UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Silver Spring, MD 20910

FEB 2 6 2018

MEMORANDUM FOR: The Record

FROM: F/PR1 – Jolie Harrison
Chief, Permits and Conservation Division

SUBJECT: Categorical Exclusion for the Issuance of Scientific Research Permit No. 21260

NOAA Administrative Order (NAO) 216-6A requires all proposed projects to be reviewed with respect to environmental consequences on the human environment. This memorandum addresses the determination that the issuance of a scientific research permit qualifies to be categorically excluded from further National Environmental Policy Act (NEPA) review.

Proposed Federal Action

The National Marine Fisheries Service (NMFS) proposes to issue a scientific research permit under Section 10(a)(1)(A) of the Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 *et seq.*).

Description of Applicant's Scientific Research

1. The permit applicant is the NMFS Pacific Islands Fisheries Science Center (PIFSC) [Responsible Party: Charles Littnan, Ph.D.].

2. The permit will be valid through September 30, 2027.

3. Target species and stocks: Threatened and endangered green (*Chelonia mydas*) (Central North Pacific, Central West Pacific, East Pacific, East Indian-West Pacific, and Southwest Pacific Distinct Population Segments (DPS)), hawksbill (*Eretmochelys imbricata*), leatherback (*Dermochelys coriacea*), loggerhead (*Caretta caretta*) (North Pacific DPS), and olive ridley (*Lepidochelys olivacea*) sea turtles.

4. Location: Pacific Islands Region (e.g., Hawaii, American Samoa, Guam, Commonwealth of the Northern Mariana Islands, Pacific Remote Island Areas, and inclusive Exclusive Economic Zone).

5. Duration: Research will occur year-round. Depending on the location, sampling may occur monthly or during two-week sampling trips from May – October.

6. Objectives: The objective of the research is to continue long-term monitoring of sea turtles in the Pacific Islands Region to understand population status, abundance, and trends; age at maturity; growth rates; and foraging and movement ecology of sea turtles.

7. Methods: Sea turtles would be captured by hand, dip, encircle, breakaway hoop or tangle net for morphometric data, tagging (flipper and passive integrated transponder), biological sampling, and instrument attachment (acoustic, satellite, and/or archival; epoxy, drill carapace, or suction-up attachments) prior to release. Up to three (3) tags would be attached to hardshell turtles and up to two (2) tags would be attached to leatherback sea turtles.

Applicable Categorical Exclusion

Based on the information presented in this document and the application, the issuance of a scientific research permit (SRP) to the NMFS PIFSC for the taking of sea turtles is consistent with activities identified in categorical exclusion (CE) B1and there are no extraordinary circumstances with the potential for significant environmental effects that would preclude the issuance of this SRP from being categorically excluded. The following summarizes the relevant factors supporting a CE determination for this action.

Determination Summary

In determining whether a CE is appropriate for a given permit, NMFS considers the applicant's specified activity (applicant's action) and the potential extent and magnitude of "takes," including shifts at the population or species level, along with the extraordinary circumstances listed in the Companion Manual for the NAO 216-6A. The evaluation of whether extraordinary circumstances (if present) have the potential for significant environmental effects is limited to the decision NMFS is responsible for, which is issuance of an SRP (NMFS' action). While there may be environmental effects associated with the underlying action, potential effects of NMFS' action are limited to those that would occur due to the authorization of "take" of animals[1]. NMFS prepared numerous Environmental Assessments (EAs) analyzing the environmental impacts of the categories of activities encompassed by CE B1 which resulted in Findings of No Significant Impacts. These EAs demonstrate the issuance of a given permit does not affect other aspects of the human environment because the action only affects animals that are the subject of the permit. These EAs also addressed factors in 40 CFR 1508.27 regarding the potential for significant impacts and demonstrate the issuance of permits for the categories of activities encompassed by CE B1 do not individually or cumulatively have a significant effect on the human environment. For these reasons, only circumstances which are present and relevant to the issuance of this SRP permit are evaluated here.

1. Extent and Magnitude of Directed Take

The issuance of this SRP authorizes take of five sea turtle species. The proposed research activities are expected to result in short-term (recoverable) adverse effects on the individual animals targeted by the proposed research and will not result in any changes to the human environment or the target species or stock. The proposed research includes capture of up to 250

[1] In some cases, animals not intended as part of the proposed scientific research activities for which "take" will be authorized may have the potential to be present in a given research area. Therefore, NMFS considers target and non-target species or stocks and assesses potential effects associated with the scientific research for both target and non-target species or stocks.

green, 150 hawksbill, 100 loggerhead, 100 leatherback, and 100 olive ridley sea turtles by hand or dip, encircle, breakway hoop, or tangle nets. Each turtle would be subject to epibiota removal, flipper and passive integrated transponder tagging, temporary carapace marking, morphometric measurements, photograph/video, opportunistic recapture, fecal collection, ultrasound, instrument attachment (up to 3 tags (hardshell); up to 2 tags (leatherback turtles)), and blood and tissue sampling. A subset of sea turtles would also be gastric lavaged or laparoscopied. Sampling and marking activities that involve piercing the skin would result in minor injury at the wound site with wounds healing in days to weeks of the event. Such sampling activities may potentially serve as a point of infection. The risk to non-target protected species is minimized by conducting in-water surveys before deployment of tangle nets, and if non-target protected species are in the vicinity, nets will not be deployed. After nets are deployed, standard monitoring is followed to reduce by-catch. No mortality is being authorized under this permit. In addition, the mitigation measures required by this permit are designed to minimize the potential for adverse impacts to the target species, including unintended consequences, such as mortality or serious injury to the individual animals. Therefore, authorizing take is not expected to have adverse impacts to the populations or species that are the subject of this permit.

The proposed research will take place in the Pacific Island Region ranging from offshore waters in the U.S. Exclusive Economic Zone to coastal waters. The study area includes or is near State and National Parks or wilderness areas, and wildlife refuges. Research would possibly occur in properties listed or eligible for listing on the National Register Historic Places or National Historic Landmarks. The applicant would obtain the required permits to work within these areas. As a NOAA Science Center, the applicant works closely with the National Marine Sanctuaries and Monuments office to obtain all require permits to conduct research. The study area overlaps with critical habitat for endangered Hawaiian monk seals (*Neomonachus schauinslandi*). However, sea turtle research activities are only expected to impact the sea turtle species that are the subject of the permit. The action does not involve the consumptive use of any resources. We expect no adverse impacts to any of the specific primary constituent elements of designated critical habitat areas, since the activities are focused on the target animals. In addition, permit conditions include mitigation measures for how to avoid or minimize impacts to animals and habitat.

Interactions with other protected species in these areas, such as listed[2] marine mammals and fish are not expected because the permit includes mitigation measures to avoid or minimize effects to all protected species that may occur in the study area. For example, this permit requires the applicant to avoid interactions with all other protected species and if other species are encountered, to follow the NMFS Regional marine wildlife viewing guidelines (http://www.nmfs.noaa.gov/pr/education/viewing.htm). Likewise, no effects to animals or habitats protected by the Magnuson-Stevens Conservation and Fisheries Management Act or the Migratory Bird Treaty Act are expected since the research is focused on sea turtles that are the subject of the permit.

Finally, the applicant is required to submit annual reports in which they must provide an accounting of the numbers of animals taken and NMFS tracks take numbers via the Authorizations and Permits for Protected Species database. Therefore, NMFS can modify this

[2] Species listed as threatened or endangered under the Endangered Species Act

permit if there is reason to believe the research is having or has the potential to have an adverse effect on the species or stock.

A summary of the status of the sea turtle populations is listed below and additional information can be found in the status reviews and recovery plans which are available at: http://www.nmfs.noaa.gov/pr/species/turtles/index.htm.

Table 1. Status of Affected Sea Turtles

Common Name	DPS	ESA Status	Minimum Abundance or No. Nesting Females
Green sea turtles	Central North Pacific	Threatened	3,846 nesting females
	Central West Pacific	Endangered	6,518 nesting females
	Central South Pacific	Endangered	2,677 nesting females
	East Pacific	Threatened	20,062 nesting females
	East Indian-West Pacific	Threatened	>77,009 nesting females
	Southwest Pacific	Threatened	83,058 nesting females
Hawksbill sea turtles	Rangewide	Endangered	10,194 – 12,770 nesting females (Pacific Ocean)
Leatherback sea turtles	Rangewide	Endangered	562 nesting females (West Pacific subpopulation)
Loggerhead sea turtles	North Pacific	Endangered	43,320 turtles
Olive Ridley sea turtles	Rangewide	Threatened	1.39 million adults

2. Other Relevant Factors

The issuance of this SRP will not result in highly controversial environmental effects or result in environmental effects that are uncertain, unique or unknown because SRPs have been issued for similar research activities in the same location, for the same species using methods and procedures that employ generally accepted research standards and best management practices that have been tested, verified and approved. In addition, the type of proposed research for sea turtles is well-understood and documented; prior analysis demonstrates issuance of a scientific research permit only affects the animals that are the subject of the permit.

The issuance of this SRP will not establish a precedent for future actions or represent a decision in principle about future actions with potentially significant environmental effects because NMFS' actions under ESA Section 10(a)(1)(A) are considered individually and is based on the best available scientific information, which is continuously evolving. Therefore, issuance of an SRP to a specific individual or organization for a given activity does not guarantee or imply NMFS will authorize others to conduct similar activities. Subsequent requests for permits are evaluated upon their own merits relative to the criteria established in the ESA and its implementing regulations (50 CFR Part 222) on a case-by-case basis.

NMFS' compliance with environmental laws and regulations and Executive Orders (EOs) is based on NMFS' proposed action and the nature the applicant's proposed research activities. Therefore, the Permits and Conservation Division consulted under Section 7 of the ESA to determine if the issuance of this scientific research permit would likely jeopardize the continued

existence of listed species or result in an adverse modification of critical habitat. In 2017, the Permits and Conservation Division consulted programmatically on it sea turtle permitting program with the NMFS ESA Interagency Cooperation Division. The resulting Programmatic Biological Opinion (BO; NMFS 2017) determined that issuance of permits for sea turtle research is not likely to jeopardize the continued existence of NMFS ESA-listed species or to results in the destruction or adverse modification of designated critical habitat. After reviewing the request, the Permits and Conservation Division determined that the proposed research falls within the scope of the Programmatic BO. It is the applicant's responsibility to secure the necessary Federal Aviation Administration permits to fly UAS, Institutional Animal Care and Use Committee approvals, National Park special use permits, and permits to operate within or near National Marine Sanctuaries. There are no other environmental laws, regulations, EOs, consultations, federal permits or licenses applicable to NMFS for issuance of this SRP to the NMFS PIFSC.

Reference

NMFS. 2017. Biological and Conference Opinion on the Proposed Implementation of a Program for the Issuance of Permits for Research and Enhancement Activities on Threatened and Endangered Sea Turtles Pursuant to Section 10(a) of the Endangered Species Act. Silver Spring, MD.