

order to implement any of the routine road maintenance activities. Chapters 3 through 9 provide the Best Management Practices (BMPs) for routine road maintenance activities, and includes a description of the activity, any environmental concerns, permits that may be required, and useful references. The Manual also consists of specific road maintenance activities, staff training, implementation and effectiveness monitoring, adaptive management, emergency response measures, and reporting requirements.

For each road maintenance activity, the Manual provides BMPs designed to achieve desired conservation outcomes. Only activities that fall under the definition of "maintenance" are included in the Manual. Repair and maintenance include activities that are conducted on currently serviceable structures, facilities, and equipment which involve no expansion of or change in use of such structures, facilities, and equipment beyond those which existed previously, and do not result in significant negative hydrological impact.

The road maintenance project categories covered by the Manual include maintaining roads (e.g., grading, road surfacing, dust abatement, vegetation management, and winterizing the road system), maintaining culverts (e.g., culvert cleaning, improvement, repair, sizing, and replacement; ditch relief culverts, and temporary stream diversions), disposal of spoils, managing maintenance yards (e.g., facility housekeeping practices, building and grounds maintenance, vehicle and equipment maintenance, and material use and storage), maintaining bridges (e.g., bridge maintenance, repair, and drift removal), working with an emergency (e.g., emergency maintenance, slide and settlement repair, and accident clean-up), and dealing with snow and ice (snow and ice removal, de-icing/anti-icing and sanding).

As specified in 50 CFR 223.203(b)(10)(i), the prohibitions of 50 CFR 223.203(a) relating to certain threatened species do not apply to routine road maintenance activities provided that NMFS finds that the program meets or exceeds the protections provided by the ODOT Guide.

#### Authority

Under section 4 of the ESA, the Secretary of Commerce is required to adopt such regulations as he deems necessary and advisable for the conservation of species listed as threatened. The ESA salmon and

steelhead 4(d) rule (June 28, 2005; 70 FR 37160) specifies categories of activities that contribute to the conservation of listed salmonids and sets out the criteria for such activities. The rule further provides that the prohibitions of paragraph (a) of the rule do not apply to activity associated with routine road maintenance, provided that any state or local program comports with the standard described above and has been approved by NMFS to be in accordance with the salmon and steelhead 4(d) rule (June 28, 2005; 70 FR 37160).

Dated: March 30, 2007.

**Angela Somma,**

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. 040207B]

#### Endangered Species; File No. 1547-01

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

**ACTION:** Notice; issuance of permit modification.

**SUMMARY:** Notice is hereby given that the New York State Department of Environmental Conservation (Kathryn Hattala, Principal Investigator), 21 South Putt Corners Road; New Paltz, New York 12561, has been issued a modification to scientific research Permit Number 1547.

**ADDRESSES:** The permit modification and related documents are available for review upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 713-2289; fax (301) 427-2521; and

Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930-2298; phone (978) 281-9328; fax (978) 281-9394.

**FOR FURTHER INFORMATION CONTACT:**

Malcolm Mohead or Brandy Hutnak, (301) 713-2289.

**SUPPLEMENTARY INFORMATION:** On February 23, 2007, notice was published in the **Federal Register** that a modification of Permit Number 1547, issued October 27, 2006, (71 FR 65470), had been requested by the above named

organization. The requested permit modification has been granted 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).

In order to evaluate seasonal movement of shortnose sturgeon (*Acipenser brevirostrum*) in Haverstraw and Newburgh Bays of the Hudson River, the NYSDEC was previously authorized annually to capture a maximum of 500 adult and juvenile shortnose sturgeon with gill nets, and to measure, weigh, scan for tags, insert passive integrated transponder tags and Carlin tags (if untagged) and then release. The applicant now proposes to collect soft fin-ray tissue samples from all captured shortnose sturgeon. The goal of the additional research would be to document and map the genetic identity of shortnose sturgeon in the Hudson River. The modification would run concurrently with the original permit until October 31, 2011.

Issuance of this modification, 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 the endangered species which is the subject of this permit, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: April 2, 2007.

**P. Michael Payne,**

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 040207A]

#### Endangered Species; File No. 1580

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

**ACTION:** Issuance of permit.

**SUMMARY:** Notice is hereby given that Dynegy Northeast Generations, Inc. (Dynegy), 992-994 River Road, Newburgh, New York 12550, has been issued a permit to take shortnose sturgeon (*Acipenser brevirostrum*) for purposes of scientific research.

**ADDRESSES:** The permit and related documents are available for review