

**SUPPORTING STATEMENT  
NORTHEAST REGION OBSERVER PROVIDERS REQUIREMENTS  
OMB CONTROL NO. 0648-0546**

**A. JUSTIFICATION**

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

This request is for extension of a current information collection.

Fishery Management Plans for Federal Fisheries managed under the National Oceanic and Atmospheric Administration's (NOAA) National Marine Fishery Service (NMFS) are developed under the authority of the [Magnuson-Stevens Fishery Conservation and Management Act](#) (MSA). Amendment 13 to the Atlantic Sea Scallop (Scallop) Fishery Management Plan (FMP), finalized in 0648-AV39 ([72 FR 32549, June 13, 2007](#)) implemented an industry-funded observer program which included reporting requirements for both observer service providers as well as the scallop fishing industry. Framework 19, finalized in 0648-AV90 ([73 FR 30790, May 29, 2008](#)) further revised the scallop observer program and implemented additional information collection requirements to allow for more effective administration of the program.

Observer coverage in the scallop fishery is necessary to monitor the bycatch of finfish including yellowtail flounder, skates, monkfish, cod, and other species. Monitoring of yellowtail flounder bycatch in the Scallop Access Areas within the year round closed areas under the Northeast (NE) Multispecies FMP is of particular concern because the scallop fishery is constrained by a fishery-specific total allowable catch (TAC) of yellowtail flounder. The yellowtail flounder TAC allocated to the scallop fishery is part of the stock-wide yellowtail flounder TACs set by the NE Multispecies FMP to achieve specified yellowtail flounder mortality targets. Observer coverage is also needed to monitor interactions of the scallop fishery with endangered and threatened sea turtles.

**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 collections which are a result of Amendment 13 and Framework 19 are reporting requirements used by the National Marine Fisheries Service (NMFS) and Northeast Fisheries Observer Program (NEFOP).

There are 17 separate information collections that were implemented by Amendment 13 and Framework 19, the use of which is discussed here. All information collections are necessary for the successful operation of the scallop observer program. NOTE: The information collections in the last two submissions were not broken out in as much detail as they are below. The description below does not add any information collections, just breaks them out in clearer detail.

1. *Observer deployment report:* The observer service provider deployment reports are used to inform NEFOP when, where, to whom, and to what scallop area an observer has been deployed within 24 hours of the observer's departure. The observer service provider also must ensure that the observer reports back to the NEFOP its Observer Contractor Trip Reporting (OBSCON) data, as described in the certified observer training, within 12 hours of landing.
2. *Observer Availability Report:* The observer service provider availability reports are used to inform NEFOP of any occurrence of their inability to respond to an industry request for observer coverage due to the lack of available observers on staff by 5:00 pm, Eastern Standard Time, on any day with an industry request for observer coverage.
3. *Safety Refusals:* The observer service provider safety refusal reports are used to inform NEFOP of any trip that has been refused due to safety issues, e.g., failure to hold a valid USCG Commercial Fishing Vessel Safety Examination Decal or meet the safety requirements of the observer's pre-trip vessel safety checklist, within 24 hours of the refusal.
4. *Raw observer data:* The submission of raw (unedited) data (via courier service eg. FedEx, DHL, etc.) collected by the observer to the NEFOP within 72 hours of trip landing is necessary for NEFOP to administer the observer program. This data is also used to monitor bycatch in the scallop fishery.
5. *Observer debriefing:* The observer service provider must ensure that the observer remains available to the NEFOP and/or NMFS Office for Law Enforcement for debriefing for two weeks following any observed trip. Observer debriefings ensure the data collected by the observer is as accurate as possible, and any potential issues are addressed. An observer that is at sea during the two-week period must contact the NEFOP upon his or her return if requested.
6. *Other reports:* Reports of possible observer harassment, discrimination, concerns about vessel safety or marine casualty, observer illness or injury, and any information, allegations, or reports regarding observer conflict of interest or breach of the standards of behavior must be submitted to the NEFOP in a timely manner.
7. *Biological samples:* The observer service provider must ensure that biological samples, including whole marine mammals, turtles and sea birds, are stored/handled properly and transported to the NEFOP within 7 days of landing.
8. *New permit application for observer provider:* Any third party provider that wishes to operate in the scallop observer program must submit a thorough application and gain approval from NMFS.
9. *Applicant response to a denial:* If an application for approval as an observer service provider is incomplete or does not meet the requirements of an approved observer service provider, the applicant will be provided with a written denial. Each applicant may

present additional information to NMFS to rectify the deficiencies specified in the written denial within 30 days of the applicant's receipt of the denial notification.

10. *Request for observer training:* The observer service provider must submit a request for a certified training class at least 30 days prior to the beginning of the proposed training class to ensure that the NEFOP is provided with the necessary time and information to prepare for the training of candidate observers.
11. *Rebuttal of pending removal from list of approved observer providers:* An observer provider that fails to meet the requirements, conditions, and responsibilities of an approved observer service provider will be notified in writing that it is subject to removal from the list of approved observer service providers. An observer service provider that has received notification that it is subject to removal from the list of approved observer service providers may submit information to rebut the reasons for removal from the list within 30 days and must give written evidence that clearly disproves the reasons for removal.
12. *Request to observer service provider to procure an observer:* An owner of a scallop vessel required to carry an observer must arrange for carrying a NEFOP-certified observer from an approved observer service provider. The owner, operator, or vessel manager of a vessel selected to carry an observer must contact the observer service provider by phone and must provide at least 72 hours for the provider to arrange for observer deployment for a specified trip.
13. *Notification of unavailability of observers:* An owner, operator, or vessel manager of a vessel who cannot procure a certified observer within 72 hours of the notification to the provider, due to the unavailability of an observer, may request a waiver from the requirement for observer coverage for that trip, but only if the owner, operator, or vessel manager has contacted all of the available observer service providers to secure observer coverage. To request a waiver based on the unavailability of observers, an owner, operator, or vessel manager of the vessel must call the NEFOP. If the NEFOP confirms that no observers are available, it will issue a waiver within 24 hours.
14. *Observer contact list updates:* The updated observer contact list would facilitate the ability of NMFS/NEFOP to contact an observer when necessary. This list would be updated by the service provider as necessary.
15. *Observer availability updates:* The observer status report would facilitate the ability of NMFS/NEFOP to confirm observer availability, or the lack thereof, when a provider notifies NMFS/NEFOP of instances when no observers were available for deployment. This list would be updated by the service provider as necessary.
16. *Service provider material submissions:* NMFS/NEFOP may request service providers to provide copies of materials provided to the fishing industry. This would allow NMFS/NEFOP to ensure such materials are accurate and in keeping with the objectives of the program. This information would likely be solicited when changes to such materials are made.

17. *Service provider contracts:* NMFS/NEFOP may request service providers to provide a copy of each type of signed and valid contract between the observer provider and those entities requiring observer services. This would allow NMFS/NEFOP to resolve contract disputes between the provider and industry, and to ensure provider contracts with their employees are in keeping with the objectives of the observer program. This information would likely be solicited when changes to such materials are made.

NMFS retains control over all information and safeguards it from improper access, modification, and destruction, consistent with NOAA standards for confidentiality, privacy, and electronic information. The information collection is designed to yield data that meet all applicable information quality guidelines. Prior to dissemination, the information would be subjected to 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.**

The observer providers and vessels submit materials to NMFS/NEFOP via e-mail, fax or postal service. Instructions for providers and for vessels are available on the Northeast Region Web site: <http://www.nefsc.noaa.gov/femad/fsb/>.

**4. Describe efforts to identify duplication.**

The application processes and information submissions for the observer provider and vessels are unique to the scallop observer program, and direct duplication with other collections does not exist.

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

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.**

All information is required for the efficient operation of the scallop observer program and must be submitted in the time frames requested. Collecting this information less frequently would jeopardize the goals and objectives of the observer program and the effective management of the scallop fishery.

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

Service providers would be required to submit observer contact and availability information as necessary, which may be more often than quarterly. This to ensure NMFS/NEFOP observer data is accurate and up to date.

NMFS/NEFOP may request service provider materials as necessary, which may be more frequent than quarterly. This is to ensure materials provided to industry and observers are accurate, up to date, and in keeping with observer program objectives and policies.

**8. Provide a copy of 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.**

A Federal Register Notice published on February 18, 2011 (76 FR 9551) solicited public comments on this information collection. No comments were received.

**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 for observer service providers or vessel owners as a part of the scallop observer program.

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

As stated in information collection instructions, the information collected is confidential under section 402(b) of the Magnuson-Stevens Act (16 U.S.C. 1801, et seq.).

**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 collection of information does not request any information that are of a sensitive nature.

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

The time and cost burden of this information collection is presented in Table 1 below. There are currently 628 Limited Access and Limited Access General Category permitted Scallop vessels that are subject to this information collection. At the time of this renewal, there are 2 providers that support the scallop observer program. Conversations with NEFOP staff indicated that there is the potential for one more service provider to enter the scallop observer program within the

three years before this information collection is renewed. Therefore, the majority of the information collections here were analyzed for either 628 vessels or 3 scallop observer program providers. The two exceptions are the ‘applicant response to a denial’ as it is unlikely the 2 scallop providers already operating will be denied as future providers. However, if a new provider applies to be approved, there is the potential for it to be denied. Therefore, for information collections #9 and #11, analysis was completed assuming only one observer provider would be subject to this information collection in the three years before this information collection is renewed. The estimated total number of respondents, responses and hours for the entire scallop observer program are: **631 respondents (628 vessels and 3 observer providers), 35,841 responses and 6,236 hours**. The burden hours for each information collection are presented here as well as in Table 1:

1. *Observer deployment report*: Each provider is estimated to submit 250 observer deployment reports annually (once a day not including weekends) for a total of 750 reports annually (250 \* 3 providers). Each report is estimated to take 10 minutes to fill out and email to NEFOP, for a total of 125 hours.
2. *Observer Availability Report*: Each provider is estimated to submit 150 observer availability reports annually (estimate from NEFOP) for a total of 450 reports annually (150 \* 3 providers). Each report is estimated to take 10 minutes to fill out and email to NEFOP, for a total of 75 hours.
3. *Safety Refusals*: Each provider is estimated to submit a maximum of 25 safety refusal reports annually (estimate from NEFOP) for a total of 75 reports annually (25 \* 3 providers). Each report is estimated to take 30 minutes to fill out and email to NEFOP, for a total of 37.5 (38) hours.
4. *Raw observer data*: Each provider is estimated to submit raw data to the NEFOP 250 times annually (once a day not including weekends) for a total of 750 total times annually (250 \* 3 providers). Each report is estimated to take 5 minutes to fill out and send via express mail to NEFOP for a total of 62.5 hours
5. *Observer debriefing*: Each provider is estimated to have 70 debriefings with observers annually for a total of 210 observer briefings (70 \* 3 providers). Each briefing is estimated to take 2 hours for a total of 420 hours.
6. *Other reports*: Each provider is estimated to submit 35 other reports (predominantly incident reports) annually for a total of 105 reports. Each report takes 30 minutes to fill out and email to NEFOP for a total of 52.5 hours.
7. *Biological samples*: Each provider is estimated to submit biological samples 250 times annually for a total of 750 times (250 \* 3 providers). Each submission is estimated to take 5 minutes to mail to NEFOP for a total of 62.5 hours.
8. *New permit application for observer provider*: Each provider is estimated to submit new permit applications once annually for a total of 3 new permit applications. Each application is estimated to take 10 hours to complete for a total of 30 hours.

9. *Applicant response to a denial:* NEFOP staff estimated that one new provider application would be denied annually (maximum) and have the opportunity to respond. Each response would take 10 hours to put together and submit to NEFOP for a total of 10 hours.
10. *Request for observer training:* Each provider is estimated to request observer training twice annually for a total of six times (2 \* 3 providers). Each request is estimated to take 30 minutes for a total of 3 hours.
11. *Rebuttal of pending removal from list of approved observer providers:* NEFOP staff estimated that no more than one new provider would be removed from the list of approved providers and have the opportunity to rebut their removal. Each rebuttal is estimated to take 8 to complete and mail to NEFOP for a total of 8 hours.
12. *Request to observer service provider to procure an observer:* Each vessel is estimated to request an observer 50 times annually for a total of 31,400 requests (50 \* 628 vessels). Each request is estimated to take 10 minutes to call the NEFOP for a total of 5233 hours annually.
13. *Notification of unavailability of observers:* Each vessel is estimated to notify NEFOP of the unavailability of observers twice per year for a total of 1256 times annually (628 \* 2). Each notification is estimated to take 5 minutes to call NEFOP, for a total of 105 hours.
14. *Observer contact list updates:* Each provider is estimated to update their observer contact list 12 times annually (once a month) for a total of 36 times (12 \* 3 providers). Each update is estimated to take 5 minutes to email to NEFOP for a total of 3 hours.
15. *Observer availability updates:* Each provider is estimated to update their observer availability list 12 times annually (once a month) for a total of 36 times (12 \* 3 providers). Each update is estimated to take 1 minute to email to NEFOP for a total of 36 minutes (1 hour).
16. *Service provider material submissions:* Each provider is estimated to submit new materials to NEFOP twice annually for a total of 6 times (2 \* 3 providers). Each update is estimated to take 30 minutes to mail to NEFOP for a total of 3 hours.
17. *Service provider contracts:* Each provider is estimated to submit service provider contracts to NEFOP twice annually for a total of 6 times (2 \* 3 providers). Each contract is estimated to take 30 minutes to mail to NEFOP for a total of 3 hours.

**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).**

The total annual cost burden to the respondents from the scallop observer program is **\$44,716 (rounded down in ROCIS to \$44,715)** (Table 1). These costs are exclusively mail or telephone costs associated with the information collections. Phone calls were estimated to cost \$0.10 per minute and stamps are currently \$0.44 each. Some information collections are required to be sent by express mail (ex. \$13.00 for an express mail envelope) such as raw observer data for timely monitoring of particular bycatch species. The burden cost for each information collection is presented here as well as in Table 1:

1. *Observer deployment report:* sent via e-mail = \$0
2. *Observer Availability Report:* sent via e-mail = \$0
3. *Safety Refusals:* sent via e-mail = \$0
4. *Raw observer data:* \$13.00 per raw data mailing (express mail) times 750 mailings = \$9,750
5. *Observer debriefing:* \$12.00 per debriefing times 210 debriefings = \$2,520
6. *Other reports:* sent via e-mail = \$0
7. *Biological samples:* \$0.50 per sample times 750 samples = \$375
8. *New permit application for observer provider:* \$0.44 per application times 3 applications = \$1.32
9. *Applicant response to a denial:* \$0.44 per denial times 1 application = \$0.44
10. *Request for observer training:* \$1.80 per request times 6 requests = \$10.80
11. *Rebuttal of pending removal from list of approved observer providers:* \$0.44 per rebuttal time 1 estimated rebuttal = \$0.44
12. *Request to observer service provider to procure an observer:* \$1.00 per request times 31,400 requests = \$31,400
13. *Notification of unavailability of observers:* \$0.50 per notification times 1256 notifications = \$628
14. *Observer contact list updates:* sent via e-mail = \$0
15. *Observer availability updates:* sent via e-mail = \$0



16. *Service provider material submissions*: \$2.50 per submission times 6 submissions = \$15

17. *Service provider contracts*: \$2.50 per contract times 6 contracts = \$15.

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

The total annualized cost to the Federal government from the scallop observer program is **\$626,242**. This is the cost to the Federal government based on 1089.12 hours at a rate of \$35 per hour. The burden hours for each information collection are presented here as well as in Table 1:

1. *Observer deployment report*: 21 hours annually for a total of \$729
2. *Observer Availability Report*: 13 hours annually for a total of \$438
3. *Safety Refusals*: 19 hours annually for a total of \$656
4. *Raw observer data*: 31 hours annually for a total of \$1,094
5. *Observer debriefing*: 840 hours annually for a total of \$29,400
6. *Other reports*: 26 hours annually for a total of \$919
7. *Biological samples*: 31 hours annually for a total of \$1,094
8. *New permit application for observer provider*: 3 hours annually for a total of \$105
9. *Applicant response to a denial*: 0.02 hours annually for a total of \$1.00
10. *Request for observer training*: 0.05 hours annually for a total of \$2.00
11. *Rebuttal of pending removal from list of approved observer providers*: 0.05 hours annually for a total of \$2.00
12. *Request to observer service provider to procure an observer*: 52 hours annually for a total of \$1,308
13. *Notification of unavailability of observers*: 52 hours annually for a total of \$1,308
14. *Observer contact list updates*: 0.10 hours annually for a total of \$4.00
15. *Observer availability updates*: 0.05 hours annually for a total of \$2
16. *Service provider material submissions*: 0.25 hours annually for a total of \$9.00
17. *Service provider contracts*: 0.10 hours annually for a total of \$4.00

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

The scallop observer program was established with the implementation of Amendment 13. At the time the program was implemented, the burden and costs were estimated based on how many observer providers were believed to apply, and how many vessels were operating in the scallop fishery at that time. Cost and time burden as a result of the information collection was estimated before the observer program was put into place. The most recent request regarding OMB Control No. 0648-0546 – a revision in conjunction with RIN 0648-AV90 - was coordinated with Framework 19 and introduced new information collections to aid in the effectiveness of the scallop observer program. However, the original burdens and costs were not reviewed at that time.

For this renewal, the burden and costs of the scallop observer program were thoroughly reviewed in coordination with NEFOP staff, as the program has been operational since the 2007 implementation of Amendment 13. Therefore, any changes to the costs and burdens from the previous renewal are due to better understanding the actual burdens and costs of the program, as it is operating currently, and as it is expected to operate in the three years until the next renewal. There are no new information collections introduced during this renewal.

*Adjustments to the number of providers:*

At the time of this renewal there are 2 providers that support the scallop observer program. Conversations with NEFOP staff indicated that there is the potential for one more service provider to enter the scallop observer program within the three years before this information collection is renewed. Therefore, the majority of the information collections here were analyzed for either 628 vessels or 3 scallop observer program providers. The two exceptions are the ‘applicant response to a denial’ as it is unlikely the 2 scallop providers already operating will be denied as future providers. However, if a new provider applies to be approved, there is the potential for it to be denied. Therefore, for information collections #9 and #11, analysis was completed assuming only one observer provider would be subject to this information collection in the three years before this information collection is renewed.

*Adjustments to the number of vessels:*

The previous renewals estimated 805 vessels subject to reporting requirements as a part of this information collection: 337 limited access scallop vessels and approximately 50 percent of general category scallop vessels (425 vessels). Since the last renewal, a limited access program for general category scallop vessels has been implemented and the number of total vessels for this information collection has decreased to 628 permitted limited access and limited access general category scallop vessels.

Updates to this information collection resulted in the following adjustments:

Adjustments in Burden and Cost from 2008 to 2011

	2008 Renewal	2011 Renewal	Change in Burden
Number of Respondents	805	631	-177
Number of Responses	1740	35,841	+ 34,101
Total annual hours	619	6,236	+ 5,617
Total annual costs	\$6,010	\$44,715*	+ \$38,705

\*Per ROCIS

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

NMFS has no plans to tabulate 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. The information is collected through e-mail, reports without forms, and by phone. The instructions posted on the Web site have the OMB Control No. and expiration date on them.

**18. Explain each exception to the certification statement.**

No exceptions to the certification statement are requested.

**B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS**

This collection does not employ statistical methods.

<b>Table 1</b>				<b>Public</b>						<b>Government</b>			
<b>Information Collection</b>	<b>Number of Entities</b>	<b>Items per Entity</b>	<b>Total # of Items</b>	<b>Response Time (Minutes)</b>	<b>Total Time Burden (Hours)</b>	<b>Cost per Hour</b>	<b>Total Time Burden Cost</b>	<b>Total Actual Costs per Entity (phone call (\$0.10/min unless noted))</b>	<b>Total Actual Costs</b>	<b>Response Time (Minutes)</b>	<b>Total Time Burden (Hours)</b>	<b>Cost per Hour</b>	<b>Total Cost</b>
Observer deployment report	3	250	750	10	125	\$25	\$3,125	e-mail	\$0.00	10	21	\$35	\$729
Observer availability report	3	150	450	10	75	\$25	\$1,875	e-mail	\$0.00	10	13	\$35	\$438
Safety refusals	3	25	75	30	38	\$25	\$938	e-mail	\$0.00	30	19	\$35	\$656
Raw observer data	3	250	750	5	63	\$25	\$1,563	\$13.00	\$9,750.00	30	31	\$35	\$1,094
Observer debriefing	3	70	210	120	420	\$25	\$10,500	\$12.00	\$2,520.00	120	840	\$35	\$29,400
Other reports	3	35	105	30	53	\$25	\$1,313	e-mail	\$0.00	30	26	\$35	\$919
Biological samples	3	250	750	5	63	\$25	\$1,563	\$0.50	\$375.00	30	31	\$35	\$1,094
Request to observer service provider to procure an observer	628	50	31,400	10	5233.3	\$15	\$78,500	\$1.00	\$31,400.00	5	52	\$25	\$1,308
Notification of unavailability of observers	628	2	1,256	5	104.7	\$15	\$1,570	\$0.50	\$628.00	5	52	\$25	\$1,308
New permit application for observer provider	3	1	3	600	30	\$25	\$750	\$0.44	\$1.32	60	3	\$35	\$105
Applicant response to denial	1	1	1	600	10	\$25	\$250	\$0.44	\$0.44	1	0.02	\$35	\$1
Request for observer training	3	2	6	30	3	\$25	\$75	\$1.80	\$10.80	1	0.05	\$35	\$2
Rebuttal of pending removal from list of approved observer providers	1	1	1	480	8	\$25	\$200	\$0.44	\$0.44	3	0.05	\$35	\$2
Observer Contact List Updates	3	12	36	5	3	\$0	\$0	e-mail	\$0.00	2	0.10	\$35	\$4
Observer Availability Updates	3	12	36	1	1	\$0	\$0	e-mail	\$0.00	1	0.05	\$35	\$2
Service Provider Material Submissions	3	2	6	30	3	\$0	\$0	\$2.50	\$15.00	5	0.25	\$35	\$9
Service Provider Contracts	3	2	6	30	3	\$0	\$0	\$2.50	\$15.00	2	0.10	\$35	\$4
Totals	1,297	1,115	35,841	2,001	6,236	NA	\$1,901,248	NA	\$44,716.00*	345	1089.12	NA	\$626,242

\*Rounded down to \$44,715 in ROCIS.