

directed to Mark R. Millikin, Department of Commerce, F/SF3, Room 13357, 1315 East-West Highway, Silver Spring, Maryland 20910-3282 (phone 301-713-2341, ext.153) or via the Internet at [Mark.Millikin@noaa.gov](mailto:Mark.Millikin@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Abstract

Under the provisions of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), as amended by the Sustainable Fisheries Act (Pub. L. 104-297), the Secretary of Commerce is required to publish a list of all fisheries under authority of each Regional Fishery Management Council (Council) and all fishing gear used in such fisheries. The list has been published. Any person wishing to use gear not on the list, or engage in a fishery not on the list, must provide the appropriate Council or the Secretary, in the case of Atlantic highly migratory species, with 90 days of advance notice. If the Secretary takes no action to prohibit such a fishery or use of such gear, the person may proceed.

##### II. Method of Collection

The respondent provides written notice. No form is used.

##### III. Data

OMB Number: 0648-0346.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 20.

Estimated Time Per Response: 90 minutes.

Estimated Total Annual Burden Hours: 30 hours.

Estimated Total Annual Cost to Public: \$200.

##### IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or

included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: April 8, 2005.

**Gwellnar Banks,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. 05-7472 Filed 4-13-05; 8:45 am]

BILLING CODE 3510-22-P

#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

[I.D. 040805D]

##### Receipt of an Application for Incidental Take Permit (1529)

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

**ACTION:** Notice of availability.

**SUMMARY:** NMFS has received an application for an incidental take permit (Permit) from David N. Hata, Ph.D., Virginia Polytechnic Institute and State University (Virginia Tech) pursuant to the Endangered Species Act of 1973, as amended (ESA). As required by the ESA, the application includes a conservation plan designed to minimize and mitigate any such take of endangered or threatened species. The Permit application is for the incidental take of ESA-listed sea turtles, shortnose sturgeon, smalltooth sawfish, and Atlantic salmon associated with otherwise lawful research to assess horseshoe crab abundance from Cape Cod, Massachusetts south to the Georgia-Florida border. The duration of the proposed Permit is for 6 years. NMFS is furnishing this notice in order to allow other agencies and the public an opportunity to review and comment on this document. All comments received will become part of the public record and will be available for review.

**DATES:** Written comments from interested parties on the Permit application and Plan must be received at the appropriate address or fax number (see ADDRESSES) no later than 5 p.m. Eastern daylight time on May 16, 2005.

**ADDRESSES:** Requests for copies of the application, cited literature, and written comments on this action should be addressed to Therese Conant, Marine Mammal and Turtle Division, NMFS Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD, 20910; or by fax (301) 427-2522, or by e-mail at: [NMFS.1529@noaa.gov](mailto:NMFS.1529@noaa.gov). The

application is available for download and review at <http://www.nmfs.noaa.gov/pr/permits/review.htm>.

#### FOR FURTHER INFORMATION CONTACT:

Therese Conant (ph. 301-713-1401, fax 301-427-2522, e-mail [Therese.Conant@noaa.gov](mailto:Therese.Conant@noaa.gov)). 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. Section 10(a)(1)(B) of the ESA provides for authorizing incidental take of listed species. 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 conservation plan and Permit application: Loggerhead (*Caretta caretta*), green (*Chelonia mydas*), leatherback (*Dermochelys coriacea*), hawksbill (*Eretmochelys imbricata*), and Kemp's ridley (*Lepidochelys kempii*) sea turtles. Other species that may be affected are: Shortnose sturgeon (*Acipenser brevirostrum*), smalltooth sawfish (*Pristis pectinata*), and Atlantic salmon (*Salmo salar*).

#### Background

NMFS received an application from Dr. Hata on April 2, 2004. Based on a review of the application, NMFS determined that the application was incomplete and requested further information. The applicant submitted a revised application on January 10, 2005. The application is for incidental take of ESA-listed species that may result from proposed research. The proposed research activity will consist of annual horseshoe crab abundance monitoring surveys and associated studies to evaluate survey methodology. The annual trawl surveys will provide abundance, distribution and demographic information in support of the horseshoe crab Fishery Management Plan of the Atlantic States Marine Fisheries Commission. The surveys will be conducted from Cape Cod, Massachusetts to the Georgia-Florida

border. Sampling consists of approximately 48 days at sea for a total of 250 tows deploying flounder and whelk trawls intended to capture horseshoe crabs for examination and enumeration. Tows will be no longer than 15 minutes of bottom time and will be conducted at night from mid-August through mid-November. Turtle excluder devices will not be installed in the trawl gear because these devices may hinder capture of horseshoe crabs. Thus, it is anticipated that fish and sea turtles will be captured by the unmodified gears. The application anticipates the annual capture of one lethal or non-lethal leatherback, one lethal or non-lethal green, 12 lethal and 28 non-lethal loggerheads, 4 lethal and 9 non-lethal Kemp's ridley sea turtles in 48 days of sampling. The lethal take numbers are based on a 29 percent mortality rate which is the higher rate published for trawl fisheries (Henwood and Stuntz, 1987; Epperly et al., 1995). However, those rates are based on commercial fishing conditions where trawl tow times often exceed 60 minutes. The tow times described in the application will not exceed a 15 minute bottom time—a submergence period that sea turtles are able to survive. Thus, the mortality rate is likely much lower than 29 percent.

#### Conservation Plan

The conservation plan prepared by the applicant describes measures designed to monitor, minimize, and mitigate the incidental takes of ESA-listed sea turtles. The conservation plan includes limiting sampling effort in areas and times where sea turtles are likely to be present; avoiding coral and rock habitats associated with hawksbills and areas of submerged aquatic vegetation associated with green turtles; using minimal tow durations; avoiding areas of high fishing vessel activity which may attract foraging sea turtles and may increase the chance of multiple captures.

All activities will be conducted under the direct supervision of scientific parties from Virginia Tech. Sampling will not be conducted when sea turtles are observed in the area. If a sea turtle is captured, all efforts will be made to release the turtle as quickly as possible with minimal trauma. If necessary, resuscitation will be attempted as proscribed by 50 CFR 223.206. Scientific parties will be familiarized with resuscitation techniques prior to surveys, and a copy of the resuscitation guidelines will be carried aboard the vessel during survey activities. In the event resuscitation is unsuccessful, the sea turtle will be transferred to the sea

turtle stranding network of the appropriate jurisdiction. Other monitoring or mitigation actions will be undertaken as required.

The applicant considered and rejected three other alternatives, not applying for a permit, conducting the research in an area where ESA-listed species do not occur, or using different sampling gear when developing their conservation plan.

This notice is provided pursuant to section 10(c) of the ESA and the National Environmental Policy Act (NEPA) regulations (40 CFR 1506.6). NMFS will evaluate the application, associated documents, and comments submitted thereon to determine whether the application meets the requirements of the NEPA regulations and section 10(a) of the ESA. If it is determined that the requirements are met, a permit will be issued for incidental takes of ESA-listed sea turtles under the jurisdiction of NMFS. The final NEPA and permit determinations will not be completed until after the end of the 30-day comment period and will fully consider all public comments received during the comment period. NMFS will publish a record of its final action in the **Federal Register**.

Dated: April 11, 2005.

**P. Michael Payne,**

*Chief, Marine Mammal and Turtle Division,  
Office of Protected Resources, National  
Marine Fisheries Service.*

[FR Doc. 05-7516 Filed 4-13-05; 8:45 am]

**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 041105C]

#### Mid-Atlantic Fishery Management Council; Meetings

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

**ACTION:** Notice of public meeting.

**SUMMARY:** The Mid-Atlantic Fishery Management Council (Council) and its Atlantic Mackerel Committee; its Research Set-Aside Committee; its Surfclam and Ocean Quahog Committee; its Ecosystems Committee; and, its Executive Committee will hold public meetings.

**DATES:** The meetings will be held Monday, May 2, 2005 through Thursday, May 5, 2005. See

**SUPPLEMENTARY INFORMATION** for specific dates and times of the meetings.

**ADDRESSES:** This meeting will be at the Princess Royale Oceanfront Hotel and Conference Center, 9100 Coastal Highway, Ocean City, MD 21842 telephone 410-524-2544.

*Council address:* Mid-Atlantic Fishery Management Council, 300 S. New Street, Dover, DE 19904, telephone 302-674-2331.

#### FOR FURTHER INFORMATION CONTACT:

Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council; telephone: 302-674-2331, ext. 19.

#### SUPPLEMENTARY INFORMATION:

##### Dates and Times for the Meetings

On Monday, May 2, the Atlantic Mackerel Committee with its Advisory Panel will meet from 1-5 p.m. On Tuesday, May 3, the Atlantic Mackerel Committee will meet from 8 a.m.-5 p.m.; the Research Set-Aside Committee will meet from 1-2 p.m.; and, the Surfclam and Ocean Quahog Committee with its Advisory Panel will meet from 2-4 p.m. On Wednesday, May 4, the Ecosystems Committee will meet from 8-10 a.m., and the Council will convene at 10 a.m. From 10 a.m. through 12 noon, Council will approve the March Council meeting minutes and action items from the March Council meeting, hear organizational and liaison reports, hear the Executive Director's Report, and hear a report on the status of the Council's Fishery Management Plans (FMP). From 1-5 p.m., Council will address Amendment 14 and Framework 6 to the Summer Flounder, Scup, and Black Sea Bass FMP; address Amendment 9 to the Atlantic Mackerel, Squid, Butterfish FMP; and, discuss Framework 1 to the Spiny Dogfish FMP. On Thursday, May 5, the Executive Committee will meet from 8-9 a.m. Council will convene at 9 a.m., and from 9-11 a.m., Council will receive presentations from individuals affiliated with NMFS and the University of Rhode Island (URI). At 11 a.m. the Council will receive committee reports and entertain any new and/or continuing business.

Agenda items for the Council's committees and the Council itself are: on Monday, May 2, the Atlantic Mackerel Committee and its advisors will review and discuss comments received regarding a controlled/limited access system for mackerel. On Tuesday, May 3, the Atlantic Mackerel Committee will continue to review and discuss comments regarding a controlled/limited access system for mackerel. The Research Set-Aside Committee will review 2006 Request for Proposals (RFP), and review and comment on changes to NOAA's grant