



United States Department of Commerce
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
Northeast Region
One Blackburn Drive
Gloucester, MA 01930

February 6, 2008

Small Entity Compliance Guide

Dear Northeast Permit Holder:

The National Marine Fisheries Service (NMFS), Northeast Fisheries Observer Program (NEFOP) routinely places observers on commercial fishing vessels to collect fisheries data. The Regional Administrator requests that you carry a NMFS NEFOP certified observer in accordance with the instructions in this letter.

If contacted by a NMFS employee or designated contractor in person, by telephone, or in writing, your vessel must carry an observer on its next fishing trip. Once contacted by a NMFS employee or designated contractor, you will be directed as to how you are to make notification of your next fishing trip(s). In some situations you may be selected dockside shortly in advance of a fishing trip. After you have been so contacted, it is illegal to engage in any fishing activity on your vessel without an observer on board unless you have received a waiver from a NMFS employee or designated contractor.

If your vessel is participating in any one of the fisheries listed below, you are currently required to contact the observer program (NMFS, NEFOP) in advance of each fishing trip: Limited Access Sea Scallop Open Area; Limited Access Sea Scallop Access Area; General Category Sea Scallop Access Area (no call in for General Category Open Area); U.S./Canada Management Area; Closed Area II Yellowtail Flounder SAP; Eastern U.S./Canada Haddock SAP; Regular B-DAS Program; CA I Hook Gear Haddock SAP; or Limited Access directed herring vessels (All Areas and Area 2/3 permits) fishing under the midwater trawl or purse seine exempted fishery provisions. Specific information outlining the notification requirements for these fisheries can be found at (<http://www.nefsc.noaa.gov/femad/fsb>) or by calling (508-495-2266).

Observers are required to complete a pre-trip vessel safety check of the vessel's emergency equipment and are required to review emergency instructions with the operator prior to the vessel departing port. Vessels will be deemed inadequate or unsafe for carrying a NMFS certified observer if the vessel does not have a current US Coast Guard Commercial Fishing Vessel Safety Examination decal or if the vessel is lacking one or more of the following safety devices: personal flotation devices/immersion suits; ring buoys or other allowable flotation; distress signals; fire extinguishing equipment, when required; Emergency Position Indicating Radio Beacon (EPIRB), when required; and survival craft, when required. These safety devices must be presently inspected, in good working order, and in sufficient quantity. An observer can not depart on an inadequate or unsafe vessel, and it is illegal for a vessel, otherwise required to carry an observer, to engage in fishing activity without the observer on board.



Regulations related to fisheries observers can be found at 50 CFR §600.725, §600.746 and §648.11; the Marine Mammal Protection Act under 16 USC 1387 §118; and the Endangered Species Act under 16 U.S.C. 1531 *et seq.*, 16 U.S.C. 742a §222.

Continued industry support in this critical data collection process is vital to provide both industry and regulators with the best, and most accurate, data upon which to base fisheries management decisions. Your cooperation and assistance in this program is greatly appreciated. Any questions about the Northeast Fisheries Observer Program and these requirements should be directed to David Potter, Chief of the Fisheries Sampling Branch, at 508-495-2262.

This notice is authorized by the Administrator of the National Marine Fisheries Service, Northeast Region.

PAPERWORK REDUCTION ACT STATEMENT: Information collected through the observer program will be used to: (1) monitor catch and bycatch; (2) understand the population status and trends of fish stocks and protected species, as well as the interactions between them; (3) determine the quantity and distribution of net benefits derived from living marine resources; (4) predict the biological, ecological, and economic impacts of existing management actions and proposed management options; and (5) ensure that the observer programs can safely and efficiently collect the information required for the previous four uses. In particular, the observer program provides information that is used in analyses that support the conservation and management of living marine resources and that are required under the Magnuson-Stevens Fishery Conservation and Management Act (MSA), the Endangered Species Act (ESA), the Marine Mammal Protection Act (MMPA), the National Environmental Policy Act (NEPA), the Regulatory Flexibility Act (RFA), Executive Order 12866 (EO 12866), and other applicable law. Most of the information collected by observers is obtained through "direct observation by an employee or agent of the sponsoring agency or through non-standardized oral communication in connection with such direct observations". Under the Paperwork Reduction Act (PRA) regulations at 5 C.F.R. 1320.3(h)(3), facts or opinions obtained through such observations and communications are not considered to be "information" subject to the PRA. The public reporting burden for responding to the questions that observers ask and that are subject to the PRA is estimated to average 74 minutes per trip, including the time for hearing and understanding the questions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. However, depending on the fishery and trip duration, the public reporting burden can range from 4-250 minutes per trip. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: Amy Van Atten, National Marine Fisheries Service, Northeast Fisheries Science Center, Northeast Fisheries Observer Program, 166 Water Street, Woods Hole, MA 02543-1026. Providing the requested information is mandatory under regulations at 50 C.F.R. 600.746 for the safety questions and at 50 C.F.R. §600.725, §600.746, §648.11; 16 U.S.C. 1387 §118; 16 U.S.C. 1531 *et seq.*, 16 U.S.C. 742a §222 for the other questions. All information collected by observers will be kept confidential as required under Section 402(b) of the MSA (18 U.S.C. 1881a(b)) and regulations at 50 C.F.R. Part 600, Subpart E. Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

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