

**SUPPORTING STATEMENT**  
**U.S. Department of Commerce**  
**National Oceanic & Atmospheric Administration**  
**Northeast Region Observer Providers Requirements**  
**OMB Control No. 0648-0546**

**Abstract**

This request is for extension of a currently approved information collection. Under the Magnuson-Stevens Fishery Conservation and Management Act, the Secretary of Commerce (Secretary) has the responsibility for the conservation and management of marine fishery resources. Much of this responsibility has been delegated to the National Oceanic and Atmospheric Administration (NOAA)/National Marine Fisheries Service (NMFS). Under this stewardship role, the Secretary was given certain regulatory authorities to ensure the most beneficial uses of these resources. One of the regulatory steps taken to carry out the conservation and management objectives is to collect data from users of the resource.

Regulations at 50 CFR 648.11(g) require observer service providers to comply with specific requirements in order to operate as an approved provider in the Atlantic sea scallop (scallop) fishery. Observer service providers must comply with the following requirements: submit applications for approval as an observer service provider; formally request observer training by the Northeast Fisheries Observer Program (NEFOP); submit observer deployment reports and biological samples; give notification of whether a vessel must carry an observer within 24 hours of the vessel owner's notification of a prospective trip; maintain an updated contact list of all observers that includes the observer identification number; observer's name mailing address, email address, phone numbers, homeports or fisheries/trip types assigned, and whether or not the observer is "in service." The regulations also require observer service providers submit any outreach materials, such as informational pamphlets, payment notification, and descriptions of observer duties as well as all contracts between the service provider and entities requiring observer services for review to NMFS/NEFOP. Observer service providers also have the option to respond to application denials, and submit a rebuttal in response to a pending removal from the list of approved observer providers. These requirements allow NMFS/NEFOP to effectively administer the scallop observer program.

**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.**

Amendment 13 to the Atlantic Sea Scallop (scallop) Fishery Management Plan (FMP), developed by the applicable Fishery Management Council, as authorized by the Magnuson-Stevens Fishery Conservation and Management Act, implemented an industry funded observer program, which included reporting requirements for both observer service providers as well as the scallop fishing industry. Frameworks 19 and 24 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 and windowpane flounder bycatch is of particular concern because the scallop fishery is constrained by a catch allocation for these species under the Northeast Multispecies FMP. Observer coverage is also needed to monitor interactions of the scallop fishery with endangered and threatened sea turtles.

**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 collections, which are a result of Amendment 13 and Frameworks 19 and 24, are reporting requirements used by the National Marine Fisheries Service (NMFS) and Northeast Fisheries Observer Program (NEFOP). 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 predissemination review pursuant to Section 515 of Public law 106-554. There are 17 separate information collections that were implemented by Amendment 13 and Frameworks 19 and 24, the use of which is discussed here. All information collections are necessary for the successful operation of the scallop observer program.

*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 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 application 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

**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.**

The observer providers and vessels submit materials to NMFS/NEFOP via e-mail, fax or postal service. Instructions for vessels owners and providers are on the Greater Atlantic Region We site at: <https://www.nefsc.noaa.gov/fsb/scallop/>

**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**

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 impacts small businesses or other small entities, describe any methods used to minimize burden.**

This collection of information does not impose a significant impact on small entities. Only the minimum data to meet the requirements of the above data needs are requested from all participants.

**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.**

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 would cause an information collection to be conducted in a manner:**

Service providers would be required to submit observer contact and availability information as necessary, which may be more often than quarterly. This is 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 frequently 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. 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.**

A Federal Register Notice published on July 7, 2020 (85 FR 40623) solicited public comments on this information collection. The comment period ended on September 8, 2020. No comments were received.

NMFS reached out to several service providers in an effort 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. No responses were received.

**9. Explain any decision to provide any payment or gift 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 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.**

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

The information collected under this OMB Control Number is authorized under SORN COMMERCE/NOAA-19, Permits and Registrations for United States Federally Regulated Fisheries. The information is stored in NOAA system NOAA4100, for which a current PIA is on record at <https://www.osec.doc.gov/opog/privacy/NOAA-pias.html>

**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.**

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

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

The time and cost burden of this information collection is presented in Table 1 below. There are currently 512 Limited Access and Limited Access General Category permitted Scallop vessels that are subject to this information collection. As the time of this renewal, there are 3 providers that support the scallop observer program. Conversations with NEFOP staff indicated that it is unlikely that any more service providers will enter the scallop observer program within the three years before this information collection is renewed. Therefore, the information collections here were analyzed for either 512 vessels or 3 scallop observer program providers. The estimated total number of hours for the entire scallop observer program is: **5,252 hours**.

<b>Information Collection</b>	<b>Type of respondent</b>	<b># of Respondents/year (a)</b>	<b>Annual # of Responses / Respondent (b)</b>	<b>Total # of Annual Responses (c) = (a) x (b)</b>	<b>Burden Hrs / Response (d)</b>	<b>Total Annual Burden Hrs (e) = (c) x (d)</b>	<b>Hourly Wage Rate (for Type of Respondent) (f)</b>	<b>Total Annual Wage Burden Costs (g)=(e)x(f)</b>
Observer deployment report	General and Operations Managers	3	250	750	10 min	125	\$59.56	7,445
Observer availability report	General and Operations Managers	3	150	450	10 min	75	\$59.56	4,467
Safety refusals	General and Operations Managers	3	25	75	30 min	38	\$59.56	20,131
Raw observer data	General and Operations Managers	3	250	750	5 min	63	\$59.56	3,752
Observer debriefing	General and Operations Managers	3	70	210	2 hours	420	\$59.56	25,015
Other reports	General and Operations Managers	3	35	105	30 min	53	\$59.56	3,156
Biological samples	General and Operations Managers	3	250	750	5 min	63	\$59.56	3,752
Request to observer service provider to procure an observer	Ship and Boat Captains and Operators	512	50	25600	10 min	4267	\$39.61	169,015
Notification of unavailability of observers	Ship and Boat Captains and Operators	512	2	1024	5 min	85	\$39.61	3,366
New permit application for observer provider	General and Operations Managers	3	1	3	10 hours	30	\$59.56	1,786
Applicant response to denial	General and Operations Managers	1	1	1	10 hours	10	\$59.56	595
Request for observer training	General and Operations Managers	3	2	6	30 min	3	\$59.56	179
Rebuttal of pending removal from list of approved observer providers	General and Operations Managers	1	1	1	8 hours	8	\$59.56	476
Observer Contact List Updates	General and Operations Managers	3	12	36	5 min	3	\$59.56	179
Observer Availability Updates	General and Operations Managers	3	12	36	5 min	3	\$59.56	179
Service Provider Material	General and Operations			6	30 min	3	\$59.56	

**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).**

The total annual cost burden to the respondents from the scallop observer program is **\$44,937**. 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 \$0.55 each. Some information collections are required to be sent by express mail (ex. \$21.18 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:

- *Observer deployment report, Observer Availability Report, Safety Refusals, Other reports, Observer contact list updates, Observer availability updates: sent via e-mail = \$0.*

Information Collection	# of Respondents (a)	Annual # of Responses / Respondent (b)	Total # of Annual Responses (c) = (a) x (b)	Cost Burden / Respondent (h)	Total Annual Cost Burden (i) = (c) x (h)
Observer deployment report	3	250	750	0	0
Observer availability report	3	150	450	0	0
Safety refusals	3	25	75	0	0
Raw observer data	3	250	750	\$21.18	\$15,885
Observer debriefing	3	70	210	\$12	\$2,520
Other reports	3	35	105	0	0
Biological samples	3	250	750	\$0.50	\$375
Request to observer service provider to procure an observer	512	50	25600	\$1	\$25,600
Notification of unavailability of observers	512	2	1024	\$0.50	\$512
New permit application for observer provider	3	1	3	\$0.55	\$1.65
Applicant response to denial	1	1	1	\$0.55	\$0.55
Request for observer training	3	2	6	\$1.80	\$10.80
Rebuttal of pending removal from list of approved observer providers	1	1	1	\$0.55	\$0.55
Observer Contact List Updates	3	12	36	0	0
Observer Availability Updates	3	12	36	0	0
Service Provider Material Submissions	3	2	6	\$2.50	\$15.00
Service Provider Contracts	3	2	6	\$2.50	\$15.00
<b>TOTALS</b>	<b>515*</b>	<b>1,115</b>	<b>29,809</b>		<b>\$44,937</b>

**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
<b>Federal Oversight</b>					
Fisheries Sampling Branch Manager	Band III/ Step 3	\$107,542	26%		\$27,960
<b>Contractor Cost</b>					
Sampling Branch Contractor		\$60,000	59%		\$35,400
<b>Travel</b>					0
<b>Other Costs</b>					0
<b>TOTAL</b>					<b>\$63,360</b>

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

There are no changes to the information collection since the last OMB approval.

Information Collection	Labor Costs		Miscellaneous Costs		Reason for change or adjustment	
	Current	Previous	Current	Previous		
Observer deployment report	7,445	NA	0	0	Labor costs previously not included, increase in postage	
Observer availability report	4,467	NA	0	0		
Safety refusals	20,131	NA	0	0		
Raw observer data	3,752	NA	\$15,885	\$15,885		
Observer debriefing	25,015	NA	\$2,520	\$2,520		
Other reports	3,156	NA	0	0		
Biological samples	3,752	NA	\$375	\$375		
Request to observer service provider to procure an observer	169,015	NA	\$25,600	\$25,600		
Notification of unavailability of observers	3,366	NA	\$512	\$512		
New permit application for observer provider	1,786	NA	\$2	\$1		
Applicant response to denial	595	NA	\$1	\$1		
Request for observer training	179	NA	\$10.80	\$11		
Rebuttal of pending removal from list of approved observer providers	476	NA	\$0.55	\$1		
Observer Contact List Updates	179	NA	0	0		
Observer Availability Updates	179	NA	0	0		
Service Provider Material Submissions	179	NA	\$15.00	\$15		
Service Provider Contracts	179	NA	\$15.00	\$15		
<b>Total for Collection</b>	<b>\$243,851</b>		<b>\$44,937</b>	<b>44,936</b>		
<b>Difference</b>	<b>\$ 243,851</b>		<b>\$ 1</b>			

**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.**

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 that display would be inappropriate.**

There are no forms prescribed for this information collection.

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