

SUPPORTING STATEMENT

U.S. Department of Commerce

National Oceanic & Atmospheric Administration

Implementation of Vessel Speed Restrictions To Reduce the Threat of Ship Collisions with North Atlantic Right Whales OMB Control No. 0648-0580

Abstract

This request is for a revision to a current information collection. Collisions with vessels continue to be a source of serious injury and mortality for the endangered North Atlantic right whale and are a threat to the species' recovery. On October 10, 2008, NMFS published a final rule (0648-AS36) implementing seasonal speed restrictions along the east coast of the U.S. to reduce the incidence and severity of vessel collisions with North Atlantic right whales (73 FR 60173). The final rule contained a mandatory collection-of-information requirement subject to the Paperwork Reduction act (PRA), which collects information about safety deviations from the rule in alignment with 50 CFR 224.105(c). This revision to the current information collection includes a voluntary survey effort of individuals in the vessel community to evaluate the ability and willingness of vessel operators to: (1) Comply with the rule's mandatory speed restrictions, and (2) cooperate with voluntary speed reduction efforts to protect North Atlantic right whales, which are promoted through NMFS outreach efforts. We will collect information from two size types of vessels in two different areas of the North Atlantic right whales' range using voluntary online surveys and small focus groups. Results from this information collection will support NMFS' ability to develop effective outreach for vessel communities, with the long-term goal of improving the communities' compliance and cooperation with North Atlantic right whale vessel strike reduction conservation efforts.

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.

On October 10, 2008, NMFS published a final rule (0648-AS36) implementing seasonal speed restrictions along the east coast of the U.S. to reduce the incidence and severity of vessel collisions with North Atlantic right whales (73 FR 60173) (hereafter "[speed rule](#)"). . The speed rule requires most vessels equal to or greater than 65 feet in length to transit at speeds of 10 knots or less in designated Seasonal Management Areas (SMAs). Ten SMAs were designated along the US East Coast to coincide with temporal trends in right whale habitat use. Vessels exempt from the speed rule include vessels owned, operated or contracted by the federal government and vessels engaged in enforcement or search and rescue activities. Under limited circumstances, vessels subject to the rule may deviate from the speed restriction to maintain safe maneuvering speeds. Specifically, 50 CFR 224.105(c) provides for a safety deviation from the 10-knot seasonal speed limit if poor weather or sea going conditions severely restrict the maneuverability of a vessel. Under such conditions, a vessel master may opt to maintain a speed in excess of the speed restriction, if required for safety, provided a signed entry is made in the vessel logbook detailing the reasons for the deviation, the speed at which the vessel is operated, the area, and the time and duration of such deviation.

In addition to the mandatory speed rule, NMFS implements the voluntary [Dynamic Management Area \(DMA\) and Right Whale Slow Zones programs](#) to provide temporary protection for right whale aggregations that may form outside of designed SMA boundaries. The DMA program was first launched with the speed rule in 2008. A DMA is triggered when a group of three or more right whales are sighted

in close proximity. Following the trigger, NMFS establishes a 15-day DMA boundary around the area where the whales were sighted and encourages vessels to avoid the area or transit through at speeds of 10 knots or less. In 2020, NOAA launched the Right Whale Slow Zone program. Right Whale Slow Zones are triggered by both right whale visual sightings (i.e., DMAs) and confirmed North Atlantic right whale detections from acoustic receivers. Under this program, NMFS provides maps and coordinates to vessel operators indicating areas where right whales have been detected (i.e., visually or acoustically). Mariners are encouraged to avoid these voluntary areas or reduce speeds to 10 knots or less while transiting through these areas for 15 days.

In 2013, after removing the “[sunset clause](#)” from the speed rule designed to protect right whales, NMFS committed to publish and seek comment on a report evaluating the conservation value and economic and navigational safety impacts of the rule. This [evaluation was release in 2021](#) and indicates varying levels of compliance across areas (both mandatory SMAs and voluntary DMAs along the US East Coast) and vessel type. While there has been an overall reduction in vessel strike of North Atlantic right whales since the implementation of this rule, in the last two years three calves and one adult female were hit by vessels in U.S. waters indicating that further efforts are needed to reduce the risk of vessel strike to North Atlantic right whales.

Successful compliance and cooperation with mandatory and voluntary right whale vessel-speed measures require vessel operator awareness and comprehension. To this end, NMFS and its partners have developed a broad suite of initiatives to inform and educate vessel operators about these important measures that support right whale conservation. These initiatives include enforcement actions (for mandatory measures), real-time awareness of right whale sightings, engagement with the professional maritime community, reminders in advance of seasonal restrictions, notices of dynamic actions, and corporate responsibility programs.

While feedback regarding these measures indicates success in reaching some members of vessel communities, NMFS has not rigorously evaluated the effectiveness of outreach efforts within regulated vessel communities. As noted above, preliminary vessel compliance data indicate a need to improve cooperation with right whale mandatory and voluntary vessel-speed measures. There is a need for better understanding the human dimension of compliance and cooperation, including what motivates and inhibits compliance and the effectiveness of outreach materials that announce and explain speed rules and voluntary speed measures. Through investigation of target vessel communities, NMFS seeks to understand what efforts may enhance compliance mandatory rules and cooperation with voluntary speed measures.

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.

The information collected from the logbooks is not provided to the public.

Logbook entries can be used for enforcement of the vessel speed rule. During routine investigations into potential violations of the speed restrictions, logbook information may be provided by a vessel operator to the NOAA Office of Law Enforcement (OLE) to demonstrate the validity of a speed deviation.

The nature of this data collection is inherently ad hoc since mariners only need to make logbook entries in unpredictable circumstances when a vessel needs to deviate from the speed limit to maintain safe operations. Given the nature of this collection, it is challenging to specify how frequently a mariner may need to make a logbook entry or how frequently it may be used as part of law enforcement

investigations.

The information that will be collected from survey respondents and focus group participants includes:

- Demographic questions, including: age, profession, level of education, years living in region, type(s) and length of experience boating in the region, frequency of boating during different time periods, most common transit speeds, and the length of time since last boating safety class/course.
- Questions regarding experiences with large whales, including how frequently boaters see large whales while boating and details about sightings if/when they occur. Details include how difficult/easy it is to avoid large whales, if the boater has ever recognized/identified a right whale, and if the boater is aware of options for reporting whale sightings.
- Questions regarding boater opinions on right whales in particular.
- Questions regarding Seasonal and Dynamic Management Areas/Right Whale Slow Zones in order to learn more about how familiar boaters are with these conservation measures.
- Questions regarding the importance of boating to the survey respondent and how boating relates to their personal life, economic life, and livelihood. No exact numbers or details will be asked in these questions. Rather, respondents will be asked to answer questions via a likert scale (i.e., strongly disagree - disagree - neutral - agree - strongly agree).
- A final question will let respondents fill in any “additional comments or feedback.”

This information will be collected from operators of pleasure vessels/large yachts and large ocean-going vessels (container ships, tankers, bulk carriers, cruise ships, vehicle carriers and general cargo vessels).

Information will be collected in two ways. Surveys will be administered electronically to the pleasure vessels/large yacht community. Focus group information will be collected in person or virtually during 2.5-hour face-to-face or virtual meetings with the large ocean-going vessels community.

NOAA will use this information to improve educational outreach materials pertaining to vessel strike reduction efforts. This may include, but are not limited to, changes to outreach materials associated with mandatory Seasonal Management Areas, or the voluntary Dynamic Management Areas and Right Whale Slow Zones.

Survey respondents can provide information via the electronic survey form. Focus group respondents can provide information during the focus group verbally, via written comments, and via a written survey during the focus group. Both groups are also given the option to email the provided affiliated NOAA contact with additional comments or questions.

The surveys will be administered one time over one boating season. The focus groups will be conducted no more than one time in two separate geographic areas (i.e., a northern and southern focus group with vessel operators that travel through Seasonal Management Areas in these two portions of the right whale range).

The information will be shared in aggregated form with participants of the survey and the public. Specifically, NMFS usually shares the results from these types of studies with advisory committees, such as recovery teams and scientific review groups to provide updates on planning with regard to

outreach activities that support management efforts.

This survey (and focus group) effort is not an ongoing collection.

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.

For the logbooks there is no use of electronic, automated, or mechanical techniques.

The collection of survey information will be done electronically. This reduces costs of administering surveys, broadens the pool of potential survey respondents, and reduces harm by adhering to social distancing efforts in the midst of the COVID-19 pandemic. The focus groups are expected to be a part of the second option of our contract. Depending on when these occur, they may be planned virtually, for safe participation, or in-person if conditions are appropriate to safely meet in a small group.

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

This information, for both the logbooks and the survey efforts, has not been collected elsewhere and is specific to North Atlantic right whale vessel speed reduction efforts. The need for a logbook entry is a unique, “one off” event based on real-time sea and weather conditions. As such, the entries are never duplications.

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

Logbook entries are only required in occasional circumstances when a vessel must exceed the speed rule to maintain safe operations. These events are sporadic and should only take a mariner about 5 minutes to complete the necessary logbook entry. We do not anticipate that this requirement should burden any small businesses or small entities.

As to the voluntary survey efforts, to the best of our knowledge, the information collected will not impact small businesses.

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.

The logbook recordkeeping is essential to speed restriction program. If a deviation from the speed rule is needed, logbook entries will be the only means to assess if, when and how often restrictions were not adhered to due to poor weather or sea conditions. The logbook entry is also the only means by which NOAA OLE can assess whether a lack of compliance was legitimate. Without this measure, vessel masters may choose not to comply with the vessel speed restriction and NOAA OLE would have no recourse. Conducting the recordkeeping less frequently is not an option as the logbook entries need to be made at the time of each unique deviation event.

Collisions with vessels continue to be a source of serious injury and mortality for the endangered North Atlantic right whale and are a threat to the species' recovery. While there has been an overall reduction in vessel strike of North Atlantic right whales since the implementation of the speed rule, in the last two years three calves and one adult female were hit by vessels in U.S. waters indicating that further efforts are needed to reduce the risk of vessel strike to North Atlantic right whales. As the agency authorized to oversee recovery planning for this declining species, it is important that we take actions in an informed and expedited manner that will help to reduce the likelihood of vessel collisions with right whales. Understanding more about how vessel communities receive and perceive information about vessel speed reductions for right whales, will help us develop effective communication with these communities. Effective communication includes messaging that influences vessels to slow down in mandatory and voluntary speed zones. The timely execution of these surveys starting in summer 2021's boating season is critical to developing new messaging for upcoming seasons, in particular for the winter calving season when new born whales are particularly vulnerable to vessel strike. These efforts are needed to enhance public participation in conservation efforts for the protection of this species.

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

This collection will be conducted in a manner consistent with OMB guidelines.

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.

The 60-day Federal Register notice was published in the federal register on March 22, 2021 (86 FR 15202). NMFS received only one comment letter on this information collection.

Comment Summary: Oceana commented that NMFS must take immediate action to strengthen the 2008 Vessel Speed Rule to protect North Atlantic right whales from vessel strike and noted that NMFS should not use this time-consuming Paperwork Reduction Act process as a reason to delay the promulgation of new vessel speed measures.

Response: As noted in our [Species in the Spotlight plan for the North Atlantic right whale](#), outreach and education to mariner communities plays an important role in increasing compliance with mandatory speed restrictions and participation with voluntary speed reduction efforts. This Paperwork Reduction Act revision will help us improve communication to mariners ultimately helping to reduce vessel strike risk to these whales. We expect this effort is complementary to and would not interfere with any further vessel strike reduction efforts.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

We will not provide payment or gifts to respondents or participants.

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.

For the logbooks: Information provided by respondents does not include personal or other confidential or private data. If required for enforcement of the vessel speed rule, the information may be requested by NOAA OLE officers. Please note that the United States Coast Guard (USCG) has separate jurisdiction and authorities regarding access to vessel logbooks and as such may be privy to vessel logbook entries.

For the surveys: We will not collect Personal Identifiable Information. All information that could possibly be linked to a respondent or participant (e.g., the type of ship/boat operated) will only be presented publically in an aggregated manner so as to protect identities.

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.

We will not collect information that is sensitive in nature.

12. Provide estimates of the hour burden of the collection of information.

Electronic surveys will be collected from 1000 people in the first year of effort, which is determined to be 334 annually across the length of the PRA collection approval. The wage for electronic survey applicants was estimated using the BLS's Occupational Outlook Handbook for motorboat operators as noted below, because this collection will be directed towards recreational vessels. The Focus groups will be conducted during one year with 80 total participants, which is determined to be 27 annually across the length of the PRA collection approval. The wage for focus group survey applicants was estimated using the BLS's Occupational Outlook Handbook for captains, mates and pilots as noted below, because this collection is directed towards commercial ocean-going vessels. Respondents will only be asked to participate in these efforts once. The burden was estimated based on practicing in taking the survey, response is not expected to vary widely because questions are mostly multiple choice, and the second estimate based on planned meeting times with focus groups. Estimates for the electronic survey and focus group are based on 2021 rates from the website, but the previously approved, collection for safety deviation logbook entry is based on 2019 rates

Information Collection	Type of Respondent (e.g., Occupational Title)	# of Respondents/year (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)
Electronic Survey	Motorboat operators	334	1	334	1 hr	334	24*	8,016
Focus Group	Captains, Mates and Pilots of Water Vessels	27	1	27	2.5 hr	67.50	42**	2,835
Safety deviation logbook entry (previously approved)	Captains, Mates and Pilots of Water Vessels	3263	1	3263	5 min	272	31.49	8565.28
Totals				3624		674		19,416

*(category Motorboat Operators) <https://www.bls.gov/bls/blswage.htm>

** (category Captains, Mates, and Pilots of Water Vessels) <https://www.bls.gov/bls/blswage.htm>

*Cite official source of hourly wage rate - The estimate of average burden per response is based on expert review of proposed questions.

BLS's Occupational Outlook Handbook - a good wage source. <https://www.bls.gov/bls/blswage.htm>

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 are no capital/start-up or ongoing operation/maintenance costs associated with this information collection.

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.

Estimate includes Federal Oversight for contract, participation in survey review and summary review for multiple federal employees at the ZP III and II levels, and the overall contract costs for this multiple year effort.

Cost Descriptions	Grade/Step	Loaded Salary /Cost	% of Effort	Fringe (if Applicable)	Total Cost to Government
Federal Oversight	ZP IV	125000	1.4		1750
Other Federal Positions	ZP III	100000	1		1000
	ZP II	60000	1		600
Contractor Cost					139954
Travel					
Other Costs:					
TOTAL					143304

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

There are no changes to the previous approval of the collection with regard to the safety deviation logbook entry. This is the first time this information will be collected and therefore the first request for OMB approval for the survey efforts.

Information Collection	Respondents		Responses		Burden Hours		Reason for change or adjustment
	Current Renewal / Revision	Previous Renewal / Revision	Current Renewal / Revision	Previous Renewal / Revision	Current Renewal / Revision	Previous Renewal / Revision	
Safety deviation logbook entry	3,263	3,263	3,263	3,263	272	272	No changes
Electronic Survey	334	n/a	334	n/a	67.50	n/a	First/only time collection
Focus Group	27	n/a	27	n/a	272	n/a	First/only time collection
Total for Collection	3624	3263	3624	3263	674	272	
Difference	+361		+361		+402		

Information Collection	Labor Costs		Miscellaneous Costs		Reason for change or adjustment
	Current	Previous	Current	Previous	
Safety deviation logbook entry	\$8,565.28	\$8,565.28	0	0	No changes
Electronic Survey	\$8,016	n/a	0	n/a	First/only time survey collection
Focus Group	\$2,835	n/a	0	n/a	First/only time survey collection
Total for Collection	\$19,416	\$8,565	0	0	
Difference	+\$10,851		0		

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.

Information collected from the logbooks is not published.

The information collected will primarily be used to improve outreach materials, messaging, and methods of distribution of these materials. Summaries of the information gathered may be presented to advisory groups formed under the Endangered Species Act or the Marine Mammal Protection Act for North Atlantic right whale conservation. These presentations will be general and note how information gathered is supporting improvements to outreach efforts. The information collected will not be analyzed using statistical analyses or complex analytical techniques. The information collected may be directly included in outreach materials in an aggregate form that ensures anonymity if it is deemed useful to the purpose of the materials (i.e., improve awareness and compliance with North Atlantic right whale management areas and “slow zones.”

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.

The agency plans to display the expiration date for OMB approval of the information collection on all instruments.

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\(b\)\(3\)](#).