



North Pacific Fisheries Commission

CMM 2019-13

(Entered Into Force 29 November 2019)

CONSERVATION AND MANAGEMENT MEASURE FOR THE COMPLIANCE MONITORING SCHEME

The North Pacific Fisheries Commission (NPFC),

Acknowledging the importance of compliance by Members and Cooperating Non-Contracting Parties to achieve the objective of the Convention as defined in Article 2;

Recognizing that Article 7 of the Convention calls for the Commission to establish procedures for reviewing compliance with the Convention and measures adopted pursuant to the Convention;

Recalling that the Commission has adopted a wide range of conservation and management measures to give effect to the objective of the Convention;

Noting that, in accordance with Article 17 of the Convention, Members of the Commission have undertaken to enforce the provisions of the Convention and any conservation and management measures adopted by the Commission;

Noting also that, in accordance with international law, Members and Cooperating Non-Contracting Parties have responsibilities to effectively exercise jurisdiction and control over their flagged vessels and with respect to their nationals;

Acknowledging that Article 13 of the Convention obliges Members of the Commission to take the necessary measures to ensure that fishing vessels flying their flag comply with the provisions of the Convention and the conservation and management measures adopted pursuant thereto;

Recognizing the responsibility of Members and Cooperating Non-Contracting Parties to fully and effectively implement the provisions of the Convention and the conservation and management measures adopted by the Commission, and the need to improve such implementation and ensure compliance with these commitments;

Adopts the following conservation and management measure in accordance with Article 7 of the Convention:

I. Purpose

1. The purpose of the NPFC Compliance Monitoring Scheme (CMS) is to ensure that Members

and Cooperating Non-Contracting Parties (CNCs) implement and comply with obligations under the Convention and conservation and management measures (CMMs) adopted by the Commission. The purpose of the CMS is also to assess Members' and CNCs' actions in relation to alleged violations by their flagged vessels or nationals, not to assess compliance by individual vessels or persons.

2. The CMS is designed to:
 - a. Identify non-compliance by Members and CNCs with their obligations under the Convention and CMMs;
 - b. Identify areas in which technical assistance or capacity building may be needed to assist Members or CNCs to attain compliance;
 - c. Identify trends in compliance, including aspects of CMMs which may require amendment for effective implementation;
 - d. Determine responses to non-compliance by Members or CNCs; and,
 - e. Monitor and verify corrective actions taken by a Member or CNC to resolve outstanding instances of non-compliance.

II. Scope and Application

3. The Commission, with the assistance of the Technical and Compliance Committee (TCC), shall assess Members' and CNCs' compliance with the obligations arising under the Convention and the CMMs adopted by the Commission and identify trends in and instances of non-compliance.
4. For obligations relating to fishing activities, unless otherwise specified in the relevant CMM, the compliance assessment shall apply to those activities occurring in the Convention area.
5. The CMS shall not prejudice the rights, jurisdiction and duties of any Member or CNC to enforce its domestic laws or to take more stringent measures in accordance with its domestic laws, consistent with that Member's or CNC's international obligations.
6. The compliance assessment period shall be the previous calendar year.
7. The Commission, with the assistance of TCC, shall determine responses to non-compliance in accordance with Annex I.

III. Draft Compliance Report

8. Prior to TCC, the Secretariat shall compile information received from Members and CNCs including through their Annual Reports, any data collections of the Commission (e.g., reports from observers, Vessel Monitoring Systems, High Seas Boarding and Inspections, high seas transshipments), and, where appropriate, any other relevant information relating to the

performance of NPFC CMMs available to the Secretariat, and shall prepare a Draft Compliance Report. The Draft Compliance Report shall:

- a. Present all available information relating to each Member's or CNCP's implementation of each obligation arising from the Convention or CMMs;
 - b. Report on any compliance issues that were identified from the previous year's Final Compliance Report (i.e., Resolved Non-Compliance, Non-Compliant, or Flag State Investigation) and any corrective actions reported by the Member or CNCP; and,
 - c. Identify the potential areas of non-compliance for each Member and CNCP and, as appropriate, request any follow-up information relating to the previous year's compliance issues.
9. No later than 60 days before the TCC meeting, the Secretariat shall provide each Member and CNCP its section of the Draft Compliance Report.
10. No later than 35 days before the TCC meeting, each Member and CNCP shall provide additional information on its section of the Draft Compliance Report to the Secretariat. This information shall, as appropriate:
- a. Provide information, clarifications, amendments, or corrections necessary to address the potential compliance issues identified or respond to any request for additional information;
 - b. Propose future corrective actions to be taken, along with time frames, to come into compliance;
 - c. Identify any causes of the potential compliance issues or mitigating circumstances; and,
 - d. Identify any technical assistance or capacity building needed.
11. The Secretariat shall compile a revised Draft Compliance Report containing all information provided pursuant to paragraph 10 above.
12. No later than 15 days before TCC, the Secretariat shall circulate the revised Draft Compliance Report to Members and CNCPs and make it available on the non-public section of the Commission website. For instances of non-compliance identified in Annex II as having an associated automatic response, the Secretariat shall automatically assign the appropriate status and response. Members and CNCPs may request review of automatically assigned statuses and responses when the Draft Compliance Report is considered by TCC.

IV. Provisional Compliance Report

13. TCC shall consider the Draft Compliance Report and any additional, readily verifiable information provided by Members, CNCPs, and the Commission, and, where appropriate, by non-governmental organizations or other organizations concerned with matters relevant to

the implementation of the Convention.

14. TCC shall develop a Provisional Compliance Report, which shall include a compliance assessment for each Member or CNCP obligation and identify response(s) to non-compliance, in accordance with Annex I. For an issue of non-compliance assigned an automatic response in accordance Annex II, TCC may consider additional responses as warranted, consistent with Annex I.
15. Each compliance assessment shall be decided by consensus. If consensus cannot be reached, the Provisional Compliance Report shall indicate majority and minority views. A Member or CNCP may not block agreement on its own compliance assessment.
16. The Provisional Compliance Report shall also include an Executive Summary with recommendations regarding, as appropriate:
 - a. Proposals to address compliance trends, and amend or improve existing CMMs;
 - b. Identified obstacles to implementation, including recommendations for capacity building assistance; and,
 - c. Revisions to the obligations to be assessed identified in Annex II.
17. TCC shall forward the Provisional Compliance Report to the Commission for consideration at the annual meeting.

V. Final Compliance Report

18. The Commission shall consider the Provisional Compliance Report recommended by TCC and adopt a Final Compliance Report.
19. The Final Compliance Report shall include:
 - a. A final compliance status for each Member and CNCP against each assessed obligation;
 - b. All responses to be taken to address instances of non-compliance; and,
 - c. An Executive Summary addressing the issues listed in paragraph 16.
20. Within 30 days following the adoption of the Final Compliance Report, the Chair of the Commission shall send a Letter of Concern to each Member or CNCP assessed a status of Non-Compliant. Such letters shall describe the relevant compliance issue(s) and the required response(s) identified in the Final Compliance Report.

VI. Data Protection

21. The Draft and Provisional Compliance Reports, and all associated documentation, shall constitute non-public domain data, but the Final Compliance Report and the executive

summary shall be public domain data.

VII. Identification of Compliance Measures to be Assessed

22. Annex II includes the list of obligations to be assessed as part of the CMS. Annex II will be reviewed annually and may be amended, as appropriate, taking into account factors such as:
 - a. The needs and priorities of the Commission;
 - b. Evidence of high percentages of non-compliance or repeated non-compliance with a particular obligation;
 - c. The risks posed by non-compliance to achievement of the objectives of the Convention; and,
 - d. Whether sufficient verifiable information is available to determine compliance.

VIII. Review of this Conservation Measure

23. This conservation and management measure shall expire three years after its entry into force.
24. Prior to expiration, the Commission should consider adopting a lasting compliance monitoring scheme.

ANNEXES

- Annex I – Compliance Status Table
- Annex II – Obligations to be Assessed

Compliance Status Table

Compliance Status	Criteria	Potential Responses
Compliant	Member or CNCP fully compliant with obligation	None
Delayed Submission	Member or CNCP rectified non-compliance for a missed report deadline in advance of TCC and it is not a repeated case of non-compliance	Member or CNCP to include in its Annual Report all actions taken
Non-Compliant	Non-compliance with obligation identified in Annex II that does not meet the criteria of Delayed Submission or Flag State Investigation	<ol style="list-style-type: none"> 1) Member or CNCP to rectify non-compliance and include in its Annual Report all actions taken, 2) Application of automatic response, as applicable (Annex II), and 3) Consideration of further responses.
Not Assessed	Ambiguity of relevant obligation	Review and potentially amend relevant provision(s)
Flag State Investigation	Currently undergoing investigation	<ol style="list-style-type: none"> 1) Review by TCC and Commission and deadline(s) placed on Member or CNCP to provide further information to the Secretariat and/or take action(s), and 2) Member or CNCP to report progress in its Annual Report

Obligations to be Assessed

Obligation to be Assessed	Automatic response for inclusion in the Draft Compliance Report
CMM 2018-05 Bottom Fisheries and VMEs in the NW Pacific	
CMM 2018-05 08	No automatic response has been assigned at this time.
CMM 2018-08 Pacific Saury	
CMM 2018-08 01	No automatic response has been assigned at this time.
CMM 2018-08 02	No automatic response has been assigned at this time.