

**SUPPORTING STATEMENT
IMPLEMENTATION OF VESSEL SPEED RESTRICTIONS TO REDUCE THE
THREAT OF SHIP COLLISIONS WITH NORTH ATLANTIC RIGHT WHALES
OMB CONTROL NO. 0648-0580**

A. JUSTIFICATION

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

This request is to renew the collection-of-information requirements.

The North Atlantic right whale is a highly depleted species; only about 300 individuals exist. Collisions with vessels (i.e., “ship strikes”) are a major cause of serious injury and death, and therefore are the greatest threat to the species: 19 known ship strikes-related right whale deaths occurred between 1986 and 2005; the actual number is almost certainly higher as not all carcasses are detected. Evidence implicates vessel speed as a primary factor in the strikes and indicates that the occurrence and severity of ship strikes can be reduced if vessels are traveling 10 knots or less. As a result, National Oceanic and Atmospheric Administration’s (NOAA), National Marine Fisheries Service (NMFS) has promulgated regulations to restrict vessel speed in certain times and locations along the United States (U.S.) eastern seaboard to reduce the threat of lethal ship collisions with North Atlantic right whales. Ships are required to travel at 10 knots or less in certain key areas where right whales occur.

In a proposed rulemaking in keeping with the goals of the Marine Mammal Protection Act (MMPA) and the Endangered Species Act (ESA), NMFS requested comments on the vessel speed restrictions. Public and interagency comment on a proposed rule indicated that in certain sea and weather conditions, a large ship may lose maneuverability at such speeds. Therefore, NMFS decided that under such conditions a ship, at the captain’s discretion, may opt not to abide by the speed restrictions. If she/he chooses this option, she/he is required to make an entry into the ship’s log, providing such information as: the reasons for the deviation, the speed at which the vessel is operated, the area, and the time and duration of such deviation. The United States Coast Guard (USCG) will collect information from the log book during routine port boardings.

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.

The information will be collected by USCG personnel, or in some cases NOAA’s Office of Law Enforcement (OLE), during routine ship boardings. The USCG will make note of location(s) and circumstance(s) for not adhering to speed restrictions and provide the information to the NMFS and/or NOAA’s OLE. NMFS will review the information and if warranted (i.e., failure to adhere to required speed limits in situations when to do so would not affect maneuverability) will issue a letter for each violation reminding the ship captain and agent the need for the restrictions and possible fines that could be levied for subsequent violations. If failure to adhere to the restrictions was warranted (i.e., sea and wind conditions threatened vessel maneuverability), NMFS will retain the information for later analysis (e.g., on a quarterly or

annual basis) of the number of times conditions prevented captains from adhering to the restrictions.

As explained in the preceding paragraphs, the information gathered has utility. 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.

There will be no use of electronic, automated, or mechanical techniques used in information collection. The information will be noted in the ship's log and retained as vessel records.

4. Describe efforts to identify duplication.

The restrictions promulgated by this rulemaking are new. No such restrictions exist. Therefore, duplication of this type of recordkeeping is not possible.

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

This requirement does not create undue burden for small businesses. It is the minimum requirement necessary for this purpose.

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

This recordkeeping is essential to the program and to the protection of endangered north Atlantic right whales.

As noted above, vessel speed restrictions are vital to reducing the threat of ship strikes to right whales. Exceptions have been granted in certain circumstances. Logbook notations will be the only means to assess if, when and how often restrictions were not adhered to due to poor weather or high sea state. Also, it is the only means through which NMFS will be able to assess whether a lack of compliance was legitimate. Without this measure, ship's captains may choose not to comply, and the promulgating and regulation enforcing agency would have no recourse. Conducting the recordkeeping less frequently would vitiate the purpose of providing the exemption.

As noted below, logbook entries for this purpose are expected to take on the order of minutes, in situations and by means that are routinely and periodically made by ships' crews. Therefore, the requirement is not expected to be overly burdensome and conducting it less frequently is not expected to significantly relieve burden to recordkeepers.

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

None.

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.

The recordkeeping requirement described above was necessitated by a change in the rulemaking between the proposed and final rules. The need was identified as a result of public and interagency comment. That is, the exemption to the speed restrictions, and therefore the need for the new recordkeeping, was not contemplated until the need to modify the rule arose during public comment on a proposed rule.

On October 10, 2008, NMFS published a final rule implementing speed restrictions to reduce the incidence and severity of ship collisions with North Atlantic right whales (73 FR 60173). On October 30, 2008, OMB approved the collection-of-information requirements contained in the October 10, 2008, final rule on an emergency basis, with an expiration date of April 30, 2009. A renewal notice for public comment was included in the final rule. No comments were received.

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

None.

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

Information provided by respondents will not include personal or other confidential or private data. In addition, once recorded by the respondent, the information will be gathered only by USCG personnel or NOAA OLE officers. These government officers are accustomed to handling information confidentially and their agency policies stipulate information be held in confidence. In addition, confidentiality of the information is authorized by the Magnuson-Stevens Fishery Conservation and Management Act (MSA), Section 402(b).

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.

No such information will be collected.

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

An estimated 3,047 respondents are expected to make the required notations/records, annually, with each response taking approximately 5 minutes. Therefore, NMFS estimates the annual burden of information collection to the Federal government is **254 hours**, annually.

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).

There is no cost to the respondents other than the labor cost of making the logbook entries.

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

The record keeping requirement is expected to have no cost to the Federal government that is not already subsumed in ordinary Federal personnel duties.

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

No changes or adjustments.

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

The information will not 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.

N/A.

18. Explain each exception to the certification statement identified in Item 19 of the OMB 83-I.

NA.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

No statistical analysis will be performed on the collected information.