

**SUPPORTING STATEMENT
NMFS ALASKA REGION OBSERVER PROVIDERS
OMB CONTROL NO. 0648-0318**

INTRODUCTION

The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) 16 U.S.C. 1801 *et seq.* as amended in 2006 authorizes the North Pacific Fishery Management Council to prepare and amend fishery management plans for any fishery in waters under its jurisdiction. National Marine Fisheries Service (NMFS), Alaska Region manages groundfish in the exclusive economic zone off the coast of Alaska under the Fishery Management Plan (FMP) for the Groundfish Fishery of the Bering Sea and Aleutian Islands (BSAI) Management Area and the Gulf of Alaska (GOA) FMPs. The FMPs are implemented by regulations at 50 CFR part 679.

The Observer Program provides the administrative framework for the collection of data by observers to obtain information necessary for the conservation and management of the groundfish fisheries managed under the FMPs. Regulations implementing the Observer Program at § 679.50 require observer coverage aboard catcher vessels, catcher/processors, motherships, and shoreside and stationary floating processors that participate in the groundfish fisheries off Alaska. These regulations also establish vessel, processor, and observer provider responsibilities relating to the Observer Program.

Observer providers are permitted by NMFS to hire and deploy qualified individuals as observers in the groundfish fisheries of the BSAI and GOA. Observer candidates are required to meet specified criteria in order to qualify as an observer and must successfully complete an initial certification training course, as well as meet other criteria, prior to being certified.

This action is a revision for the observer provider collection-of-information.

JUSTIFICATION

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

The Magnuson-Stevens Act authorizes the collection of fees from groundfish fishery participants to pay for implementing a fisheries research plan which would include observer coverage. Information on the cost of the existing observer program is needed to determine appropriate fees and the extent of observer coverage afforded by those fees. Mandatory cost reporting is one approach to meet this need; however, NMFS is not able to assess the various cost components of the existing groundfish observer program with the information currently required through Federal regulations.

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.

a. Observer provider contract copies

Observer providers must submit to NMFS a completed and unaltered copy of each type of signed and valid contract (including all attachments, appendices, addendums, and exhibits incorporated into the contract) between the observer provider and those entities requiring observer services. This action would establish a submission deadline of February 1 of each year to submit copies of contracts, which corresponds with the deadline for submitting certificates of insurance required by 50 CFR §679.50(i)(xi)(F).

No change in burden or cost results from this addition of a submittal deadline (5 responses, 3 hours, \$25 in miscellaneous costs).

b. Copies of invoices

Entities participating in observer activities that require monitoring under § 679.50 currently contract directly with certified observer providers in the private sector. NMFS is not a party to the contracts under the current scheme and therefore lacks detailed information on costs incurred by observer providers and the portion of those costs paid by the various groundfish fishery sectors. This action would require observer providers to submit to NMFS copies of all individual invoices related to north Pacific groundfish fishery observer coverage. Observer providers would be required to submit these invoices for each observer aboard a catcher/processor, catcher vessel, mothership, stationary floating processor, or shoreside processing plant to NMFS on a monthly basis for a full calendar year.

With the submittal of provider invoices, NMFS would obtain independently verifiable information and enhanced analytical flexibility over collecting pre-compiled expense reports from the observer providers. The invoice information would allow NMFS to develop a more accurate assessment of costs and benefits under potential program changes. A more accurate assessment may benefit the groundfish observer program and the fisheries dependent upon observer data for management.

NMFS would enter the raw data from the invoices into a confidential database. Copies of actual invoices to NMFS are preferred because invoices:

- ◆ Are less burdensome to the respondents than summarized expense reports;
- ◆ Allow NMFS to understand the full cost of providing observer coverage in the groundfish fisheries off Alaska;
- ◆ Provide for verifiable data; and
- ◆ Allow for increased flexibility in data analysis over alternatives that requested summarized information from providers.

The Observer Program would dedicate one half-time for a Level ZP-II staff member to these tasks, at a total cost of approximately \$31,250 in salary and fringe benefits per year. There would also be costs associated with the initial design, development, and ground-truthing of the new system and protocols. These, while not readily quantifiable, would largely be “one-time” expenditures by the agency estimated at \$50,000.

NMFS will be able to use existing observer databases to match up the dates of service for each entity as provided on the invoice to the observer’s name.

Invoice copies

- Name of each individual to which the invoice applies (obtained from observer database)
- Dates of service for each observer
- Rate charged in dollars per day for observer services
- Total charge for observer services (number of days multiplied by daily rate)
- Amount charged for air and ground transportation with charges separated out and identified.

| Invoice Copies, Respondent | |
|--|----------------|
| Total number respondents | 5 |
| Total annual responses (5 providers x 120 invoices) | 600 |
| Number of invoices = 10 x 12 months = 120 | |
| Total time burden | 300 |
| Time per response = 30/60 = 0.5 | |
| Total personnel cost | \$7500 |
| Cost per hr = \$25 | |
| Total miscellaneous cost | \$3,625 |
| Cost to submit by fax (\$6 x 6 page x 100= 3600) | |
| Cost to submit by email (0.05 x 500 =25) | |

| Invoice Copies, Federal Government | |
|---|-----------------|
| Total personnel cost , half-time staff member | \$31,250 |
| One-time database design cost, Initial design, development, and groundtruth | \$50,000 |
| Total miscellaneous cost | 0 |

c. Other Reports:

This action would establish a submission deadline of 72 hours for Observer providers to notify NMFS of a breach of the observer provider’s policy on observer conduct within 72 hours, instead of 24 hours, after the provider becomes aware of the alleged violation. No change in burden or cost results from this change to add a submittal deadline (50 responses, 100 hours, \$8 in miscellaneous costs).

Other information requirements unchanged from last submission:

Observer provider permit applications: 1 additional respondent, 1 response, 60 hours and \$1 in miscellaneous costs. *Note: this additional respondent is a prospective provider in addition to the five current providers.*

Candidate college transcripts and statements, observer provider: 5 responses, 45 hours, \$3 miscellaneous costs.

Observer training registration: 10 responses, 10 hours and \$120 in miscellaneous costs.

Observer briefing registration: 300 responses, 36 hours and \$21 n miscellaneous costs.

Projected observer assignments: 900 responses, 108 hours and \$51 in miscellaneous costs.

Physical examination verification: 300 responses, 24 hours and \$21 in miscellaneous costs.

Observer deployment/logistics report: 260 responses, 31 hours and \$19 in miscellaneous costs.

Observer debriefing registration: 900 responses, 450 hours and \$51 in miscellaneous costs.

Certificates of Insurance: 5 responses, 1 hours and \$12 in miscellaneous costs.

Industry Request for Assistance in Improving Observer Data Quality Issues: 10 responses, 5 hours and \$20 in miscellaneous costs.

Update to provider information, 3 responses, 1 hour, \$1 in miscellaneous costs.

d. Appeals for Observer Provider Permit Expiration or Denial of Permit [Removed]

Current regulations allow an observer provider applicant who is denied an observer provider permit to appeal that decision. Because there is no statutory entitlement to receiving an observer provider permit, the granting or denial of observer provider permits are discretionary agency actions. Thus, there is no requirement that a new observer provider applicant be provided an appeals process. Because of the discretionary nature of granting observer provider permits, NMFS would remove the appeal rights granted to observer provider applicants whose permit application is denied.

e. Observer conduct and behavior policy.

An observer provider must develop and maintain a policy addressing observer conduct and behavior while under contract with said provider. This policy shall include:

- ◆ Observer use of drugs and alcohol;
- ◆ Observer use, possession, or distribution of illegal drugs, and;
- ◆ Physical sexual contact with personnel of the vessel or processing facility to which the observer is assigned, or with any vessel or processing plant personnel who may be substantially affected by the performance or non-performance of the observer's official duties.

Observer providers shall provide a copy of their current conduct and behavior policy to:

- ◆ Observer candidates and contractors, and;
- ◆ The Observer Program Office.

| Observer conduct and behavior policy, Respondent | |
|--|----------------|
| Total number respondents | 5 |
| Total annual responses (5 providers x 1) Number of annual policies = 1 | 5 |
| Total time burden Time per response = 40 hr | 200 |
| Total personnel cost Cost per hr = \$25 | \$5,000 |
| Total miscellaneous cost (125.20) Cost to submit by fax (\$6 x 20 page x 1= 120) Cost to submit by email (0.05 x 4 = 0.20) Photocopy (0.05 x 20 pages x 5 = 5) | \$125 |

| Observer conduct and behavior policy, Federal Government | |
|---|------------|
| Total annual responses | 5 |
| Total time burden Time per response = 1 hr | 5 |
| Total personnel cost (\$25/hr) | 125 |
| Total miscellaneous cost | 0 |

It is anticipated that the information collected will be disseminated to the public or used to support publicly disseminated information. 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 National Oceanic and Atmospheric Administration (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. Prior to dissemination, the information will be subjected to quality control measures and a 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.

The copies of invoices and of the Observer Conduct and Behavior policy may be submitted as attachments to email to the Observer Program's web site at <http://www.afsc.noaa.gov/refm/observers/default.htm>; by fax 206-526-4066; or by mail to: NMFS Observer Program Office, P.O. Box 15700, Seattle, WA 98115-0070.

4. Describe efforts to identify duplication.

None of the information collected as part of this information collection duplicates other collections. This information collection is part of a specialized and technical program that is not like any other.

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

Five observer provider companies are currently permitted and active in the exclusive economic zone (EEZ) off the coast of Alaska. All of the current observer provider companies are considered small entities. This collection-of-information does not impose a significant impact on small entities.

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

NMFS has relied on rough estimates of the average daily cost of observer coverage across all north Pacific groundfish fisheries to assess economic effects of various management regimes on impacted entities. This approach has required NMFS to estimate observer transportation and incidental costs and apply many assumptions to estimate average daily and annual observer costs. Several factors affect the daily cost of observer coverage; and daily costs can be highly variable among sectors. Deploying observers to remote locations for short periods of time, for example, results in higher costs per day than deploying observers to ports with regularly scheduled air service and/or in fisheries of substantial duration. NMFS is unable to analyze observer coverage cost disparities of the baseline observer program among fishery sectors with the information currently available. The need to require cost data from observer providers stems from the need to estimate net benefits and understand the effects of various management actions. Without the revisions to this collection-of-information, NMFS lacks detailed, quantitative information on the costs incurred by observer providers.

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

No special circumstances exist.

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 NMFS Alaska Region will submit a proposed rule, RIN 0648-AW24, coincident with this submission, requesting comments from the public.

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

No payment or gift to respondents is provided under this program.

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

The information collected is confidential under section 402(b) of the Magnuson-Stevens Act (16 U.S.C. 1881a, *et seq.*). The information is also confidential under NOAA Administrative Order 216-100, which sets forth procedures to protect confidentiality of fishery statistics. Information on confidentiality is included on the forms and in the applicable regulations.

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.

This information collection does not involve information of a sensitive nature.

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

Estimated total respondents: 6. Estimated total responses: 3,354, increased from 2,750. Total estimated burden hours: 1,374, increased from 875. Estimated total personnel cost: \$34,350, increased from \$21,875.

Note: Information collection hours unchanged from the previous submission total 874. The 875 above includes the one hour appeal for observer provider permit expiration or denial of permit, deleted as noted in Question 15.

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).

Estimated total miscellaneous costs: \$4,103, increased from \$854.

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

Estimated total burden hours: 964, increased from 810. Estimated total personnel cost: \$51,600, increased from \$20,350.

Requiring observer providers to report cost information would necessitate development of a reporting and database system estimated to be a one-time cost of \$50,000.

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

Program changes are created by a rule to revise the Observer Program. These changes are described below:

Observer provider permit appeals process is removed.
a decrease of 1 respondents, 0 instead of 1
a decrease of 1 response, 0 instead of 1
a decrease of 1 hr burden, 0 hr instead of 1 hr

a decrease of \$25 personnel costs, \$0 instead of \$25
a decrease of \$501 miscellaneous costs, \$0 instead of \$501

Copies of observer provider invoices is added.

an increase of 5 respondents, 5 instead of 0
an increase of 600 responses, 600 instead of 0
an increase of 300 hr burden, 300 hr instead of 0 hr
an increase of \$7,500 personnel costs, \$7,500 instead of \$0
an increase of \$3,625 miscellaneous costs, \$3,625 instead of \$0

Observer conduct and behavior policy is added.

an increase of 5 respondents, 5 instead of 0
an increase of 5 responses, 5 instead of 0
an increase of 200 hr burden, 200 hr instead of 0 hr
an increase of \$5,000 personnel costs, \$5,000 instead of \$0
an increase of \$125 miscellaneous costs, \$125 instead of \$0.

Other information collections in OMB Control No. 0648-0318 are unchanged.

There is no change in unduplicated respondents. There is a net increase of 604 responses; 499 hours, \$12,475 in personnel costs and \$3,249 in miscellaneous costs.

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

NMFS has no plans to publish the results of this information collection.

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.

No forms are available in this collection.

18. Explain each exception to the certification statement.

No forms are available in this collection.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not employ statistical methods.