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Title 50 –Wildlife and Fisheries

Chapter VI –Fishery Conservation and Management, National Oceanic and Atmospheric Administration, Department of Commerce

Part 665 –Fisheries in the Western Pacific

Subpart F –Western Pacific Pelagic Fisheries

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

Source: 75 FR 2205, Jan. 14, 2010, unless otherwise noted.

§ 665.808 Conditions for at-sea observer coverage.

- (a) NMFS shall advise the permit holder or the designated agent of any observer requirement at least 24 hours (not including weekends and Federal holidays) before any trip for which NMFS received timely notice in compliance with these regulations.
- (b) The “Notice Prior to Fishing Trip” requirements in this subpart commit the permit holder to the representations in the notice. The notice can be modified by the permit holder or designated agent because of changed circumstance, if the Regional Administrator is promptly provided a modification to the notice that complies with the notice requirements. The notice will also be considered modified if the Regional Administrator and the permit holder or designated agent agrees to placement changes.
- (c) When NMFS notifies the permit holder or designated agent of the obligation to carry an observer in response to a notification under this subpart, or as a condition of an EFP issued under § 665.17, the vessel may not engage in the fishery without taking the observer.
- (d) A NMFS observer shall arrive at the observer's assigned vessel 30 minutes before the time designated for departure in the notice or the notice as modified, and will wait 1 hour for departure.
- (e) A permit holder must accommodate a NMFS observer assigned under these regulations. The Regional Administrator's office, and not the observer, will address any concerns raised over accommodations.
- (f) The permit holder, vessel operator, and crew must cooperate with the observer in the performance of the observer's duties, including:
 - (1) Allowing for the embarking and debarking of the observer.
 - (2) Allowing the observer access to all areas of the vessel necessary to conduct observer duties.
 - (3) Allowing the observer access to communications equipment and navigation equipment as necessary to perform observer duties.
 - (4) Allowing the observer access to VMS units to verify operation, obtain data, and use the communication capabilities of the units for official purposes.
 - (5) Providing accurate vessel locations by latitude and longitude or loran coordinates, upon request by the observer.
 - (6) Providing sea turtle, marine mammal, or seabird specimens as requested.
 - (7) Notifying the observer in a timely fashion when commercial fishing operations are to begin and end.

- (g) The permit holder, operator, and crew must comply with other terms and conditions to ensure the effective deployment and use of observers that the Regional Administrator imposes by written notice.
- (h) The permit holder must ensure that assigned observers are provided living quarters comparable to crew members and are provided the same meals, snacks, and amenities as are normally provided to other vessel personnel. A mattress or futon on the floor or a cot is not acceptable if a regular bunk is provided to any crew member, unless other arrangements are approved in advance by the Regional Administrator.
- (i) Reimbursement requirements are as follows:
 - (1) Upon observer verification of vessel accommodations and the number of assigned days on board, NMFS will reimburse vessel owners a reasonable amount for observer subsistence as determined by the Regional Administrator.
 - (2) If requested and properly documented, NMFS will reimburse the vessel owner for the following:
 - (i) Communications charges incurred by the observer.
 - (ii) Lost fishing time arising from a seriously injured or seriously ill observer, provided that notification of the nature of the emergency is transmitted to the Observer Program, NMFS (see address for PIRO Regional Administrator) at the earliest practical time. NMFS will reimburse the owner only for those days during which the vessel is unable to fish as a direct result of helping the NMFS employee who is seriously injured or seriously ill. Lost fishing time is based on time traveling to and from the fishing grounds and any documented out-of-pocket expenses for medical services. Payment will be based on the current target fish market prices and that vessel's average target fish catch retained per day at sea for the previous 2 years, but shall not exceed \$5,000 per day or \$20,000 per claim. Detailed billing with receipts and supporting records are required for allowable communication and lost fishing time claims. The claim must be completed in ink, showing the claimant's printed name, address, vessel name, observer name, trip dates, days observer was on board, an explanation of the charges, and claimant's dated signature with a statement verifying the claim to be true and correct. Requested reimbursement claims must be submitted to the Fisheries Observer Branch, Pacific Islands Region, NMFS. NMFS will not process reimbursement invoices and documentation submitted more than 120 days after the occurrence.
- (j) If a vessel normally has cabins for crew members, female observers on a vessel with an all-male crew must be accommodated either in a single person cabin or, if NMFS concludes that adequate privacy can be ensured by installing a curtain or other temporary divider, in a two-person shared cabin. If the vessel normally does not have cabins for crew members, alternative accommodations must be approved by NMFS. If a cabin assigned to a female observer does not have its own toilet and shower facilities that can be provided for the exclusive use of the observer, or if no cabin is assigned, then arrangements for sharing common facilities must be established and approved in advance by NMFS.

We estimate that completing the claim for reimbursement will take 10 minutes on average. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to NOAA, Nate Chan, Nathan.chan@noaa.gov. This collection has been approved by the Office of Management and Budget (OMB). The eight-digit OMB approval number that appears at the upper left of the form confirms this approval. If this number were not displayed, we could not conduct this information collection.