NOAA FISHERIES
Pacific Islands Regional Office

Compliance Guide

Restrictions on the Use of Fish Aggregating Devices in Purse Seine Fisheries for 2015

Revised December 2014[1]

This guide provides information on how owners and operators of U.S. purse seine vessels can comply with specific fishing restrictions when operating in the western and central Pacific Ocean (WCPO). The National Marine Fisheries Service (NMFS) has issued regulations to implement a decision of the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (WCPFC). The area of application of the WCPFC (or Convention Area) comprises the majority of the WCPO. The regulations include restrictions on the use of fish aggregating devices (FADs) while vessels are at sea in the Convention Area in 2015. The final regulations were published in the *Federal Register* on December 2, 2014 (79 FR 71327), and a correction to the final regulations was published on December 29, 2014 (79 FR 77942). The corrected final regulations will be included in the Code of Federal Regulations at 50 CFR Part 300, Subpart O. The final rule, final rule correction, and supporting documents are available on the Federal e-Rulemaking Portal, at *www.regulations.gov* (search for Docket ID NOAA-NMFS-2014-0115).

Any discrepancy between the contents of this guide and regulations will be resolved in favor of regulations published in the *Federal Register* and codified in the *Code of Federal Regulations*. This compliance guide is a "small entity compliance guide" issued in accordance with Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996: Title II of Public Law 104-121.

For more information or to obtain additional copies of this guide please contact:

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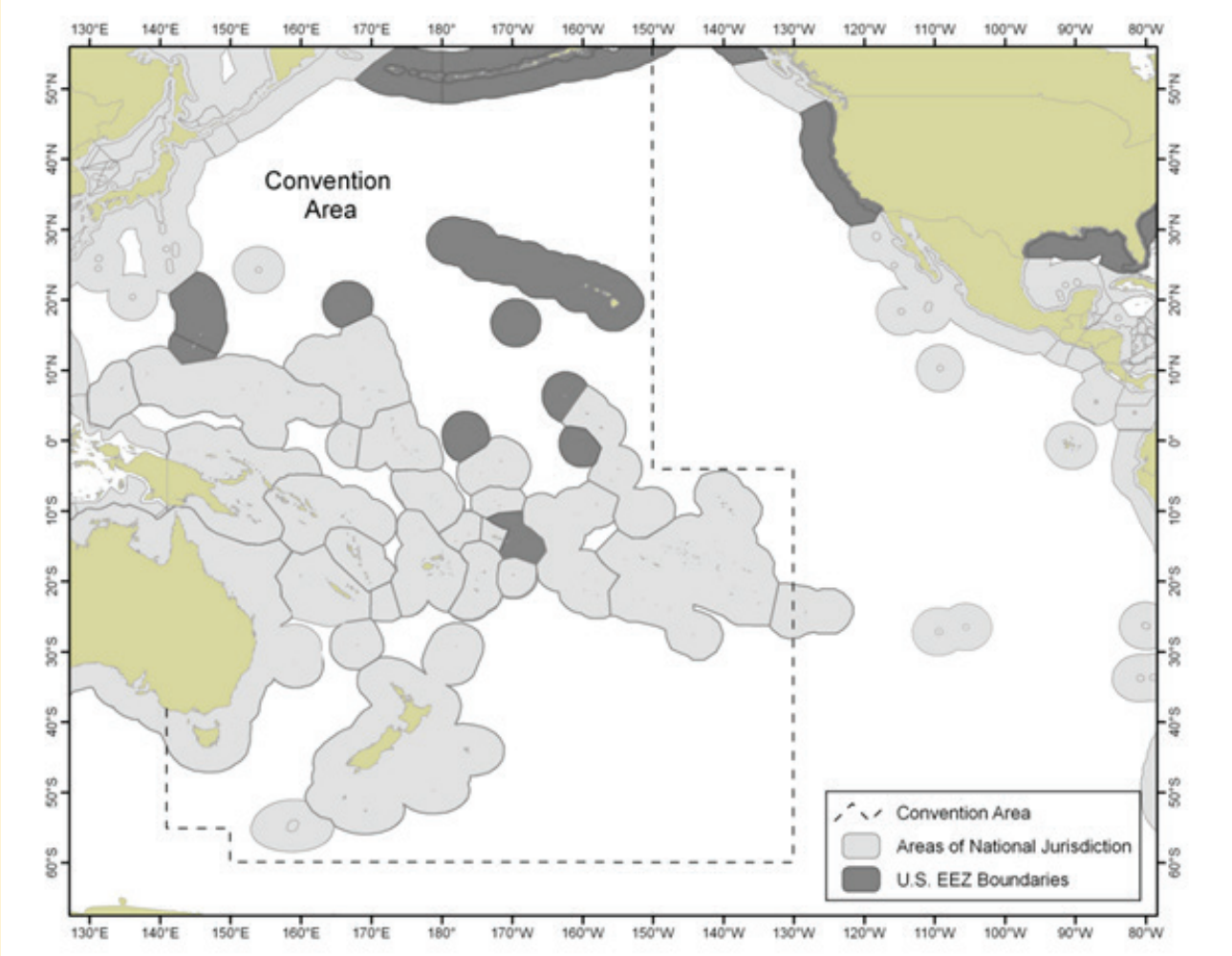
[1] This guide replaces a compliance guide of the same title, dated December 2014.

Area of Application

The requirements described in this guide apply to the Convention Area, depicted in Figure 1.

Figure 1. The Convention Area: high seas (white); U.S. Exclusive Economic Zone (dark gray); and foreign claimed maritime jurisdictions (light gray).



Explanation of the Regulations

The regulations described in this guide cover restrictions on the use of FADs for 2015, and the requirements are described in detail below.

Restrictions on the Use of FADs

From 00:00 on July 1 through 24:00 on September 30, UTC ("FAD prohibition period") in 2015, U.S. purse seine vessel owners, operators, and crew are prohibited from doing the following in the Convention Area between 20° N. and 20° S. latitude (excluding territorial seas and archipelagic waters):

Setting a purse seine around a FAD or within one nautical mile of a FAD.

Setting a purse seine in a manner intended to capture fish that have aggregated in association with a FAD or a vessel.

Deploying a FAD into the water.

Repairing, cleaning, maintaining, or otherwise servicing a FAD, including any electronic equipment used in association with a FAD, in the water, or on a vessel while at sea (see Question 4 below for exceptions).

Submerging lights under water from a purse seine vessel or any associated skiffs, other watercraft or equipment (see Question 6 below for exceptions).

Suspending or hanging lights over the side of the purse seine vessel, skiff, watercraft or equipment (see Question 6 below for exceptions).

Directing or using lights in a manner other than the following: to illuminate the deck of the purse seine vessel or associated skiffs, watercraft or equipment; to comply with navigational requirements; or to ensure the health and safety of the crew (see Question 6 below for exceptions).

Key Questions and Answers:

Question 1: To which vessels, exactly, do these restrictions apply?

Answer: These restrictions apply to fishing vessels of the United States equipped with purse seine gear.

Question 2: What exactly is a FAD?

Answer: For the purposes of these regulations, FAD means any artificial or natural floating object, whether anchored or not and whether situated at the water surface or not, that is capable of aggregating fish, as well as any objects used for that purpose that are situated on board a vessel or otherwise out of the water. The definition of FAD does not include a vessel.

Question 3: What is meant by "setting a purse seine in a manner intended to capture fish that have aggregated in association with a FAD or a vessel," which is prohibited during the FAD prohibition periods?

Answer: Examples of such prohibited activities include:

- Setting a purse seine in an area from which a FAD or a vessel has been moved or removed within the previous eight hours.
- Setting a purse seine in an area in which a FAD has been inspected or handled in the previous eight hours.
- Setting a purse seine in an area into which fish were drawn by a vessel from the vicinity of a FAD or a vessel.

Question 4: Is it ever permissible to repair, maintain or otherwise service a FAD during a FAD prohibition period?

Answer: Yes, during a FAD prohibition period, FADs and associated electronic equipment may be inspected and handled as needed to identify the FAD, identify and release incidentally captured animals, un-foul fishing gear, or prevent damage to property or risk to human safety.

Question 5: Can we retrieve a FAD during a FAD prohibition period?

Answer: Yes. A FAD may be removed from the water and if removed may be cleaned, provided that it is not returned to the water.

Question 6: Is it ever permissible to submerge, hang, or use lights during a FAD prohibition period?

Answer: Yes, you may use lights during a FAD prohibition period in emergencies as needed to ensure the health and safety of the crew and in emergency situations to prevent human injury or the loss of human life, the loss of the purse seine vessel, skiffs, watercraft or aircraft, or environmental damage. And, as stated above, you may direct or use lights as needed to illuminate the deck of the purse seine vessel or associated skiffs, watercraft or equipment to comply with navigational requirements and to ensure the health and safety of the crew.

Question 7: What about the FAD prohibition period for January-February 2015, the limit of 3,061 FAD sets for 2015, and the daily FAD reporting requirement, all of which are mentioned in the final rule of December 2, 2014?

Answer: NMFS does not expect at the time of writing this guide to put into effect the FAD prohibition period for January-February 2015, the limit of 3,061 FAD sets for 2015, or the daily FAD reporting requirement. As indicated in the final rule, all three of those requirements are contingent on NMFS issuing a notice in the Federal Register, subsequent to issuance of the final rule. NMFS would issue such a notice only if certain arrangements were adopted at the Eleventh Regular Session of the Western and Central Pacific Fisheries Commission. Based on the outcomes of that session, which took place December 1-5, 2014, NMFS does not anticipate issuing such a notice for 2015. Thus, the only element of the final rule that NMFS expects will go into effect is the FAD prohibition period of July-September 2015, as described above. If FAD restrictions other than those in the final rule are needed for 2015, NMFS will implement them through additional rulemaking.