

determination that the total number of marine mammals taken by the activity as a whole will have no more than a negligible impact on the affected species or stock of marine mammal(s).

**§ 218.187 Renewal of Letters of Authorization and adaptive management.**

(a) A Letter of Authorization issued under § 216.106 of this chapter and § 218.186 for the activity identified in § 218.180(c) will be renewed annually upon:

(1) Notification to NMFS that the activity described in the application submitted under § 218.185 shall be undertaken and that there will not be a substantial modification to the described work, mitigation or monitoring undertaken during the upcoming 12 months;

(2) Timely receipt of the monitoring reports required under § 218.184(b); and

(3) A determination by the NMFS that the mitigation, monitoring and reporting measures required under § 218.183 and the Letter of Authorization issued under §§ 216.106 of this chapter and 218.186, were undertaken and will be undertaken during the upcoming annual period of validity of a renewed Letter of Authorization.

(b) If a request for a renewal of a Letter of Authorization issued under §§ 216.106 of this chapter and 218.187 indicates that a substantial modification to the described work, mitigation or monitoring undertaken during the upcoming season will occur, the NMFS will provide the public a period of 30 days for review and comment on the request. Review and comment on renewals of Letters of Authorization are restricted to:

(1) New cited information and data indicating that the determinations made in this document are in need of reconsideration, and

(2) Proposed changes to the mitigation and monitoring requirements contained in these regulations or in the current Letter of Authorization.

(c) A notice of issuance or denial of a renewal of a Letter of Authorization will be published in the **Federal Register**.

(d) NMFS, in response to new information and in consultation with the Navy, may modify the mitigation or monitoring measures in subsequent LOAs if doing so creates a reasonable likelihood of more effectively accomplishing the goals of mitigation and monitoring set forth in the preamble of these regulations. Below are some of the possible sources of new data that could contribute to the decision to modify the mitigation or monitoring measures:

(1) Results from the Navy's monitoring from the previous year (either from NSWC PCD Study Area or other locations).

(2) Findings of the Monitoring Workshop that the Navy will convene in 2011 (§ 218.184(i)).

(3) Compiled results of Navy-funded research and development (R&D) studies.

(4) Results from specific stranding investigations (either from the NSWC PCD Study Area or other locations).

(5) Results from general marine mammal and sound research (funded by the Navy (described below) or otherwise).

(6) Any information which reveals that marine mammals may have been taken in a manner, extent or number not authorized by these regulations or subsequent Letters of Authorization.

**§ 218.188 Modifications to Letters of Authorization.**

(a) Except as provided in paragraph (b) of this section, no substantive modification (including withdrawal or suspension) to the Letter of Authorization by NMFS, issued pursuant to § 216.106 of this chapter and § 218.186 and subject to the provisions of this subpart shall be made until after notification and an opportunity for public comment has been provided. For purposes of this paragraph, a renewal of a Letter of Authorization under § 218.187, without modification (except for the period of validity), is not considered a substantive modification.

(b) If the Assistant Administrator determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in § 218.181(b), a Letter of Authorization issued pursuant to § 216.106 of this chapter and § 218.186 may be substantively modified without prior notification and an opportunity for public comment. Notification will be published in the **Federal Register** within 30 days subsequent to the action.

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 665**

[Docket No. 090218199-91223-02]

**RIN 0648-AX38**

**Fisheries in the Western Pacific; Pelagic Fisheries; Vessel Identification Requirements**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule.

**SUMMARY:** This final rule revises identification requirements for U.S. vessels that fish for pelagic management unit species in the western and central Pacific Ocean. Each vessel is required to display its International Telecommunication Union Radio Call Sign (IRCS) or, if an IRCS has not been assigned, its official number preceded by the characters "USA ". This rule makes Federal vessel identification requirements consistent with international requirements.

**DATES:** This final rule is effective February 22, 2010.

**ADDRESSES:** Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to William L. Robinson, NMFS, 1601 Kapiolani Blvd. 1110, Honolulu, HI 96814, e-mailed to [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov), or faxed to 202-395-7285.

**FOR FURTHER INFORMATION CONTACT:** Jarad Makaiau, Sustainable Fisheries, NMFS PIR, 808-944-2108.

**SUPPLEMENTARY INFORMATION:** This **Federal Register** document is also accessible at [www.gpoaccess.gov/fr/](http://www.gpoaccess.gov/fr/).

This final rule revises the vessel identification requirements at 50 CFR § 665 to make them consistent with international requirements. Currently, each fishing vessel is required to display its official number (United States Coast Guard documentation or other registration number) on the port and starboard sides of the deckhouse or hull, and on an appropriate weather deck, so as to be visible from enforcement vessels and aircraft.

New international rules require each vessel that fishes on the high seas in the Area of the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the

Western and Central Pacific Ocean (Convention) to display its IRCS on the port and starboard sides of the hull or superstructure, and on a deck surface. If an IRCS has not been assigned, the vessel must display its official number preceded by the characters "USA" and a hyphen (i.e., "USA-").

U.S. vessels fishing for pelagic species on the high seas of the Convention area would be required to display the international vessel markings (IRCS or USA-official number). A pelagic vessel that fishes only within the U.S. Exclusive Economic Zone (EEZ), or on the high seas outside the Convention Area, would have the option to display either the international markings or official number.

On July 17, 2009, NMFS published a proposed rule and request for public comment on the vessel identification requirements (74 FR 34707). The comment period for the proposed rule ended on August 3, 2009, and NMFS did not receive any comments.

This final rule modifies only the manner in which federally-permitted pelagic fishing vessels are identified, and does not change vessel operations or other aspects of pelagic fisheries. Additional background information on this final rule may be found in the preamble to the proposed rule, and is not repeated here.

#### Changes From the Proposed Rule

NMFS made one administrative clarification to the final rule for consistency with a change implemented by a recent, separately published final rule in which NMFS restructured western Pacific fishing regulations. In that rule, former § 665.21, relating to pelagic fishing permits, was redesignated as § 665.801. This final rule updates the regulatory text to be consistent with the above change.

#### Classification

The Regional Administrator, Pacific Islands Region, NMFS, determined that this action is necessary for the conservation and management of western and central Pacific high seas pelagic fisheries, and that it is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Council for Regulation of the Department of Commerce certified to the Chief Council for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

This final rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA), and which has been approved by the Office of Management and Budget (OMB) under control number 0648-0360. The one-time public reporting burden for vessel identification requirements is estimated at 45 minutes and \$100 in supplies per vessel. This includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to William L. Robinson (see ADDRESSES) and by e-mail to [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov), or fax to 202-395-7285.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

#### List of Subjects in 50 CFR Part 665

Fisheries, Fishing, Reporting and recordkeeping requirements, Vessel identification, Western and central Pacific.

Dated: January 14, 2010.

**James W. Balsiger,**

*Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.*

■ For the reasons set out in the preamble, 50 CFR part 665 is amended as follows:

#### PART 665—FISHERIES IN THE WESTERN PACIFIC

■ 1. The authority citation for part 665 continues to read as follows:

**Authority:** 16 U.S.C. 1801 *et seq.*

■ 2. In § 665.16, revise paragraphs (a) and (b) to read as follows:

#### § 665.16 Vessel identification.

(a) Applicability. Each fishing vessel subject to this part, except those identified in paragraph (e) of this section, must be marked for identification purposes, as follows:

(1) A vessel that is registered for use with a valid permit issued under § 665.801 and used to fish on the high seas within the Convention Area as defined in § 300.211 of this title must be marked in accordance with the requirements at §§ 300.14 and 300.217 of this title.

(2) A vessel that is registered for use with a valid permit issued under § 665.801 of this part and not used to fish on the high seas within the Convention Area must be marked in accordance with either:

(i) Sections 300.14 and 300.217 of this title, or

(ii) Paragraph (b) of this section.

(3) A vessel that is registered for use with a valid permit issued under Subparts B through E of this part must be marked in accordance with paragraph (b) of this section.

(b) Identification. Each vessel subject to this section must be marked as follows:

(1) The vessel's official number must be affixed to the port and starboard sides of the deckhouse or hull, and on an appropriate weather deck, so as to be visible from enforcement vessels and aircraft. Marking must be legible and of a color that contrasts with the background.

(2) For fishing and receiving vessels of 65 ft (19.8 m) LOA or longer, the official number must be displayed in block Arabic numerals at least 18 inches (45.7 cm) in height, except that vessels in precious coral fisheries that are 65 ft (19.8 m) LOA or longer must be marked in block Arabic numerals at least 14 inches (35.6 cm) in height.

(3) For all other vessels, the official number must be displayed in block Arabic numerals at least 10 inches (25.4 cm) in height.

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