

**SUPPORTING STATEMENT
REPORTING OF SEA TURTLE INCIDENTAL TAKE IN VIRGINIA CHESAPEAKE
BAY POUND NET OPERATIONS
OMB CONTROL NO. 0648-0470**

A. JUSTIFICATION

1. Explain the circumstances that make the collection of information necessary.

This request is for a renewal of this information collection.

Since 2002, the National Oceanic and Atmospheric Administration's (NOAA) National Marine Fisheries Service (NMFS) has promulgated several rules restricting the use of large mesh and stringer pound net leaders in certain Virginia Chesapeake Bay waters during the late spring/early summer each year. On June 17, 2002, an interim final rule was published (67 FR 41196) restricting leader use, which also required year-round reporting of sea turtle takes. In 2004, NMFS issued a final rule further restricting pound net leader use in Virginia (69 FR 24997). The 2004 rule retained the reporting requirement from the 2002 rule. These regulations (modifications to [50 CFR 222](#) and [223](#)) were implemented as a result of high sea turtle strandings each spring in Virginia and the documented take of sea turtles in pound net leaders. In 2002 and 2004, Biological Opinions on the issuance of these NMFS sea turtle conservation measures were completed pursuant to section 7 of the ESA – the most recent on April 16, 2004. An Incidental Take Statement was included in each of these Biological Opinions, exempting the incidental take of a certain number of loggerhead, Kemp's ridley, green and leatherback sea turtles in pound net operations.

A non-discretionary term and condition of these Incidental Take Statements involved the reporting to NMFS of live or dead sea turtles taken in pound net operations (reflected in 50 CFR 223.206). The collection of this information on the incidental take of sea turtles in the Virginia pound net fishery is necessary to ensure sea turtles are being conserved and protected, as mandated by [the Endangered Species Act of 1973](#), as amended. Documenting the accurate occurrence of sea turtle incidental take in pound net operations will help to determine if additional regulatory actions or management measures are necessary to protect sea turtles caught in pound net operations. This information will help NMFS better assess the Virginia pound net fishery and its impacts (or lack thereof) on sea turtle populations in the Virginia Chesapeake Bay. The collection of this information is also imperative to ensure that the April 2004 Incidental Take Statement is not being exceeded, the anticipated take levels are appropriate, and the effects analysis in the Biological Opinion is accurate. Further, reporting the take of live, injured sea turtles caught in pound net gear will ensure these turtles are transferred immediately to a stranding and rehabilitation center for appropriate medical treatment.

2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.

Virginia pound net fishermen will call and inform NMFS of any incidental takes of sea turtles in their annual pound net operations. Information provided in these phone calls will include the date and time when the specimen was found, location of pound, location where the animal was found, type and/or mesh size of leader, approximate depth of pound, environmental conditions (e.g., weather, sea state), fate of the animal, and species information (alive or dead, condition of animal, approximate size, species description). The name and phone number of the respondent will also be noted. The information will be collected by the NMFS Northeast Region Protected Resources Division and then distributed to the NMFS Northeast Fisheries Science Center and the Office of Protected Resources. Information will be collected by NMFS only when a sea turtle is taken in pound net gear, estimated to occur 482 times annually. If an animal is found injured or dead, the fishermen will first report the incident to NMFS, and then to the appropriate stranding and rehabilitation facility. The additional reports to the stranding and rehabilitation facility are necessary to ensure the animals are immediately retrieved and either treated for their injury (to attempt to prevent subsequent mortality) or necropsied (to help determine cause of death).

Sea turtles are typically present in Virginia waters from May to November, so reporting is expected to occur only during those warmer months. The collected information will be used to monitor the incidental take of sea turtles in pound net operations, as authorized by the Incidental Take Statement. The reporting of information will also be used to help evaluate the capture and mortality of sea turtles in Virginia waters, which is a high priority for NMFS headquarters and Northeast Region, especially during the spring months. The overall intent of collecting this information is to fulfill actions stated in the sea turtle recovery plans (i.e., minimize mortality from commercial fisheries).

NMFS will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with NOAA standards for confidentiality, privacy, and electronic information. See response to Question 10 of this Supporting Statement for more information on confidentiality and privacy. The information collection is designed to yield data that meet all applicable information quality guidelines. Although the information collected is not expected to be disseminated directly to the public, results may be used in scientific, management, technical or general informational publications. Should NMFS decide to disseminate the information, it will be subject to the quality control measures and pre-dissemination review pursuant to [Section 515 of Public Law 106-554](#).

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.

The collection of information in question involves reporting the take of sea turtles via a telephone call or fax. This method of reporting is an effective means to collect this information. While information could be collected via electronic mail, it is believed that Virginia pound net fishermen will have an easier time reporting via a telephone call or fax. Furthermore, it is

unknown how many Virginia fishermen have computer access, whereas almost everyone has access to a telephone.

4. Describe efforts to identify duplication.

Besides the existing reporting for which this request is a renewal, NMFS does not collect similar information directly from the public, but incidental take information is occasionally reported to the states. The state Sea Turtle Stranding and Salvage Network (STSSN) collects information on sea turtle strandings and, when reported, incidental take. However, based upon anecdotal information, fishermen have not typically reported incidental takes of sea turtles caught in their gear, and Virginia pound net fishermen would not likely report interactions if the condition were not mandatory. Even though the request is mandatory, NMFS has not obtained many reports from pound net fishermen (but we suspect that there are more turtles being caught in pounds than are being reported). This reporting requirement, although not completely complied with, enables NMFS to better obtain information on pound net takes, and respond to and collect data on such takes on a real time basis, should they be reported.

5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.

This information collection will not have a significant impact on small entities. This collection of information does involve small entities but the impacts are minimized by the relatively infrequent nature of the reporting (i.e., only from May to November, with a maximum of 483 reports (averaging 18 per respondent annually): 482 capture reports and one stranding/rehabilitation report), short duration of the reporting call (~10 minutes), and the reporting by telephone or fax.

6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.

If this information is not collected, the evaluation and effectiveness of the Biological Opinion and Incidental Take Statement will be compromised. Further, the regulations previously developed will not be able to be evaluated to determine if they are effective in reducing sea turtle mortality. The NMFS Northeast Region and Science Center have, in previous years, dedicated a significant amount of funding and staff time to evaluate and reduce spring sea turtle mortality in Virginia, e.g. modification of the fishing gear, and this reporting information is essential to both further those efforts and determine if the previous restrictions are appropriate. Additionally, if injured animals are taken and not reported to NMFS, those sea turtles would not receive the necessary medical care that is critical to their survival. Similarly, dead turtles found in the nets would also not be transported to a stranding and rehabilitation facility for a necropsy (if the condition of the animal enables this), and as such, important information on the health of the animal, and potentially the determination on the cause of death, would be lost. Acquiring this information to fulfill the aforementioned objectives is an important aspect of the NMFS Northeast sea turtle program.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

The collection of this information may be inconsistent with the OMB guidelines. If sea turtles are incidentally taken in pound net fishing operations, fishermen are required to report that information as a result of this information collection. Sea turtles are only in Virginia waters from approximately May to November, but there is no schedule for when a sea turtle may be taken during that time. For example, three sea turtles may be taken in one week, or a sea turtle may be taken every third month. Either way, the fishermen are required to report those interactions. Therefore, there is the potential for fishermen to report sea turtle takes more often than quarterly. While the reporting of sea turtle take may occur more often than quarterly, it will not occur all year round. Further, the estimated number of sea turtles anticipated to be taken in Virginia pound net operations is only 482 turtles annually.

8. Provide information on the PRA Federal Register Notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

A [Federal Register](#) Notice published on March 9, 2012 (77 FR 14347) solicited public comment. No comments were received.

9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.

No payments or gifts will be provided to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.

Respondents are not provided specific information about confidentiality. Personal identifiers and any commercial information will be kept confidential to the extent permitted under the [Freedom of Information Act](#) (FOIA) (5 U.S.C. 552), the [Department of Commerce FOIA regulations](#) (15 CFR Part 4, Subpart A), the [Trade Secrets Act](#) (18 U.S.C. 1905), and [NOAA Administrative Order 216-100](#).

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

This collection of information does not involve any questions of a sensitive nature.

12. Provide an estimate in hours of the burden of the collection of information.

The total hour estimate for the reporting requirement was determined from the following information:

The number of responses was determined by considering the number of sea turtles anticipated to be caught annually in Virginia pound nets. The number of loggerheads and Kemp's ridleys taken in Virginia pounds was estimated from those animals previously taken in the Potomac River pound nets, the only pounds for which sea turtle takes have been consistently reported over the years. The number of nets set in the Potomac River has varied slightly among years (between 5 to 7), so for the purposes of this analysis, NMFS assumes that an average of 6 nets was fished per year. From 1980 to 1999, the average number of loggerheads taken in the Potomac River pound nets was 31.07 turtles per year (n=435; Mansfield and Musick 2004), with an approximate 5 loggerhead turtles taken per net. Based on the best available information collected by NMFS during previous pound net monitoring efforts, an estimated 80 pound nets are in the area (Regulated Area I and II). Given the available information, the anticipated level of annual take in all pounds in the action area is 400 loggerhead sea turtles (=80 pounds * 5 turtles/net). The average number of Kemp's ridleys taken in the Potomac River pound nets was 2.2 turtles per year (=44 turtles/20 years), with an approximate 0.37 turtles taken per net, or 1 turtle per net. This would result in an anticipated level of annual take of 80 Kemp's ridley sea turtles (=80 pounds * 1 turtles/net) for all pounds in the action area. NMFS further anticipates that one green turtle could be captured in all of the pounds of pound net gear annually.

Additionally, based upon previous level of entanglement in the spring and scientific studies, NMFS anticipates that one loggerhead, Kemp's ridley, green, or leatherback sea turtle will be entangled in leaders each year in the Virginia waters of the Chesapeake Bay, even with the current regulations in effect. This entanglement is expected to result in mortality.

Over the past 6 years, there have not been any reports to NMFS of sea turtle interactions in Virginia pound net gear. However, sea turtles occur in Virginia Chesapeake Bay waters, and may continue to be subject to interactions with pound net gear, which would make this reporting requirement applicable. It is possible that fishermen are not complying with the mandatory reporting requirements. The estimates for reporting were based on the best available information from previous studies with sea turtles and pound net gear.

The anticipated number of sea turtles taken annually in pound net operations is 400 loggerheads, 80 Kemp's ridleys, and 1 green taken in pounds (all live and uninjured), plus 1 loggerhead, Kemp's ridley, green, or leatherback in leaders (assumed to be dead). Therefore, a total of 482 turtles are anticipated to be taken by this action per year. If an animal is found injured or dead, the fishermen are first required to report the incident to NMFS, and then to the appropriate stranding and rehabilitation facility. As such, for the 1 animal that may be found dead, 2 reports for that turtle will be made. **As a result, 483 reporting calls (482 to NMFS plus 1 to stranding network) should be completed each year.**

The number of respondents was calculated by determining the average number of licensed pound net fishermen in the Virginia Chesapeake Bay. Information obtained from the Virginia Marine Resources Commission (VMRC) found that the average number of pound net fishermen fishing in Pound Net Regulated Areas I and II (at any time of the year) from 2006 to 2010 was 27, with a

range of 23 (in 2008) to 31 (in 2006) fishermen. The average number of fishermen was calculated based on year round activity, as the reporting requirements is year round, but it is likely that sea turtle reports will only occur in the warmer months when sea turtles are present in the Virginia Chesapeake Bay (approximately May-November). **Based upon the best available information on the number of fishermen during the regulated period and area, the potential number of respondents was determined to be 27 fishermen.**

The hourly burden was calculated by assuming a phone call to NMFS or the stranding/rehabilitation facility will last for a maximum of 10 minutes. **Therefore, with 483 reports lasting 10 minutes per report, the hourly burden would be 4,830 minutes, or 80.5 (or 81) hours.** There will not be any additional information gathered besides what is conveyed verbally to NMFS or the stranding/rehabilitation facility.

13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in Question 12 above).

The cost burden was obtained by using the information on anticipated numbers of reports as presented in Question 12 and the following information:

An estimated 483 reports (calls) are anticipated to be conducted annually. The cost of a 10-minute call was estimated to be a maximum of \$2.50 per call (\$0.25 per minute). **Therefore, a total cost estimate was determined to be \$1,208** for all Virginia pound net fishermen annually. This estimate would be for each year for which information is to be collected. The previous cost of a call was estimated to be \$3.00; we have adjusted the cost down.

14. Provide estimates of annualized cost to the Federal government.

The estimated cost to the Federal government will be only in terms of staff hours. An anticipated 482 reports will be called in to NMFS, and each call is expected to last a maximum of 10 minutes. NMFS staff will be able to compile any written report/notes during this phone call. As such, the total hourly burden on NMFS would be 80. The financial burden would depend upon the pay band level of the party answering the phone call. **As the staff fielding these calls likely will be pay band level III, approximately 80 hours of work (about 2 weeks at an approximately \$40/hour rate) would cost the Federal government approximately \$3,200.** However, this task would be included in the respective staff's performance plan and would not be an additional monetary requirement (as it is included in the staff's current salary).

15. Explain the reasons for any program changes or adjustments.

Adjustments: The current burden estimate is lower than in 2009 (81 compared to 102 hours), because the estimate is based upon the number of pound nets in the regulated area and the number of pound nets has decreased since the last estimate (based upon best available information). The burden per report is the same. The number of respondents has decreased from 41 to 27, based on new information on the number of Virginia pound net licensees in the action area. Additionally, the annual cost burden for all respondents has decreased from \$1,827 to \$1,208, due to the decrease in the overall number of anticipated reports, as well as to a re-

estimate of the cost of a call. In summary, these estimate variations are not a result of program changes but instead, adjustments, based on new, updated, information.

16. For collections whose results will be published, outline the plans for tabulation and publication.

The results of this information collection are not anticipated to be published.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

This item is not applicable to this information collection request.

18. Explain each exception to the certification statement.

This item is not applicable to this information collection request.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This information collection request does not employ statistical methods.