



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XF734]

Endangered Species; File No. 29773

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

ACTION: Notice of availability; request for public comments.

SUMMARY: NMFS received a request from Virginia Electric and Power Company, doing business as Dominion Virginia Power (Dominion) for renewal of an incidental take permit, pursuant to the Endangered Species Act (ESA), for activities associated with the otherwise lawful continued operation and maintenance of the Dominion Chesterfield Power Station in Chesterfield, VA. We are publishing this notice to inform the public that we are considering renewing the permit for a period of 10 years to authorize additional take of Atlantic sturgeon (*Acipenser oxyrinchus oxyrinchus*) from the Chesapeake Bay Distinct Population Segment.

DATES: Comments must be received no later than [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: The application is available for download and review at <https://www.fisheries.noaa.gov/national/endangered-species-conservation/incidental-take-permits> and at <http://www.regulations.gov>. The application is also available upon request (see **FOR FURTHER INFORMATION CONTACT**).

You may submit comments, identified by NOAA-NMFS-2026-1420, by either of the following methods.

- Electronic Submissions: Submit all electronic public comments via the Federal e-Rulemaking Portal <https://www.regulations.gov> and type NOAA-NMFS-2026-1420 in

the Search box. Click the “Comment” icon, complete the required fields, and enter or attach your comments.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the specified period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on <https://www.regulations.gov> without change. All personal identifying information (e.g., name, address, etc.) confidential business information, or otherwise sensitive or protected information submitted voluntarily by the sender is publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Lynn Lankshear,
Lynn.Lankshear@noaa.gov or (978) 282-8473.

SUPPLEMENTARY INFORMATION:

Dominion is requesting a renewal of an Incidental Take Permit (previously Permit No. 21516-02) for authorization to incidentally take up to 109,490 sturgeon larvae and up to 183,630 non-viable sturgeon eggs over 10 years because of the otherwise lawful operation of the Chesterfield Power Station in Virginia. Dominion is proposing to monitor the take of sturgeon eggs and larvae as well as to minimize or mitigate, to the maximum extent practicable, the impacts of incidental take to the Chesapeake Bay Distinct Population Segment (DPS) of Atlantic sturgeon. Take of adult sturgeon is not expected because of the changes that Dominion previously made to the intake guards (85 FR 36563; June 17, 2020). Dominion will, however, continue to monitor for the take of adult sturgeon.

Background

The Chesterfield Power Station is a gas-fueled power station in Chesterfield, Virginia in the upper tidal portion of the James River. Two sturgeon larvae were

entrained and one adult, released alive, was impinged at Chesterfield Power Station in 2015. Section 9 of the ESA and Federal regulations prohibit the “take” of Atlantic sturgeon belonging to the Chesapeake Bay DPS. The ESA defines “take” to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. Under section 10(a)(1)(B) of the ESA, we may issue permits to authorize incidental take. “Incidental take” is defined by the ESA as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity.

We issued Dominion’s first incidental take permit for take at the Chesterfield Power Station (Permit No. 21516) on December 10, 2020. The permit authorized the incidental take of up to 54,745 Atlantic sturgeon larvae by entrainment based on an estimated annual take of 10,949 larvae (86 FR 1945). We completed an Environmental Assessment (EA) under the National Environmental Policy Act (NEPA) and made a finding that there would be no significant impacts (NMFS 2020). The permit was modified and reissued in 2023 because of operational changes to the Chesterfield Power Station, including retirement of some of the power generating units (88 FR 82324; November 24, 2023). The permit was further modified and re-issued in 2025 to include authorization for the incidental take of non-viable Atlantic sturgeon eggs at Chesterfield Power Station (90 FR 51663; November 18, 2025). We completed a Supplemental Information Report for each of the permit modifications in which we described why there was no need to supplement the 2020 EA and finding of no significant impacts (NMFS 2023; NMFS 2025).

Dominion’s incidental take permit, Permit No. 21516-02, expired as of December 30, 2025. Dominion anticipates that entrainment of sturgeon eggs and larvae will continue to occur at Chesterfield Power Station each fall because water withdrawals from the James River are necessary for operation of the remaining power generating units. Dominion applied for a renewal of their incidental take permit on December 10, 2025,

which, if approved by NMFS, will result in issuance of a new permit. Consistent with 50 CFR 222.304, Permit No. 21516-02 remains in effect, and Dominion may continue activities authorized under that permit, during NMFS's consideration of Dominion's timely renewal application, which included a statement of changes submitted more than 30 days prior to the permit's expiration.

Conservation Plan

Dominion's proposed Conservation Plan describes the measures for monitoring the take of Atlantic sturgeon at the Chesterfield Power Station, as well as for minimizing or mitigating, to the maximum extent practicable, the impacts of the taking.

To monitor the take, Dominion will continue the measures that it has carried out under the previous permit and its modifications, including conducting dive inspections of the intake guards before the Atlantic sturgeon fall spawning season and carrying out entrainment sampling during the fall spawning season.

To minimize or mitigate for the impacts of the taking, Dominion proposes to continue and advance three studies. Dominion would continue to support the Sturgeon Movement Research Study, utilizing the real-time data to minimize the entrainment of sturgeon eggs and larvae at Chesterfield Power Station. For example, real-time data is used to schedule maintenance outages when sturgeon eggs and larvae are likely in the vicinity of the Chesterfield Power Station cooling water intake structures. Dominion would also continue to support the continuation of the Genetic Relationship Research Study, including preservation of the genetic material and the genetic data from entrained sturgeon eggs and larvae, to inform management of the Chesapeake Bay DPS of Atlantic sturgeon (*e.g.*, minimum counts of the number of females that spawned in each spawning season). Dominion would continue to carry out the Digital Holography Entrainment Pilot Study, as described in their Conservation Plan, to inform alternative, non-lethal, methods

that could improve data collection and estimation of the number of Atlantic sturgeon eggs and larvae that are entrained annually at Chesterfield Power Station.

Dominion's proposed Conservation Plan includes potential changes to its Virginia Pollution Discharge Elimination System (VPDES) permit as a "Changed Circumstance." Permit No. 21516 was issued for 5 years, in part to prevent the preclusion of operational changes at Chesterfield Power Station that might have been required for Dominion to meet the Best Technology Available standard of any future VPDES permit. Dominion anticipated that the VPDES permit would be issued during that 5-year period (*i.e.*, 2020-2025). However, it was not issued and Dominion's VPDES permit is still pending. Dominion is requesting a new 10-year incidental take permit based on the additional 5 years of data that improve estimates of sturgeon take and provide a more robust basis for evaluating effects over the requested permit duration. This longer permit duration, if approved, will not preclude changes to the Conservation Plan that may be necessary for Dominion to be in compliance with the requirements of a new VPDES permit because Dominion has included this possibility in the "Changed Circumstances" of the proposed Conservation Plan.

National Environmental Policy Act

In compliance with NEPA, we analyzed the impacts of the proposed issuance of an incidental take permit and the Conservation Plan. We prepared a draft Supplemental Information Report that describes why there is no need to supplement the 2020 EA of the previous incidental take permit and the finding of no significant impacts. The draft Supplemental Information Report evaluates whether the extended permit duration, updated take estimates, and additional information constitute significant new circumstances or information requiring supplementation under 40 CFR 1502.9(d). We have made the draft Supplemental Information Report available for public inspection online (see **ADDRESSES**).

We will also evaluate whether issuance of the permit would comply with section 7 of the ESA by conducting an intra-Service section 7 consultation. We will use the results of this consultation, in combination with the above findings, in our final analysis. If the requirements are met, we will issue the modified permit to the applicant.

We will publish a record of our final action in the **Federal Register**.

Authority: This notice is provided pursuant to section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and NEPA regulations (40 CFR 1506.6).

Dated: May 6, 2026.

Michael Pentony,

Regional Administrator,

Greater Atlantic Regional Fisheries Office,

National Marine Fisheries Service.