



U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Pacific Islands Regional Office
1601 Kapiolani Blvd., Suite 1110
Honolulu, Hawaii 96814-4733
(808) 944-2200 • Fax: (808) 973-2941

MAY 19 2008

Re: Boarding and inspection of U.S. fishing vessels on the high seas in the western and central Pacific Ocean

Dear permit holder,

This letter is to advise you of an internationally agreed upon fishery management measure that may affect your vessel and its officers and crew if the vessel operates in the western and central Pacific Ocean.

This letter is directed to you because you are the holder of one or more permits issued under the authority of the High Seas Fishing Compliance Act, which authorizes the vessel to which the permit is assigned to be used for commercial fishing on the high seas (i.e., in international waters). If the permitted vessel is used on the high seas in the area of application (see Attachment 1) of the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (“the Convention”),¹ it may be affected by the provisions of the Convention, as well as the decisions of the Western and Central Pacific Fisheries Commission (“WCPFC”). The United States is a Contracting Party to the Convention and a Member of the WCPFC and has thereby agreed to be bound by the Convention and the decisions of the WCPFC.

In accordance with the Convention, the WCPFC has adopted procedures that provide for authorized inspectors of the Convention’s Contracting Parties to board and inspect the fishing vessels of other Contracting Parties on the high seas in the Convention Area for the purpose of ensuring compliance with the WCPFC’s conservation and management measures.

You are advised that each of the Contracting Parties to the Convention has the authority under international law to board and inspect U.S. fishing vessels on the high seas in the Convention Area, provided that they do so in conformance with the WCPFC Boarding and Inspection Procedures (an excerpt of which is enclosed as Attachment 2).²

Listed below are the current Contracting Parties to the Convention:³

¹ For a detailed description of Convention’s area of application, or the “Convention Area,” go to <http://www.wcpfc.int>, then to “Convention Texts,” then to “Convention,” where you can view and download the Convention, Article 3 of which establishes the boundaries of the Convention Area. Or you may contact the International Fisheries Program in this office.

² To view or download a copy of the full Procedures, go to <http://www.wcpfc.int>, then go to “MCS Scheme”, then to “High Seas Boarding & Inspection”, where you can find the link to ‘Western and Central Pacific Fisheries Commission High Seas Boarding and Inspection Procedures’ (CMM-2006-08). Or you may contact the International Fisheries Program in this office.

³ Chinese Taipei (Taiwan) is a “Fishing Entity” that has agreed to be bound by the regime established by the Convention. As such, Taiwan will, like Contracting Parties, have the authority to board and inspect vessels in accordance with the WCPFC’s Boarding and Inspection Procedures, but it will only be able to board and inspect fishing vessels flagged to Contracting Parties that have agreed to have the Procedures apply between themselves and Taiwan. The United States intends to notify the WCPFC of its agreement to that effect, at which time Taiwan’s



Australia	Japan	Papua New Guinea
Canada	Kiribati	Philippines
China	Korea	Samoa
Cook Islands	Republic of Marshall Islands	Solomon Islands
European Community	Nauru	Tonga
Federated States of Micronesia	New Zealand	Tuvalu
Fiji	Niue	United States of America
France	Palau	Vanuatu

Before a Contracting Party may begin conducting boarding and inspection on the high seas in the Convention Area, it must submit to the WCPFC Secretariat a list of its authorized inspection vessels and the authorities under which the inspectors themselves will conduct boarding and inspection. The Contracting Party's inspection personnel may commence boarding and inspection on the high seas in the Convention Area starting 60 days after that information is posted on the website of the WCPFC.⁴

As of this date, only a few Contracting Parties (Canada, France, New Zealand and the United States) have submitted the necessary information about their inspection vessels and authorities to the WCPFC Secretariat. However, we anticipate that in the coming months additional Contracting Parties will submit the necessary information and will then be authorized to conduct boarding and inspection of fishing vessels, including U.S. fishing vessels, on the high seas in the Convention Area.

To stay updated about which Contracting Parties have completed the preparations needed to conduct boarding and inspection, as well as the details about authorized inspection vessels of each such Contracting Party and their inspectors, **you should periodically check the WCPFC's website.**⁴ Or you may contact the International Fisheries Program in this office for more information (see contact information on letterhead).

Please keep in mind that the provisions of the Convention and decisions of the WCPFC in no way affect the authority of U.S. enforcement personnel to board and inspect U.S. vessels. As always, the officers and crew of your vessel are required to accept and accommodate boarding and inspection by U.S. authorities wherever the vessel may be.

Sincerely,



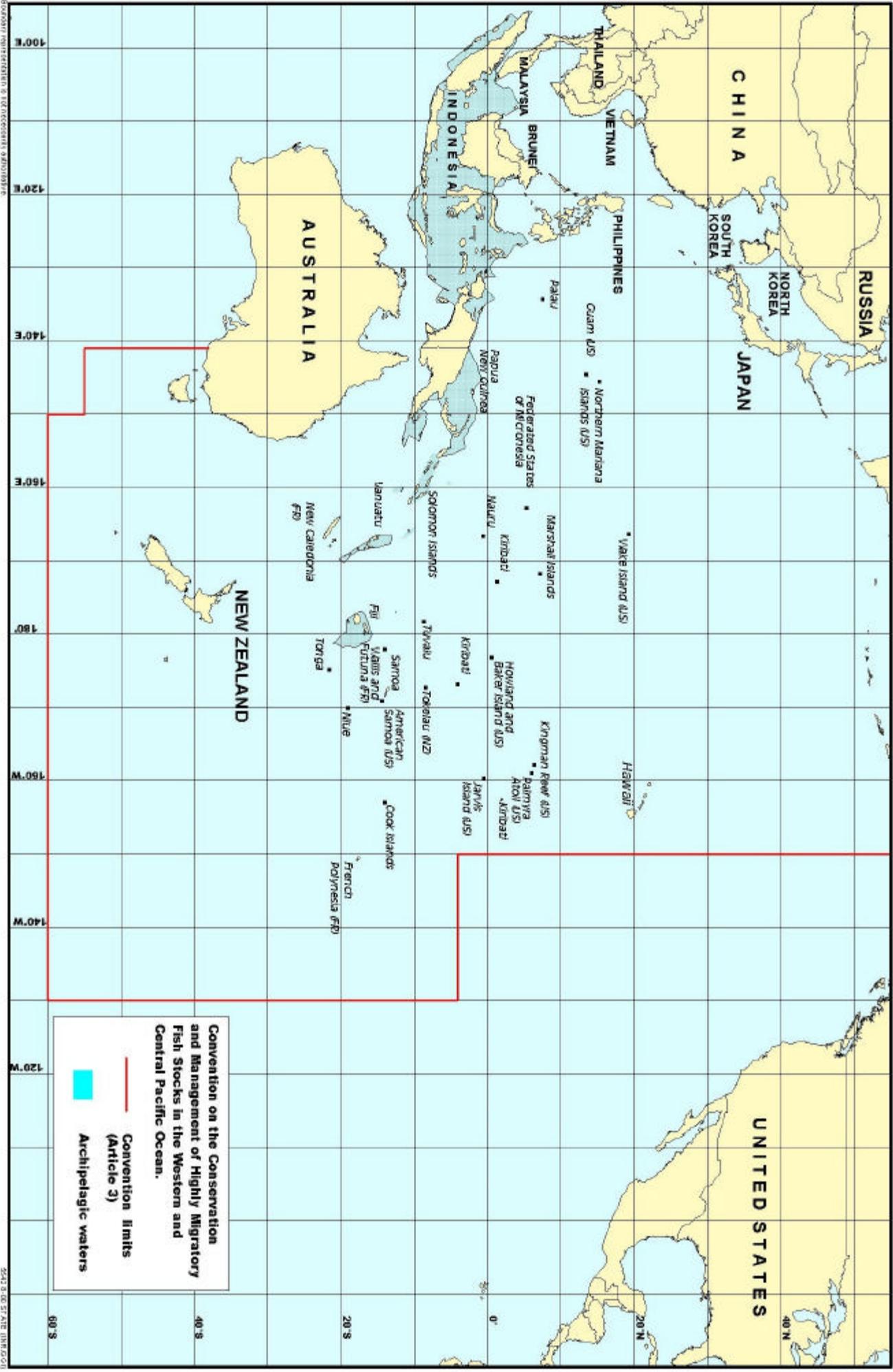
William L. Robinson
Regional Administrator

Attachments

authorized inspectors will have the authority to board and inspect U.S. fishing vessels on the high seas in the Convention Area.

⁴ To see information about the authorized inspection vessels and inspector authorities, go to <http://www.wcpfc.int>, then go to "MCS Scheme", then to "High Seas Boarding & Inspection", where you can find the authorized inspection vessels in the "WCPFC High Seas Boarding and Inspection Register" and the inspectors or their authorities in the "Details of Authority or Inspectors."

Attachment 1. Area of application of the Convention



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

— Convention limits (Article 3)

■ Archipelagic waters

Attachment 2. WCPFC Boarding and Inspection Procedures

Following is an excerpt of the WCPFC Boarding and Inspection Procedures (Conservation and Management Measure 2006-08), describing the procedures to be followed by authorized inspectors. Please see the full Procedures for additional information. The language in square brackets is not included in the Procedures themselves but it describes important WCPFC decisions about how the Procedures are to be implemented.

PROCEDURES

18. Authorized inspection vessels shall fly, in clearly visible fashion, the WCPFC inspection flag as designed by the Commission.

[The WCPFC inspection flag, as well as the WCPFC inspection pennant that might be flown by boarding launches, are shown in Attachment 3.]
19. Authorized inspectors shall carry an approved identity card identifying the inspector as authorized to carry out boarding and inspection procedures under the auspices of the Commission and in accordance with these procedures.

[Inspectors will not necessarily carry a Commission-issued identify card; they might carry only the identity cards issued by their own governments. Such identity cards would not necessarily make explicit reference to the Commission or its Boarding and Inspection Procedures, but because the inspectors or their authorities must be listed on the WCPFC High Seas Boarding and Inspection Register, such identity cards would allow verification of the legitimacy of the inspector. Samples of some identity cards might be available on the WCPFC website for verification purposes; go to <http://www.wcpfc.int>, then to “MCS Scheme.”]
20. An authorized inspection vessel that intends to board and inspect a fishing vessel on the high seas that is engaged in or reported to have engaged in a fishery regulated pursuant to the Convention shall, prior to initiating the boarding and inspection:
 - a. make best efforts to establish contact with the fishing vessel by radio, by the appropriate International Code of Signals or by other accepted means of alerting the vessel;
 - b. provide the information to identify itself as an authorized inspection vessel – name, registration number, international radio call sign and contact frequency;
 - c. communicate to the master of the vessel its intention to board and inspect the vessel under the authority of the Commission and pursuant to these procedures; and
 - d. initiate notice through the authorities of the inspection vessel of the boarding and inspection to the authorities of the fishing vessel.
21. In carrying out boarding and inspection pursuant to these procedures, the authorized inspection vessel and authorized inspectors shall make their best efforts to communicate with the master of the fishing vessels in a language that the master can understand. If necessary to facilitate communications between the inspectors and the master of the vessel, the inspectors shall use the relevant part of the standardized multi-language questionnaire to be prepared by the Secretariat and circulated to all Contracting Parties with authorized inspection vessels.

[The standardized multi-language questionnaire is available on the WCPFC website: go to <http://www.wcpfc.int>, then to “MCS Scheme,” where you can find links to several versions of the questionnaire.]
22. Authorized inspectors shall have the authority to inspect the vessel, its license, gear, equipment, records, facilities, fish and fish products and any relevant documents necessary to verify compliance with the conservation and management measures in force pursuant to the Convention.

23. Boarding and inspection pursuant to these procedures shall:
 - a. be carried out in accordance with internationally accepted principles of good seamanship so as to avoid risks to the safety of fishing vessels and crews;
 - b. be conducted as much as possible in a manner so as not to interfere unduly with the lawful operation of the fishing vessel;
 - c. take reasonable care to avoid action that would adversely affect the quality of the catch; and
 - d. not be conducted in such manner as to constitute harassment of a fishing vessel, its officers or crew.
24. In the conduct of a boarding and inspection, the authorized inspectors shall:
 - a. present their identity card to the master of the vessel and a copy of the text of the relevant measures in force pursuant to the Convention in the relevant area of the high seas;
 - b. not interfere with the master's ability to communicate with the authorities of the fishing vessel;
 - c. complete the inspection of the vessel within 4 (four) hours unless evidence of a serious violation is found;
 - d. collect and clearly document any evidence they believe indicates a violation of measures in force pursuant to the Convention;
 - e. provide to the master prior to leaving the vessel a copy of an interim report on the boarding and inspection including any objection or statement which the master wishes to include in the report;
 - f. promptly leave the vessel following completion of the inspection; and
 - g. provide a full report on the boarding and inspection to the authorities of the fishing vessel, pursuant to paragraph 30, which shall also include any master's statement.
25. During the conduct of a boarding and inspection, the master of the fishing vessel shall:
 - a. follow internationally accepted principles of good seamanship so as to avoid risks to the safety of authorized inspection vessels and inspectors;
 - b. accept and facilitate prompt and safe boarding by the authorized inspectors;
 - c. cooperate with and assist in the inspection of the vessel pursuant to these procedures;
 - d. not assault, resist, intimidate, interfere with, or unduly obstruct or delay the inspectors in the performance of their duties;
 - e. allow the inspectors to communicate with the crew of the inspection vessel, the authorities of the inspection vessel, as well as with the authorities of the fishing vessel being inspected;
 - f. provide them with reasonable facilities, including, where appropriate, food and accommodation; and
 - g. facilitate safe disembarkation by the inspectors.
26. If the master of a fishing vessel refuses to allow an authorized inspector to carry out a boarding and inspection in accordance with these procedures, such master shall offer an explanation of the reason for such refusal. The authorities of the inspection vessel shall immediately notify the authorities of the fishing vessel, as well as the Commission, of the master's refusal and any explanation.
27. The authorities of the fishing vessel, unless generally accepted international regulations, procedures and practices relating to safety at sea make it necessary to delay the boarding and inspection, shall direct the master to accept the boarding and inspection. If the master does not comply with such direction, the Member shall suspend the vessel's authorization to fish and order the vessel to return immediately to port. The Member shall immediately notify the authorities of the inspection vessel and the Commission of the action it has taken in these circumstances.

Attachment 3. WCPFC Inspection Flag and Pennant

