



**U.S. DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
**NATIONAL MARINE FISHERIES SERVICE**  
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Stephen Haleck, Chairperson  
Western Pacific Fishery Management Council  
1164 Bishop Street, Suite 1400  
Honolulu, HI 96813

Eric Olson, Chairperson  
North Pacific Fishery Management Council  
605 West 4th Avenue, Suite 306  
Anchorage, AK 99501-2252

David Ortman, Chairperson  
Pacific Fishery Management Council  
7700 NE Ambassador Place, Suite 101  
Portland, OR 97220-1384

Dear Chairpersons Haleck, Olson, and Ortman:

I am writing about the decisions made by the Western and Central Pacific Fisheries Commission (Commission) at its Sixth Regular Annual Session, in Tahiti, in December 2009. The Western and Central Pacific Fisheries Convention Implementation Act (Act) authorizes the Secretary of Commerce, in consultation with the Secretary of State and the Department of Homeland Security, to promulgate such regulations as may be necessary to implement the decisions of the Commission.

Further, consistent with Section VI of the recently signed memorandum of understanding between the Department of Commerce, the Department of State, and the three Regional Fishery Management Councils, I am identifying potential regulatory actions and providing the opportunity to comment early in this process.

By way of this letter, I would like to share NOAA Fisheries Service's initial assessment of the regulatory actions that will be needed to implement the recent decisions of the Commission, including identification of those decisions for which Council consideration and recommendations would be appropriate.

The Commission adopted several conservation and management measures (CMMs) and revised a number of existing measures. Each of these decisions is summarized below, along with an initial assessment of whether regulatory action is needed.



*CMM 2009-01 – WCPFC Record of Fishing Vessels and Authorization to Fish*

This measure replaces CMM 2004-01. The changes relate primarily to the operation in the Convention Area of carrier and bunker vessels that are not flagged to members or cooperating non-members of the Commission. Regulatory action appears to be needed to ensure that U.S. vessels conduct transshipment and bunkering in the Convention Area only with authorized vessels (see paragraph 2 in the CMM). NOAA Fisheries Service will proceed with developing such regulations under authority of the Act.

*CMM 2009-02 – Conservation and Management Measure on the Application of High Seas FAD Closures and Catch Retention*

This new measure adds specificity to the seasonal FAD closure and catch retention elements of CMM 2008-01, which is aimed at conserving bigeye tuna and yellowfin tuna stocks. Although not reflected in CMM 2009-02 itself, the Commission decided that any member that had already implemented those elements in a manner compatible with, but not necessarily identical to, the new measure would be given some flexibility in implementing CMM 2009-02 for 2010. The United States is apparently the only member of the Commission to have promulgated regulations implementing the seasonal FAD closure and catch retention elements of CMM 2008-01 (see the final rule at 74 FR 38544). As a result, no further regulatory action is needed to implement CMM 2009-02 for 2010.

*CMM 2009-03 – Conservation and Management for Swordfish*

This measure replaces CMM 2008-05. The main changes are a new provision for cases in which annual catch limits are exceeded, and adjustments to the specification of Commission members' baseline catches. None of the changes raise the need for regulatory action. However, the United States will periodically review the need for regulatory action with respect to the most substantive elements of the measure – namely, the measure's limits on swordfish catches and the number of vessels fishing for swordfish in the South Pacific Ocean. NOAA Fisheries Service believes that no regulatory action is needed now, but the issue could certainly be appropriate for Council consideration. For example, the CMM includes provisions related to the responsible development of fisheries in Participating Territories, and we note the potential for development of the swordfish-directed fishery out of American Samoa. In order to ensure consistency with the CMM, any such fishery development would ideally be conducted in accordance with a plan that established appropriate objectives, strategies and constraints.

*CMM 2009-04 – Conservation and Management of Sharks*

This measure replaces CMM 2008-06. The only change is the addition of silky shark as a "key shark species," which is relevant in terms of reporting and research. It does not require additional regulatory action.

*CMM 2009-05 – Conservation and Management Measure Prohibiting Fishing on Data Buoys*

This new measure requires that Commission members prohibit their fishing vessels from fishing in the vicinity of data buoys on the high seas in the Convention Area. Regulatory action appears to be needed to accomplish this, and NOAA Fisheries Service intends to develop and implement such regulations under authority of the Act.

*CMM 2009-06 – Conservation and Management Measure on the Regulation of Transshipment*

This new measure regulates transshipment activities in the Convention Area and includes notice and reporting requirements for vessels involved in transshipment, both at sea and at port. NOAA Fisheries Service intends to develop and implement appropriate regulations to implement this measure under authority of the Act. Because FMP implementing regulations also contain requirements related to transshipping, NOAA Fisheries Service will develop the new regulations under the Act with a view to avoiding duplication with FMP-based requirements. At the same time, the Councils may wish to reconsider the transshipment-related provisions of their respective FMPs and FEPs in light of this new Commission CMM.

*CMM 2009-07 – Conservation and Management Measure for Pacific Bluefin Tuna*

This new measure requires that Commission members limit fishing effort in the North Pacific Ocean for Pacific bluefin tuna in their fisheries during 2010. Regulatory action is probably not needed because the United States does not have directed bluefin fisheries in the Convention Area, but this issue is certainly appropriate for Council consideration.

*CMM 2009-08 – Charter Notification Scheme*

This new measure requires that Commission members notify the Commission of any charter arrangements involving vessels flagged to other nations. As such arrangements are currently rare in the United States, it appears that no regulatory action is needed at present to implement this measure.

*CMM 2009-09 – Conservation and Management Measure for Vessels without Nationality*

This new measure aims to enhance the means for Commission members to take enforcement action against fishing vessels without flag that operate in the Convention Area. The United States is able to fully implement the provisions of this measure under authority of the High Seas Fishing Compliance Act, so no further regulatory action is needed.

In addition to considering these latest decisions of the Commission, the Councils, of course, are welcome to consider previous decisions of the Commission with respect to the fisheries under their respective authority.

Please let me know if you have any questions or concerns regarding implementation of Commission actions taken in 2009. I look forward to working with the Councils to implement the decisions of the Commission in a timely and efficient manner.

Sincerely,



William L. Robinson  
Regional Administrator

cc: William Gibbons-Fly, U.S. Department of State  
Lt. Cmdr. Jay Caputo, U.S. Coast Guard  
Ufagafa Ray Tulafono, American Samoa Department of Marine and Wildlife Resources  
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