draft EA is to evaluate the potential direct, indirect, and cumulative impacts caused by the issuance of Permit No. 21293 to GSML for the incidental take of Gulf sturgeon (*Acipenser oxyrinchus desotoi*) or loggerhead (*Caretta caretta* Northwest Atlantic Ocean Distinct Population Segment), green (*Chelonia mydas* North Atlantic Distinct Population Segment), Kemp’s ridley (*Lepidochelys kempii*) and leatherback sea turtles (*Dermochelys coriacea*) associated with the otherwise lawful trawling activities in Florida state waters of Bay, Gulf, Franklin, and Wakulla Counties to harvest marine organisms for the purpose of supplying entities conducting scientific research and educational activities. All comments received will become part of the public record and will be

available for review. An electronic copy of the revised application and proposed conservation plan may be obtained by contacting NMFS Office of Protected Resources (see **FOR FURTHER INFORMATION CONTACT**) or visiting the internet at www.nmfs.noaa.gov/pr/permits/esa_review.htm.

DATES: Written comments must be received at the appropriate address or fax number (see **ADDRESSES**) on or before [*insert date 30 days after date of publication in the Federal Register*].

ADDRESSES: The EA is available for download and review at http://www.nmfs.noaa.gov/pr/permits/esa_review.htm under the section heading ESA Section 10(a)(1)(B) Permits and Applications. The application is also available upon written request or by appointment in the following office: Endangered Species Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13535, Silver Spring, MD 20910; phone (301)427-8403; fax (301)713-4060.

You may submit comments, identified by “NOAA-NMFS-2017-0132”, by any of the following methods:

- **Electronic Submissions:** Submit all electronic public comments via the Federal eRulemaking Portal. Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2017-0132 click the “Comment Now” icon, complete the required fields, and enter or attach your comments.
- **Fax:** (301) 427-8403; Attn: Ron Dean or Angela Somma.
- **Mail:** Submit written comments to Endangered Species Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13535, Silver Spring, MD 20910; Attn: Ron Dean or Angela Somma.

Instructions: You must submit comments by one of the above methods to ensure that we receive, document, and consider them. Comments sent by any other method, to any other address or individual, or received after the end of the comment period may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on <http://www.regulations.gov> without change. All personal identifying information (e.g., name, address, etc.) confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. We will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Ron Dean or Angela Somma, (301) 427-8403.

SUPPLEMENTARY INFORMATION: Section 9 of the ESA and Federal regulations prohibits 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 for authorizing incidental take of listed species. The regulations for issuing incidental take permits for threatened and endangered species are promulgated at 50 CFR 222.307.

NMFS received a permit application from GSML on February 4, 2016. Based on our review of the application, we requested further information and clarification. On July 22, 2016, GSML submitted supplemental information to its application. NMFS and GSML held further

discussions on amount and extent of anticipated takes and clarifications of gear type to be used. On March 16, 2017, NMFS notified GSML of this approach, and GSML confirmed the updated approach on March 21, 2017.

On April 12, 2017, we published a notice of application receipt and requested review and comment on the application and conservation plan in the *Federal Register* (82 FR 17638). The public comment period for the application and conservation plan ended May 12, 2017.

Through this notice, we are making the Draft EA available for comment and review. The EA analyzes the effects to the human and natural environment caused by the issuance of ITP No. 21293 to GSML for the incidental take of Gulf sturgeon (*Acipenser oxyrinchus desotoi*) and loggerhead (*Caretta caretta* Northwest Atlantic Ocean Distinct Population Segment), green (*Chelonia mydas* North Atlantic Distinct Population Segment), Kemp's ridley (*Lepidochelys kempii*) and leatherback sea turtles (*Dermochelys coriacea*) associated with the otherwise lawful trawling activities in Florida state waters of Bay, Gulf, Franklin, and Wakulla Counties to harvest marine organisms for the purpose of supplying entities conducting scientific research and educational activities. As required by regulations implementing section 10(a)(1)(B) of the ESA, the conservation plan must specify, based on the best scientific and commercial data available:

- The impact which will likely result from the taking;
- How the applicant will minimize and mitigate those impacts, and the funding available to implement;
- What alternative actions the applicant considered, and why those actions are not being pursued;
- Other measures the Secretary of Commerce may require; and
- All sources of data relied on in preparing the plan.

The conservation plan prepared by GSML describes measures designed to monitor, minimize, and mitigate the incidental take of ESA-listed species.

Alternatives Considered

In preparing the Draft EA, NMFS considered the following 2 alternatives for the action:

Alternative 1 - No Action. Under the No Action alternative no ITP would be issued for the incidental take of Gulf sturgeon (*Acipenser oxyrinchus desotoi*), or loggerhead (*Caretta caretta* Northwest Atlantic Ocean Distinct Population Segment), green (*Chelonia mydas* North Atlantic Distinct Population Segment), Kemp's ridley (*Lepidochelys kempii*) and leatherback sea turtles (*Dermochelys coriacea*) associated with the otherwise lawful trawling activities in Florida state waters of Bay, Gulf, Franklin, and Wakulla Counties to harvest marine organisms for the purpose of supplying entities conducting scientific research and educational activities. GSML would not receive an exemption from the ESA prohibitions against take.

Alternative 2 – (Proposed) Issue ITP as Requested in Application. Under Alternative 2, an ITP would be issued to exempt GSML from the ESA prohibition on taking ESA listed species.

The Draft EA presents the scientific and analytic basis for comparison of the direct, indirect, and cumulative effects of the alternatives. Regulations for implementing NEPA (42 U.S.C. 4331 *et seq.*) require considerations of both the context and intensity of a proposed action (40 CFR 1508.27). This alternative would eliminate the possible risk to sea turtles, Gulf sturgeon, and benthic habitat associated with the trawling activity. However, it would not allow GSML to conduct its trawling, which would affect its non-profit activities. GSML is engaged in marine education, research, and coastal conservation. Since NMFS has concluded, in its biological opinion, pursuant to section 7(b) of the ESA, that ITP No. 21293, as proposed, is not

likely to jeopardize the continued existence of the leatherback, loggerhead, green, Kemp's ridley turtles and Gulf sturgeon and is not likely to destroy or adversely modify designated critical habitat, it would be difficult to justify denial of the permit.

Social and Economic Impacts

NMFS would not issue an ITP under the No Action Alternative (Alternative 1). Because no incidental take permit would be issued, GSML would not receive an exemption from the ESA prohibitions against take; therefore, any incidental takes of ESA listed species under NMFS' jurisdiction would not be exempted. Because this alternative would affect GSML's ability to engage in marine education, research, and coastal conservation, the No Action Alternative would have more of a socio-economic impact than the other alternative.

The issuance of the Permit as Requested in the Application (Alternative 2 Proposed Action) would allow GSML to continue to engage in marine education, research, and coastal conservation. This would result in less socio-economic costs than the No Action alternative (Alternative 1).

Next Steps

This notice is provided pursuant to section 10(c) of the ESA. The application, supporting documents, public comments, and views already received by the agency, as well as those submitted in response to this notice, will be fully considered and evaluated as we prepare the final EA and determine whether to issue a Finding of No Significant Impact. The final NEPA document and ITP determinations will not be completed until after the 30-day comment period

ends. NMFS will publish a record of its final action in the *Federal Register*. We will also make any final NEPA documents available to the public.

Dated: October 27, 2017.

Angela Somma,

Chief, Endangered Species Conservation Division,

Office of Protected Resources, National Marine Fisheries Service.

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