

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

SUPPORTING STATEMENT PART A

Abstract

This request is for an extension of 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).

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 operator 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 to each other outside of a SMA. 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, vessel strikes still remain a risk to North Atlantic right whales. Since 1999, NMFS has documented 25 right whale mortality and serious injury events involving vessel strikes that occurred in U.S. waters or were first seen in U.S. waters. Fourteen of these 25 lethal events were documented after the speed rule first went into effect in 2008, along with additional lethal events involving undetermined whale species, possibly North Atlantic right whales, 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 with 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). The [North Atlantic Right Whale Vessel Speed Assessment](#) categorized vessel types using the USCG AIS Encoding Guide and the IHS Markit Statcode 5 Shiptype Coding System. NOAA defines Ocean Going Vessels (OGVs) as the largest vessels in operation that are subject to the speed rule. They include only the following vessel types: tankers, cruise ships, container ships, vehicle carriers (commonly referred to as “roll on-roll off” or Ro-Ros), general cargo vessels and bulk carriers. Pleasure vessels/yachts fall into the mid-sized vessel category in the assessment (between 65 ft and less than 350 ft) where owners have identified their primary usage.

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 Managements 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. An initial survey was completed by Azura Consulting LLC, under subcontract to Alaska BioMap, Inc., through an online survey that was distributed to large pleasure vessel operators in the coastal Northeast, Mid-Atlantic, and Southeast regions of the United States.

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. The initial collection of survey information by Azura Consulting LLC, was the first option of their contract. This was completed through an online survey, and the subsequent efforts of survey information will continue to be conducted electronically. This reduces costs of administering surveys and broadens the pool of potential survey respondents. The focus groups are expected to be a part of the second option of our contract, which has not yet been initiated or awarded. 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 duplicated.

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. Since 1999, NMFS has documented 25 right whale mortality and serious injury events involving vessel strikes that occurred in U.S. waters or were first seen in U.S. waters. Fourteen of these 25 lethal events were documented after the speed rule first went into effect in 2008, along with additional lethal events involving undetermined whale species, possibly North Atlantic right whales. While there has been an overall reduction in vessel strikes of North Atlantic right whales since the implementation of the speed rule, further efforts are needed to reduce the risk of vessel strikes 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 is critical to developing new messaging for upcoming seasons, in particular for the winter calving season when newborn 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 information 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 notice was published in the federal register on September 22, 2023 (88 FR 65367). We received five comments on this information collection.

Comment 1: "this survey must be mandatory to be filled out. we need mandated speeds to avoid whale

crushing and killing. this is voluntary so of course it does not work to save anything. the whales are being crushed to death with many washing upon the beaches in new jersey and new york. none of them when money is involved is willing to slow down to help nature. they are all fixated on money. make this mandatory immediately to save whales lives. or get the cargo ships out of the area. this comment is for the public record. we dont need all that crap from china anyway. jean public jeanpublic1@yahoo.com”

Comment 2: “the boats need to be restricted in speeding even more than what this agency has been doing. you have been ineffective and the speeding is still going in so we need to reduce the speeding limits even further and we need policing to give out some tickets and put some boats in harbor for violations of the laws in america. we cannot continue to allow these chinese cargo ships and others to continue to violate our laws. that does not help the american people in what they want to achieve. the public sees no violations being recorded. you are lazily regulating. what will you do to produce effective regulations? we cannot continue to pay taxpayer dollars for work that is not done. you are failing at your job of protecting right whales. there should be suspension of payment of tax dollars to this agency until they show effectiveness in regulating laws. i would grade this agency work as worth a zero or minus. this comment is for the public record. please receipt. jean public jeanpublic1@yahoo.com”

Response to Comments 1 and 2: Due to lack of relevance, no action was taken in response to the comments. A copy of the comments received is included in this submission.

Comment 3: One letter was submitted by the Center for Biological Diversity (CBD). CBD’s comment letter offered strong support for the continuation of the currently approved information collection, stating that the data gathered are integral in fulfilling the objectives of the conservation of the North Atlantic right whale, and that it is not intrusive nor burdensome on the public.

Response to Comment 3: NMFS appreciates the response from the CBD in support of the continuation of this Inform.

Comment 4: One letter was submitted by Sydney Loebach. The letter included background information on NMFS’ Vessel Speed Regulations, protection for North Atlantic right whales under the Endangered Species Act, and risk of vessels and vessel speed to North Atlantic right whales. The letter provided support for the request for the continuation of the current data collection, and the implementation of new types of data collection for vessel operators.

Response to Comment 4: NMFS appreciates the response from Sydney Loebach, and remains open to new types of data collection in the future.

Comment 5: One letter was submitted by Peter Thomas, for the Marine Mammal Commission (MMC). The comment letter from the MMC included a summary of the existing information collection including (1) collection of logbook entries from whenever vessels exceeded a speed limit to maintain safe maneuverability under the Speed Rule’s Safety Deviation Program; and (2) voluntary survey of vessel operators on their ability and willingness to comply with mandatory speed restrictions, cooperate with voluntary speed restrictions, and other vessel operator information. The MMC stated that the effectiveness of the 2008 Speed Rule depends on mariner compliance, which is assessed through the existing information collection efforts. The MMC recommended that NOAA collect the information described above, and further detailed in the comment letter.

Response to Comment 5: NMFS appreciates the response and recommendation from the MMC to collect the information described.

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 publicly 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, which is determined to be 334 annually across the length of the PRA collection approval extension period. 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 extension period. 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.

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	1000 334 annualized	1	1000 334 annualized	1 hr	1000 334 annualized	22.74	7,595.16
Focus Group	Captains, Mates and Pilots of Water Vessels	80 27 annualized	1	80 27 annualized	2.5 hr	200 68 annualized	50.09	3,406.12
Safety deviation logbook entry (previously approved)	Captains, Mates and Pilots of Water Vessels	3263	1	3263	5 min	272	50.09	13,624.48
Totals		3,624		3,624		674		24,625.76

*(category Motorboat Operators: 53-5022) <https://www.bls.gov/bls/blswage.htm>

** (category Captains, Mates, and Pilots of Water Vessels: 53-5021) <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.

Cost Descriptions	Grade/Step	Loaded Salary /Cost	% of Effort	Fringe (if Applicable)	Total Cost to Government
Federal Oversight	ZP IV	226,962	1.4		3,177.47
Other Federal Positions	ZP III	161,520	1		1,615.20
	ZP II	122,657	1		1,226.60
Contractor Cost					139,954
Travel					
Other Costs:					
TOTAL					145,973.27

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

There are no changes to this collection of information.

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 for the surveys 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 logbook collection does not contain any forms. Vessel logbooks will contain the appropriate OMB control number and expiration date.

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