

**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 revision and extension of this information collection. There is a significant burden increase based on a new estimate.

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. On March 31, 2018, a revised Biological Opinion on NMFS gear regulations in the Virginia pound net fishery was completed pursuant to section 7 of the Endangered Species Act of 1973, as amended (ESA). An Incidental Take Statement was included in this Biological Opinion, 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 the Incidental Take Statement 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](#) (ESA). 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 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 Greater Atlantic Regional Fisheries Office (GARFO) Protected Resources Division and then distributed to the NMFS Northeast Fisheries Science Center (NEFSC) 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 993 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 GARFO, 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 this information collection, 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, and forwards them to NMFS. 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 assumed to be 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 993 reports (averaging 28 per respondent annually), 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 GARFO and NEFSC 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 993 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 April 16, 2018 (83 FR 16329) solicited public comment. Public comments were due June 15, 2018. One public comment was received, recommending NMFS continue to require pound net fishermen to report interactions with sea turtles.

The notice was also posted on the Mid-Atlantic Fishery Management Council website on April 20, 2018 (under *Council News*). The announcement included a summary of the information collections included in this renewal and encouraged affected parties to submit comments on the Federal Register Notice. No comments were received.

In addition, on April 20, 2018, NMFS staff reached out to two Virginia pound net fishermen to assess the clarity and suitability of this data collection. Both fishermen said the reporting format and instructions are clear, the amount of time to make the report (e.g., 10 minutes) is sufficient, and the number of anticipated reports (and number of pound nets fished in the Virginia Chesapeake Bay) is probably high. We recognize that the number of reports is likely high as it was based upon the maximum number of pound net licenses, but in the absence of additional data, we chose to go with the best available information and a more conservative assessment of possible reports.

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.

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 http://www.corporateservices.noaa.gov/ames/administrative_orders/chapter_216/216-100.html 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. There is a maximum of 161 total pound net licenses issued in Virginia, where one license is assigned to each pound net (VMRC regulation 4 VAC 20-600-10). As such, a maximum of 161 pound nets may be set in the reporting area. Given the available information, the anticipated level of annual take in all pounds in the action area is 805 loggerhead sea turtles ($=161 \text{ pounds} * 5 \text{ turtles/net}$). The average number of Kemp's ridleys taken in the Potomac River pound nets was 2.2 turtles per year ($=44 \text{ turtles}/20 \text{ years}$), 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 161 Kemp's ridley sea turtles ($=161 \text{ pounds} * 1 \text{ turtles/net}$) for all pounds in the action area. NMFS further anticipates that 16 green turtles could be captured in all of the pounds of pound net gear annually. Up to one mortality is anticipated for each species. Additionally, based upon previous level of entanglement in the spring and scientific studies, NMFS anticipates that one loggerhead, one Kemp's ridley, one green, and 8 leatherback sea turtles 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 for the loggerhead, Kemp's ridley and green turtles, but only 4 of the 8 entanglements are anticipated to be lethal for leatherbacks.

There have been few reports to NMFS of sea turtle interactions in Virginia pounds. 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 806 loggerheads, 162 Kemp's ridleys, 17 greens, and 8 leatherbacks. Therefore, a total of 993 turtles are anticipated to be taken by this action per year. Of those 993 turtles, 10 interactions may be lethal. 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 (so 2 calls will be made). As such, for the 10 turtles that may be found dead, 2 reports for each turtle will be made. **As a result, 1003 reporting calls (993 to NMFS plus 10 to stranding network) should be completed each year.**

The number of respondents was calculated from the number of individual licensed pound net fishermen in Pound Net Regulated Areas I and II. This information, obtained from the Virginia Marine Resources Commission (VMRC) on April 5, 2018, includes the best available information on the number of possible respondents in the regulated area year round. The number of respondents was calculated based on the existence of a license (year round use), 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). The potential number of respondents was determined to be 35 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 1003 reports lasting 10 minutes per report, the hourly burden would be 10,030 minutes, or 167 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 recordkeepers 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 1003 reports (calls) are anticipated to be conducted annually. As of April 4, 2018, the best available information indicates that a phone call (Skype credit / pay as you go) costs 2.3 cents/minute. As such, the cost of a 10-minute call was estimated to be a maximum of \$.23 per call. Therefore, a total cost estimate was determined to be \$231 for 1003 calls for all Virginia pound net fishermen annually. This estimate would be for each year for which information is to be collected.

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 993 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 166. 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 (equating to approximately grade 12, step 10), approximately 166 hours of work (about 4 weeks at an approximately \$50/hour rate) would cost the Federal government approximately \$8,300. 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.

This information collection is an extension of a requirement begun in 2002, and then extended in 2006, 2009, 2012, and 2015.

From the last estimate to this current information collection, the total number of reports estimated has increased from 483 to 1003. This increase was a result of using the maximum number of possible licensed pound net sites per Virginia fishery regulations (n=161) on which to base our information collection estimate, rather than the number of documented sites from previous NMFS monitoring efforts (n=80). We determined that the latter was potentially outdated and may be an underestimate. As a result, the total annual burden hours has increased from 81 to 167. Additionally, the annual cost burden for all respondents has increased from \$111 to \$231, because the maximum number of pound net sites in Virginia was used to estimate responses and cost estimates of reporting. The cost of a phone call is the same as previously estimated. The number of respondents has decreased from 37 to 35, based on updated information on the number of Virginia pound net licensees in the action area. In summary, these estimate variations are not a result of program changes but instead a result of 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.