

SUPPORTING STATEMENT
U.S. Department of Commerce
National Oceanic & Atmospheric Administration
Reporting of Sea Turtle Incidental Takes in Virginia Chesapeake Bay Pound Net Operations
OMB Control No. 0648-0470

Abstract

This request is for extension of a current information collection. This action would continue the reporting measure requiring all Virginia Chesapeake Bay pound net fishermen to report interactions with endangered and threatened sea turtles, found both live and dead, in their pound net operations. This reporting is required under Endangered Species Act (ESA) regulations, and is necessary to ensure sea turtles are being conserved and protected, as mandated by the ESA. When a live or dead sea turtle is discovered during a pound net trip, the Virginia pound net fisherman is required to report the incidental take to National Marine Fisheries Service (NMFS) and, if necessary, the appropriate rehabilitation and stranding network. This information will be used to monitor the level of incidental take in the state-managed Virginia pound net fishery and ensure that the seasonal pound net leader restrictions (50 CFR 223.206(d)(10)) are adequately protecting listed sea turtles. Based on the number of sea turtle takes anticipated in the Virginia pound net fishery and the available number of Virginia pound net fishermen and pound nets, the number of responses anticipated on an annual basis is 1,003.

Justification

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

This request is for extension of this information collection.

Since 2002, the National Oceanic and Atmospheric Administration's (NOAA) National Marine Fisheries Service (NMFS) has promulgated several rules under the Endangered Species Act (ESA) authority, 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 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 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. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

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 about 1,000 times annually. If an animal is found injured or dead, the fisherman will first report the incident to NMFS, and then to the appropriate stranding and rehabilitation facility (e.g., the Virginia Aquarium and Marine Science Center). 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 through November, so reporting is expected to occur only during those warmer months. Reporting will only occur when a turtle is found, anticipated to be only occasional during the 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 the Greater Atlantic 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).

This is a continuation of an existing information collection. The requirements have not changed over time. To date, not many sea turtles have been reported in pound net gear. We are not certain whether that is because fishermen are not reporting or turtles are not being captured in the gear (likely the former so additional outreach is intended in the near future). For those reports that we have received, we have used that information to monitor the Incidental Take Statement, track compliance with the regulations, and assess the status of sea turtles in Virginia.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also, describe any consideration of using information technology to reduce burden.

The collection of information in question involves reporting the take of sea turtles via a telephone call or

electronic mail. This method of reporting is an effective means to collect this information. It is believed that Virginia pound net fishermen will have an easier time reporting via a telephone call, but collecting the desired information can also occur via electronic mail.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Question 2.

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 impacts small businesses or other small entities, describe any 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 through November), short duration of the reporting call (~10 minutes), and the reporting by telephone or email.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

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. 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 of 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 Greater Atlantic Region sea turtle program.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner that is inconsistent with OMB guidelines.

The collection of this information may require respondents to report information to the agency more often than quarterly. 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 through 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.

8. If applicable, provide a copy and identify the date and page number of publications in the Federal Register of the agency's notice, required by 5 CFR 1320.8 (d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

A Federal Register Notice published on June 10, 2021 (86 FR 30918) solicited public comment. Public comments were due August 9, 2021. One comment was received. The commenter focused on the discrepancy between the take numbers received from the fishermen and reported to NMFS compared to what is anticipated in the Incidental Take Statement of the Virginia pound net Biological Opinion (which is the same as the anticipated estimate for this PRA request). The commenter recommended NMFS investigate ways to independently verify the incidental catch of protected species. There were no comments on the cost and hour burden. We recognize that the reported numbers are much lower than the anticipated takes in Virginia pounds and we suspect that there are more turtles being caught in pounds than are being reported. We will be continuing our outreach efforts to address this, and work with the fishing industry as well as the STSSN and Office of Law Enforcement to ensure accurate reporting.

In terms of other queries for comments, NMFS staff previously 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.

In addition, the notice was posted on the Mid-Atlantic Fishery Management Council website on June 22, 2021 (under News). See <https://www.mafmc.org/newsfeed/2021/prarequest-for-comments-va-poundnets>. The announcement included a summary of the information collection included in this renewal and encouraged affected parties to submit comments on the Federal Register Notice. No comments were received.

9. Explain any decision to provide any payment or gift 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 the assurance in statute, regulation, or agency policy. If the collection requires a systems of records

notice (SORN) or privacy impact assessment (PIA), those should be cited and described here.

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. We only plan on collecting the fisherman's name and phone number, and information on the gear and sea turtle.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior or attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

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

12. Provide estimates of the hour 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 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 161 Kemp's ridley sea turtles (=161 pounds * 1 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 actual 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 reported. 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, 1,003 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 May 17, 2021, 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 37 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 1,003 reports lasting 10 minutes per report, the hourly burden would be 10,030 minutes, or 167 hours. These 167 hours would likely be divided among the 37 respondents, but the specific allocation is unknown. There will not be any additional information gathered besides what is conveyed verbally to NMFS or the stranding/rehabilitation facility. Using the U.S Bureau of Labor Statistics May 2020 wage calculator and the mean hourly wage for Farming, Fishing, and Forestry Occupations (\$16.02/hour), the annualized cost to all respondents for this 167 hours would be \$2,675.34.

Information Collection	Type of Respondent (e.g., Occupational Title)	# of Respondents (a)	Annual # of Responses / Respondent (b)	Total # of Annual Responses (c) = (a) x (b)	Burden Hrs / Response (d)	Total Annual Burden Hrs (e) = (c) x (d)	Hourly Wage Rate (for Type of Respondent) (f)	Total Annual Wage Burden Costs (g) = (e) x (f)
Reporting of Sea Turtle Incidental Takes	Farming, Fishing, and Forestry Occupation	37	27	1,003	10min	167	\$16.02	\$2,675.34
Totals				1,003		167		\$2,675

13. Provide an estimate for the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden already reflected on the burden worksheet).

There is no anticipated cost burden to respondents for this collection as most reports are made via phone call.

14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information.

Cost Descriptions	Grade/Step	Loaded Salary /Cost	% of Effort	Fringe (if Applicable)	Total Cost to Government
Federal Oversight	ZP-3	\$187,200	7%		\$13,104
Other Federal Positions					
Contractor Cost					
Travel					
Other Costs:					
TOTAL					\$13,104

15. Explain the reasons for any program changes or adjustments reported in ROCIS.

Miscellaneous costs (\$231) have been removed from this collection since it is expected that all respondents have access to a cell phone for reporting purposes.

16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

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 that display would be inappropriate.

This information has no forms, so is unable to display the expiration date.

18. Explain each exception to the certification statement identified in "Certification for Paperwork Reduction Act Submissions."

The agency certifies compliance with [5 CFR 1320.9](#) and the related provisions of [5 CFR 1320.8\(b\)\(3\)](#).