

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

[I.D. 072100B]

Availability of a Draft Environmental Assessment and Receipt of an Application for an Incidental Take Permit (1259)

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

ACTION: Notice of availability and request for comment.

SUMMARY: This notice advises the public that the North Carolina Division of Marine Fisheries (NCDMF) has submitted an application to NMFS for an incidental take permit (Permit) pursuant to the Endangered Species Act of 1973, as amended (ESA). As required by the ESA, NCDMF's application includes a draft conservation plan (Plan) designed to minimize and mitigate any such take of endangered or threatened species. The Permit application is for the incidental take of listed adult and juvenile sea turtles associated with otherwise lawful commercial fall gillnet fisheries for flounder in the southeastern portion of Pamlico Sound in the state of North Carolina. The duration of the proposed Permit is for 1 year. NMFS also announces the availability of a draft Environmental Assessment (EA) for the Permit application. NMFS is furnishing this notice in order to allow other agencies and the public an opportunity to review and comment on these documents. NMFS has not made a determination on the adequacy of the application and seeks comments particularly in regard to the details of the application and Plan, the level of incidental take, the description of management measures and the relationship of those measures to the trigger conditions identified in the application, the monitoring requirements (including observer provisions, and funding of the Plan), and the linkage of the Plan to current and future program management. All comments received will become part of the public record and will be available for review pursuant to the ESA.

DATES: Written comments from interested parties on the Permit application, Plan, and draft EA must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Eastern daylight time on September 5, 2000.

ADDRESSES: Written comments on this action and requests for copies of the

Permit application, Plan, and draft EA (these documents are also posted on the internet at (http://www.nmfs.noaa.gov/prot_res/permits/esapermit.html) should be addressed to the Chief, Endangered Species Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Comments may also be sent via fax to 301-713-0376. Comments will not be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT:

Charles A. Oravetz (ph. 727-570-5312, fax 727-570-5517), or Barbara A. Schroeder (ph. 301-713-1401, fax 301-713-0376). The Comments received will also be available for public inspection, by appointment, during normal business hours by calling 301-713-1401.

SUPPLEMENTARY INFORMATION: Section 9 of the ESA and Federal regulations prohibit the "taking" of a species listed as endangered or threatened. The term "take" is defined under the ESA 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. The term "harm" includes significant habitat modification or degradation where it actually kills or injures fish or wildlife by significantly impairing essential behavioral patterns, including breeding, spawning, rearing, feeding, and sheltering. NMFS regulations governing permits for threatened and endangered species are promulgated at 50 CFR 222.307.

Species Covered in This Notice

The following species are included in the Plan and Permit application: Loggerhead (*Caretta caretta*), green (*Chelonia mydas*), leatherback (*Dermochelys coriacea*), hawksbill (*Eretmochelys imbricata*), and Kemp's ridley (*Lepidochelys kempii*) turtles.

Background

On June 21, 2000, NCDMF submitted an application to NMFS for a section 10(a)(1)(B) permit for the incidental take of listed sea turtles associated with commercial fall gillnet fisheries for flounder in the southeastern portion of Pamlico Sound. NCDMF's application is for the incidental take of endangered Kemp's ridley, leatherback, and hawksbill turtles and the threatened green and loggerhead turtles. The commercial fall gillnet fishery targets southern flounder. Implementation of the Plan will allow for the continued commercial harvest of this species

which is estimated to have a value of over one million dollars per year and supports fishermen and the local economy.

Conservation Plan

The draft Plan prepared by NCDMF describes measures designed to monitor, minimize, and mitigate the incidental takes of listed turtles, focusing on the following fishery:

Fall Gillnet Flounder Fishery

The fishery is scheduled to occur from September 15 through December 15, 2000 in Pamlico Sound predominantly in an area lying south of a line running westerly from a point on Hatteras Island, Dare County (35° 23' 00" N.—75° 30' 00" W.) through the Avon Channel Entrance Beacon No. 1 (35° 23' 00" N.—75° 33' 38" W.) thence westerly to Bensons Point (35° 23' 00" N.—76° 03' 42" W.) at Wysocking Bay, Hyde County and east of a line running southerly from Bensons Point along the eastern edge of Bluff Shoal to the west side of Ocracoke Inlet, Carteret County (35° 03' 42" N.—76° 02' 12" W.) thence running easterly and northerly along the shoreline of the Pamlico Sound back to the point beginning at Hatteras Island. This area is referred to in the application as the Gillnet Restricted Area (GRA) and would be the affected area for the Plan and Permit. Flounder gillnets are set in the GRA from mid-September through mid-December in waters ranging between 10 and 20 feet (3 and 6.1 m) deep to target flounder migrating from the estuaries to offshore spawning grounds. Pamlico Sound flounder gillnets are normally hung with 5 and one-half to 6 and one-half inch (14 to 16.5 cm) stretch mesh monofilament webbing, and fisherman routinely set from 2,000 to 10,000 yards (1,800 to 9,700 m) of net at a time. Telephone (n=31) interviews by NCDMF staff with flounder gillnet fishermen indicate that in 1999 the average amount of 5 inch (12.7 cm) stretch mesh and larger mesh gillnet set per fishing operation was 4,750 yards (4,340 m). Many of the flounder gillnet fishermen use net reels to set and retrieve their gear. The nets are approximately 10 feet (3 m) deep, however many fishermen use tiedowns which restrict the nets to the bottom 3 to 4 feet (1 to 1.2 m) of the water column. The nets are constructed of small diameter (.40mm to .60mm) webbing that is hung loosely to create excess bag in the net which improves the catch of flounder. Flounder gillnets are normally fished every day or every other day depending on recent catches and weather conditions. Soak times generally range between 12 and 48

hours. It is estimated that in the fall of 1999, between 90 and 95 vessels participated in the large mesh and small mesh gillnet fisheries in the Pamlico Sound. Approximately one-half of these vessels are believed to have fished large mesh (i.e. greater than 5 inch (12.7 cm) stretch mesh) gillnets. NCDMF Trip Ticket Program information for 1999 indicates that 45 vessels greater than 25 feet (7.6 m) and 9 vessels less than 25 feet (7.6 m) in length landed more than 1,000 pounds (454 kg) of flounder per month from September through December.

Incidental mortalities of listed turtles associated with the commercial fall gillnet fishery for flounder in Pamlico Sound, NC, are requested by NCDMF at levels specified in the Permit application. NCDMF is proposing to limit the commercial fall gillnet fishery for flounder such that the incidental impacts on listed turtles will be minimized. NCDMF would use a variety of adaptive fishery management measures and restrictions through their state proclamation authority to reduce sea turtle mortality in the fall gillnet fishery by 50 percent, relative to mortality levels indicated by strandings in 1999. Implementation of the monitoring requirements of the Plan—an observer program with 5 percent coverage—is contingent upon NCDMF receiving a funding grant, for which a final funding decision is expected in early August. NCDMF considered and rejected one other alternative, not applying for a permit and closing the fishery, when developing their Plan.

Summary of NMFS Concerns and Recommendations

NMFS has reviewed the NCDMF's Plan and has identified several concerns with the adequacy of the minimization and mitigation measures, monitoring, and the associated level of incidental take of listed turtles. The NCDMF's draft Plan could be strengthened by providing information on the abundance and distribution of the five listed species of turtles in North Carolina waters (including the Pamlico Sound), information on current fishing levels within North Carolina waters (including the Pamlico Sound) and more detailed information on the effect of implementing the proposed minimization measures, mitigation measures, commitments to monitoring, and alternatives to the proposed Plan.

NMFS specifically invites the public to provide comments on the measures proposed in the Plan, including the description of management measures, the relationship of the management measures to the trigger conditions

identified in the application, the monitoring requirements (including observer provisions and funding), and the linkage of the Plan to current and future program management (This permit application and Plan are for 1 year only, so any future incidental take authorization in this fishery would require a new application and plan, incorporating any new information developed this year.). NMFS is also seeking comment on the incidental take level proposed in the Plan. The Plan could potentially reduce strandings within Pamlico Sound by up to 50 percent of the levels observed during the fall in 1999. NMFS solicits comment on the adequacy of this reduction to avoid appreciably reducing the numbers and distribution of listed turtles in the wild and the potential need for further reductions in the take level requested.

NMFS also invites comments on potential alternative options and practical measures that could reduce the adverse effects to turtles in Pamlico Sound. Variations on the alternatives provided in the Plan may also exist which could avoid and/or significantly reduce potential for conflict with ongoing fishing activities in North Carolina waters outside of Pamlico Sound, while minimizing and mitigating the incidental take of turtles. Specifically, NMFS wishes to receive comment on options that would minimize the use of gillnets in Pamlico Sound during times of turtle abundance, while still providing fishing opportunities to fishers. Additionally, we seek comments on the management of commercial and recreational fishing activities by the applicant in areas outside of Pamlico Sound that would provide the basis for the development of a multi-year Conservation Plan to minimize and mitigate strandings of listed turtles within all North Carolina waters. Comments on alternatives should include discussions of length of gillnets deployed, soak times, and seasonal closures to avoid, minimize, and mitigate incidental take. This information will assist NMFS and NCDMF in developing long-term Plans with appropriate adaptive management measures for future fishing activities.

This notice is provided pursuant to section 10(c) of the Act. NMFS will evaluate the permit application, Plan, and comments submitted thereon to determine whether the application meets the requirements of section 10(a) of the ESA. If it is determined that the requirements are met, a permit will be issued for the incidental take of loggerhead, leatherback, green, hawksbill, and Kemp's ridley turtles, for the 2000 fall season only. Management

of this fishery beyond 1 year of the issuance of the Permit, will require a new incidental take permit. The final permit decision will not be made prior to ensuring compliance with NEPA and not until after the end of the 30-day comment period in order to fully consider all public comments received during the comment period. NMFS will publish a record of its final action in the **Federal Register**.

The EA package includes a draft EA. A final determination of a Finding of No Significant Impact (which concludes that issuing the incidental take permit is not a major Federal action significantly affecting the quality of the human environment, within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, as amended) will be made after the public comment period and prior to issuance of a Permit. Two Federal action alternatives have been analyzed in the EA, including: (1) the no action alternative (deny the permit); and (2) issue a permit.

Dated: July 28, 2000.

Wanda L. Cain,

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

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 071200A]

ICCAT Advisory Committee; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Advisory Committee to the U.S. Section to the International Commission for the Conservation of Atlantic Tunas (ICCAT) in conjunction with the Highly Migratory Species (HMS) Management Division of NMFS announces the schedule of regional public meetings to be held this fall.

DATES: The meetings are scheduled in September and October 2000. See **SUPPLEMENTARY INFORMATION** for specific dates and times of the meetings.

ADDRESSES: The meetings will be held in Texas, Florida, New Jersey, and Massachusetts. See **SUPPLEMENTARY INFORMATION** for specific addresses of the meetings.