



**NOAA**  
**FISHERIES**

Office of Law  
Enforcement

# Initiation of Investigation & Elements of a Violation

SEAFDEC Regional PSM Inspector Training  
Bangkok, Thailand

22-26 July 2019

# Regional Fishery Bodies

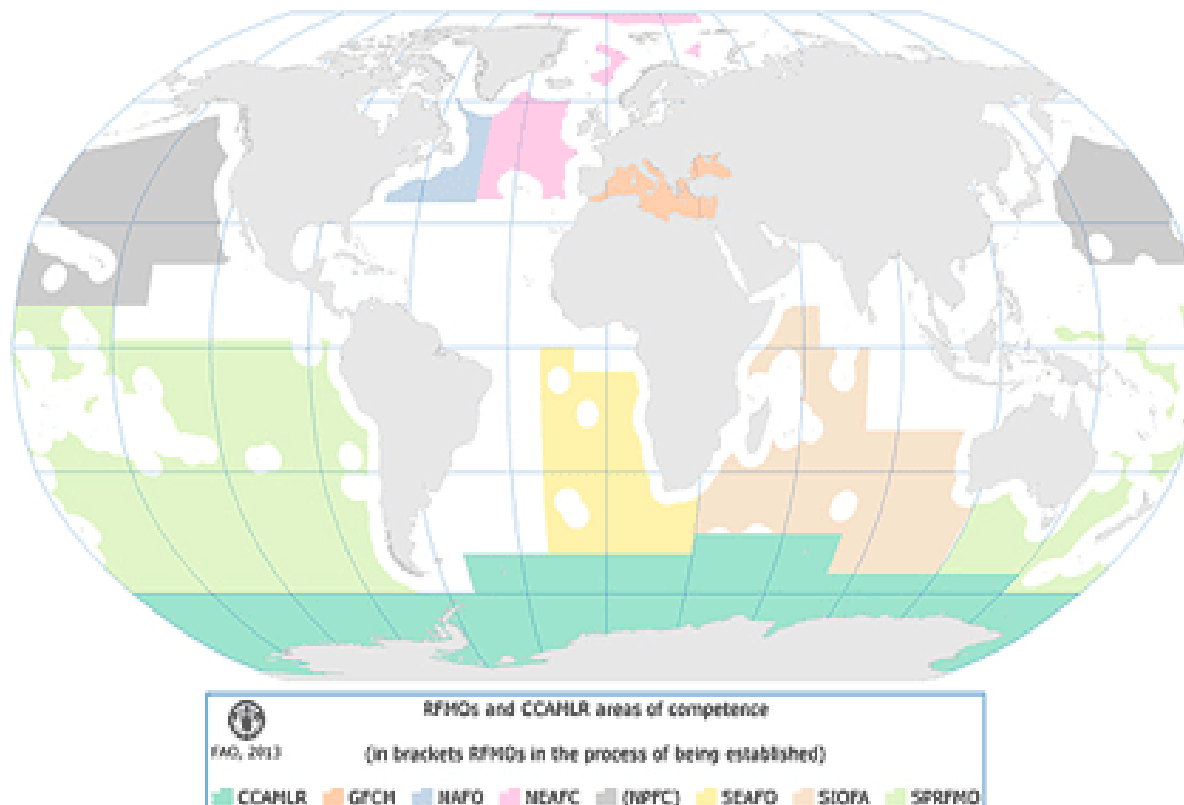


# Regional Management Fishing Organizations (RFMOs)

- International bodies that are comprised of countries that share fishing resources.
- Play a critical role in fisheries on the high sea and/or deep sea in a particular geographic region.
- Ensure the long-term conservation and sustainable use of shared fish stocks in the areas which these resources occur.

# RFMOs

Some RFMOs may manage all of the fish stocks found within a specific geographic region.



# RFMOs

Other RFMOs manage highly-migratory species (HMS), mainly tuna, throughout a region:

- International Commission for the Conservation of Atlantic Tunas (ICCAT)
- Inter-American Tropical Tuna Commission (IATTC)
- Western and Central Pacific Fisheries Commission (WCPFC)
- Indian Ocean Tuna Commission (IOTC)
- Commission for the Conservation of Southern Bluefin Tuna (CCSBT)

# Role of RFMOs

## MCS Measures

- Authorized vessel lists
- IUU vessel lists
- VMS
- Boarding and inspection
- Landing restrictions
- Transshipment restrictions
- Reporting requirements

## CMM Examples

- Daily catch reporting
- FAD closures
- Tuna CMMs
- Tuna-like species CMMs
- Observer programs
- Prohibited species

# Goal

Determine if an enforcement action or further investigation is appropriate after examining the facts

# Topics for Discussion

- Identify the facts of a situation.
- Identify the elements of a National Regulation/Conservation and Management Measure (NR/CMM).
- Compare the facts against the elements of the applicable NR/CMM to determine if a violation exist and warrant enforcement action(s) or further investigation.



# Identify the Facts

What are facts?

# Identify the Facts

What are facts?

Something that truly exists or happens.

# Identify the Facts

What are not facts?

# Identify the Facts

What are not facts?

**Your opinion.**

**A belief or judgement that is not fact.**

# Identify the Facts

Where are facts obtained?

# Identify the Facts

## Preliminary Investigation

Who, What, When, Where, How

- Conducted during vessel boarding, review of documentation after boarding, surveillance, etc.
- Who is the vessel/person engaged in the activity? What nationality?
- What illegal activity did the vessel/person engage in?
- When was the vessel engaged in the activity?

# Identify the Facts

## Preliminary Investigation

Who, What, When, Where, How

- Where did the activity occur? Beyond areas of national jurisdiction? High seas?
- How did the vessel /person conduct the illegal activity?

If the vessel and/or activity is not regulated under the National Regulation/Conservation and Management Measures (NR/CMMs), then another regulation (territorial, treaty, etc.) may apply.



# Identify the Facts

## Preliminary Investigation

Who, What, When, Where, How

If enough applicable facts exist, further investigation or enforcement action is appropriate.



# Identify the Elements of a CMM

Before you can determine if a NR/CMM has been violated you first need to know what constitutes a violation. To do this you have to know how to identify the applicable RN/CMM and its elements.

# Identify the Elements of a CMM

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The short-hand reference to the relevant Conservation and Management Measure is commonly CMM 20xx-xx and for Resolutions it is Res.20xx-xx.  
Such decisions are sequentially numbered and include the year of adoption.

# Identify the Elements of a CMM

## Glossary of common Acronyms and Terms

Acronym	Explanation
3IA	3rd Implementing Agreement (PNA)
C of C	Code of Conduct
CCMs	Commission Members, Cooperating Non-Members and Participating Territories
CMMs	Conservation and Management Measures
CMS	Compliance Monitoring Scheme
CNM	WCPFC Cooperating Non Members: Ecuador; El Salvador; Mexico; Panama, Liberia, Thailand, Vietnam
COFI	FAO Committee on Fisheries
dCMR	Draft Compliance Monitoring Report
DP	Delegation Paper
ED	Executive Director
EEZ	Exclusive Economic Zone
EPO	Eastern Pacific Ocean
F	Fishing Mortality Data



# Identify the Elements of a CMM

## Definitions

Conservation and Management Measure 2004 – 03

### 1.2 Definitions

For the purpose of these Specifications:

“Convention” means the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean.

“deck” means any surface lying in the horizontal plane, including the top of the wheelhouse;

“FAO Standard Specifications for the Marking and Identification of Fishing Vessels” means the Standard Specifications and Guidelines approved by the FAO Committee on Fisheries (COFI) at its 10th Session, Rome, 10-14 April 1990.



Identify the elements of a CMM

# Let's look an actual CMM and its elements.

After examination you will compare a set of applicable facts to determine if an enforcement action or further investigation is appropriate.



Western and  
Central Pacific  
Fisheries  
Commission

COMMISSION  
TENTH REGULAR SESSION  
Cairns, Australia  
2-6 December 2013

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CONSERVATION AND MANAGEMENT MEASURE ON DAILY CATCH AND EFFORT  
REPORTING

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Conservation and Management Measure 2013-05

## Conservation and Management Measure 2013-05

The Commission for the Conservation and Management of Highly Migratory Fish Stock in the Western and Central Pacific Ocean:

Concerned that full and accurate data from fishing vessels is required to inform stock assessment and other scientific evaluation;

Noting that operational level catch and effort data provides significant value to scientific assessment;



# Identify the Elements

## Conservation and Management Measure 2013-05

Adopts in accordance with Article 10 of the WCPFC Convention:

1. Each CCM shall ensure that the master of each vessel flying its flag in the Convention Area shall complete an accurate written or electronic log of every day that it spends at sea on the high seas of the Convention Area as follows:
  - a. for days with fishing operations, the log must be completed by recording the effort and catch at the end of each fishing operation (i.e. end of a purse-seine set, end of a longline -haul, or at the end of the day in the case of all other fishing methods); or
  - b. for days with no fishing operations but where any other “fishing effort” occurred, then the relevant activities (e.g. “SEARCHING”, DEPLOY/RETRIEVE FAD”) must be entered in the log at the end of the day; or
  - c. for days with no fishing operations and no other “fishing effort,” the main activity of the day must be entered in the log at the end of the day.



# Identify the Elements

## Conservation and Management Measure 2013-05

2. Information recorded for each day with fishing operations shall, at a minimum, include the following:
  - a. The information specified in sections 1.3 to 1.6 of ANNEX 1 of the Scientific Data to be Provided to the Commission;
  - b. Catch information about other species not listed in those sections, but required to be reported by CCMs under other Commission decisions such as, *inter alia*, key shark species according to FAO species codes.
  - c. Interaction information about other species not listed in those sections, but required to be reported by CCMs under other Commission decisions such as, *inter alia*, key cetaceans, seabirds and sea turtles.



# Identify the Elements

## Conservation and Management Measure 2013-05

3. Each CCM shall require the master of each vessel flying its flag in the Convention Area provides an accurate and unaltered original or copy of the required information to its national authority within 15 days of the end of a trip or transshipment, or within the period specified by any existing national requirement for the provision of such information.
4. Each CCM shall require the master of each vessel flying its flag in the Convention Area to keep an accurate and unaltered original or copy of the required information pertaining to the current trip on board the vessel at all times during the course of a trip.
5. Non-compliance with this measure shall be considered in accordance with CMM 2010-06 or its successor.
6. This CMM is without prejudice to existing or additional reporting requirements.



# Compare the Facts Against the Elements of the Applicable CMM

After comparing the facts against the elements of the applicable NR/CMMs determine if an enforcement action(s) or further investigation warranted.

- If facts support the elements an enforcement action or investigation is appropriate
- Fully document facts, especially those that support the applicable elements of the NR/CMMs.
- Proper documentation is necessary for a successful prosecution

# Sample Exercise

(Facts for exercise found during boarding)

During your inspection of the boarded vessel, you examined the vessel's written log and noted the following:

- The vessel fished 25 days on the high seas of the Convention area.
- Long-line gear was used
- The effort and catch were documented for only 17 days
- The remaining 8 days did not have any documentation of the vessel's main activity and were left blank.

# Sample Exercise

During your inspection of the boarded vessel, you examined the vessel's written log and noted the following:

- The vessel fished 25 days on the high seas of the Convention area.
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**1. Was the vessel on the high seas of the Convention area?**

# Sample Exercise

During your inspection of the boarded vessel, you examined the vessel's written log and noted the following:

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- The remaining 8 days did not have any documentation of the vessel's main activity and were left blank.

1. Was the vessel on the high seas of the Convention area?

YES

# Sample Exercise

During your inspection of the boarded vessel, you examined the vessel's written log and noted the following:

- The vessel fished 25 days on the high seas of the Convention area.
- Long-line gear was used
- The effort and catch were documented for only 17 days
- The remaining 8 days did not have any documentation of the vessel's main activity and were left blank.

## 2. Was the vessel engaged in fishing activity?

# Sample Exercise

During your inspection of the boarded vessel, you examined the vessel's written log and noted the following:

- The vessel fished 25 days on the high seas of the Convention area.
- Long-line gear was used
- The effort and catch were documented for only 17 days
- The remaining 8 days did not have any documentation of the vessel's main activity and were left blank.

## 2. Was the vessel engaged in fishing activity?

YES...

# Sample Exercise

2. Was the vessel engaged in fishing activity?

YES... But...

The logbooks suggest the vessel fished for 17 days, *BUT* interviews with the master/crew and review of other documentation may expose more.



# Sample Exercise

During your inspection of the boarded vessel, you examined the vessel's written log and noted the following:

- The vessel fished 25 days on the high seas of the Convention area.
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**3. Were logs entered for each day the vessel engaged in fishing?**

# Sample Exercise

During your inspection of the boarded vessel, you examined the vessel's written log and noted the following:

- The vessel fished 25 days on the high seas of the Convention area.
- Long-line gear was used
- The effort and catch were documented for only 17 days
- The remaining 8 days did not have any documentation of the vessel's main activity and were left blank.

**3. Were logs entered for each day the vessel engaged in fishing?**

**Yes... We think...**

## Sample Exercise

3. Were logs entered for each day the vessel engaged in fishing?

Yes... We think...

The logbooks suggest the vessel fished for 17 days, *BUT* interviews with the master/crew and review of other documentation may expose more.

# Sample Exercise

## Elements of CMM 2013-05 were met?

- Were logs entered for each day the vessel did not engage in fishing?

# Sample Exercise

Elements of CMM 2013-05 were met?

- Were logs entered for each day the vessel did not engage in fishing?

**No.**

# Sample Exercise

Elements of CMM 2013-05 were met?

- What should have been entered?

# Sample Exercise

Elements of CMM 2013-05 were met?

- What should have been entered?

The main activity of the day.

# Sample Exercise

## Elements of CMM 2013-05 were met?

- Did the master maintain an accurate and unaltered original or copy of the required information during the trip?



# Sample Exercise

## Elements of CMM 2013-05 were met?

- Did the master maintain an accurate and unaltered original or copy of the required information during the trip?

**No.**

# Sample Exercise

## Elements of CMM 2013-05 were met?

- Were logs entered for each day the vessel did not engage in fishing?

**No.**

- What should have been entered?

**The main activity for each day.**

- Did the master maintain an accurate and unaltered original or copy of the required information during the trip?

**No.**

# Sample Exercise

Is enforcement action or further investigation warranted?

# Questions?

