



# NOAA FISHERIES

## Pacific Islands Regional Office

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## Compliance Guide

# Fishing Effort Limits and FAD Restrictions in Purse Seine Fisheries for 2016 and 2017

June 2016

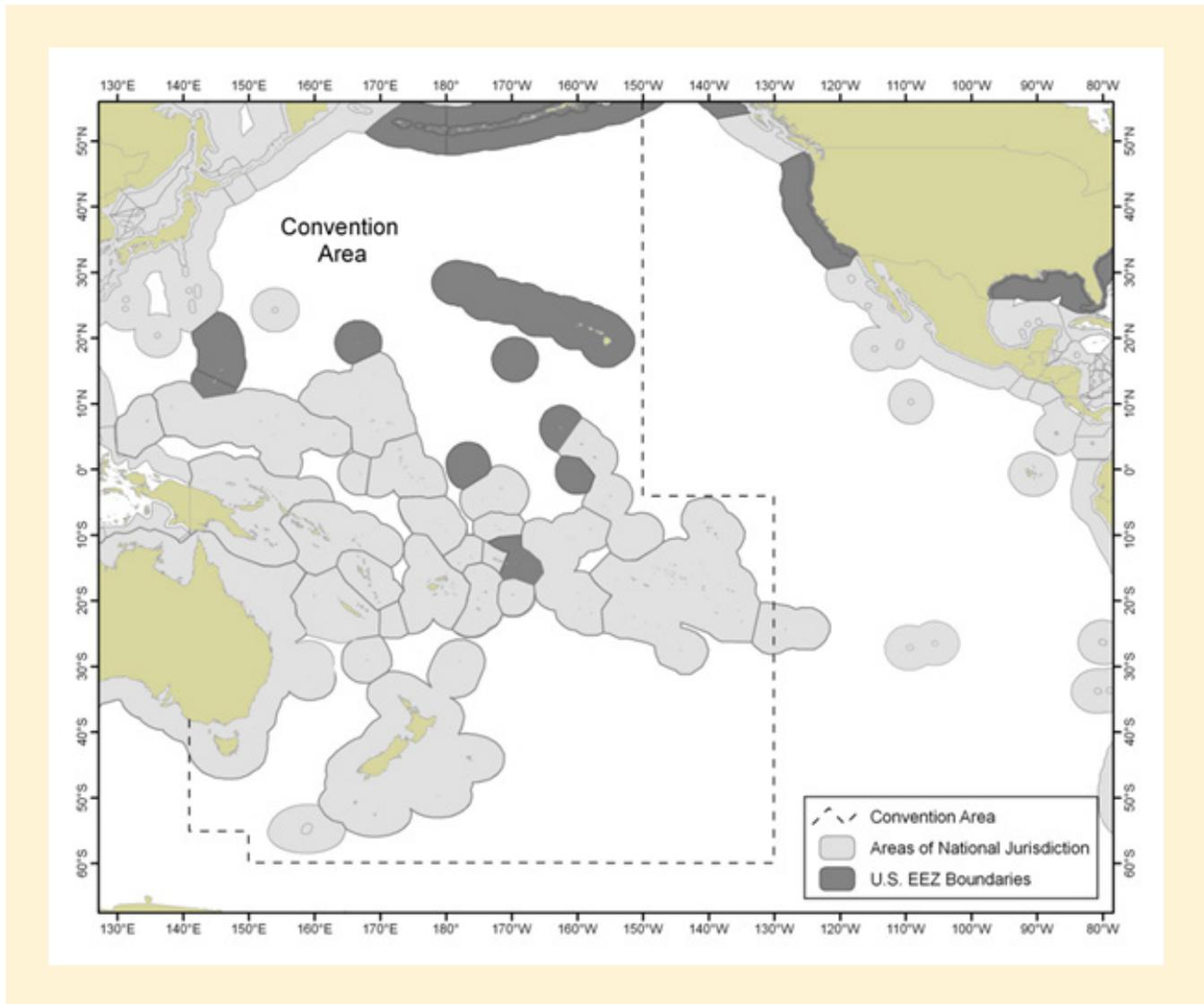
This guide provides information on how owners and operators of U.S. purse seine vessels can comply with specific fishing restrictions when operating in the western and central Pacific Ocean (WCPO). The National Marine Fisheries Service (NMFS) has issued regulations to implement a decision of the Commission 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 limits on fishing effort in the U.S. exclusive economic zone (EEZ) and on the high seas for 2016 and restrictions on the use of fish aggregating devices (FADs) while vessels are at sea in the Convention Area in 2016 and 2017. Final regulations were published in the *Federal Register* on May 25, 2016, and June 24, 2016, respectively, and will be available in the *Code of Federal Regulations* at 50 CFR Part 300, Subpart O. The rules and supporting documents are available on the Federal e-Rulemaking Portal, at [www.regulations.gov](http://www.regulations.gov) (search for Docket IDs NOAA-NMFS-2016-0038 and NOAA-NMFS-2016-0031).

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*.

# Area of Effect

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 fall into the following two categories:

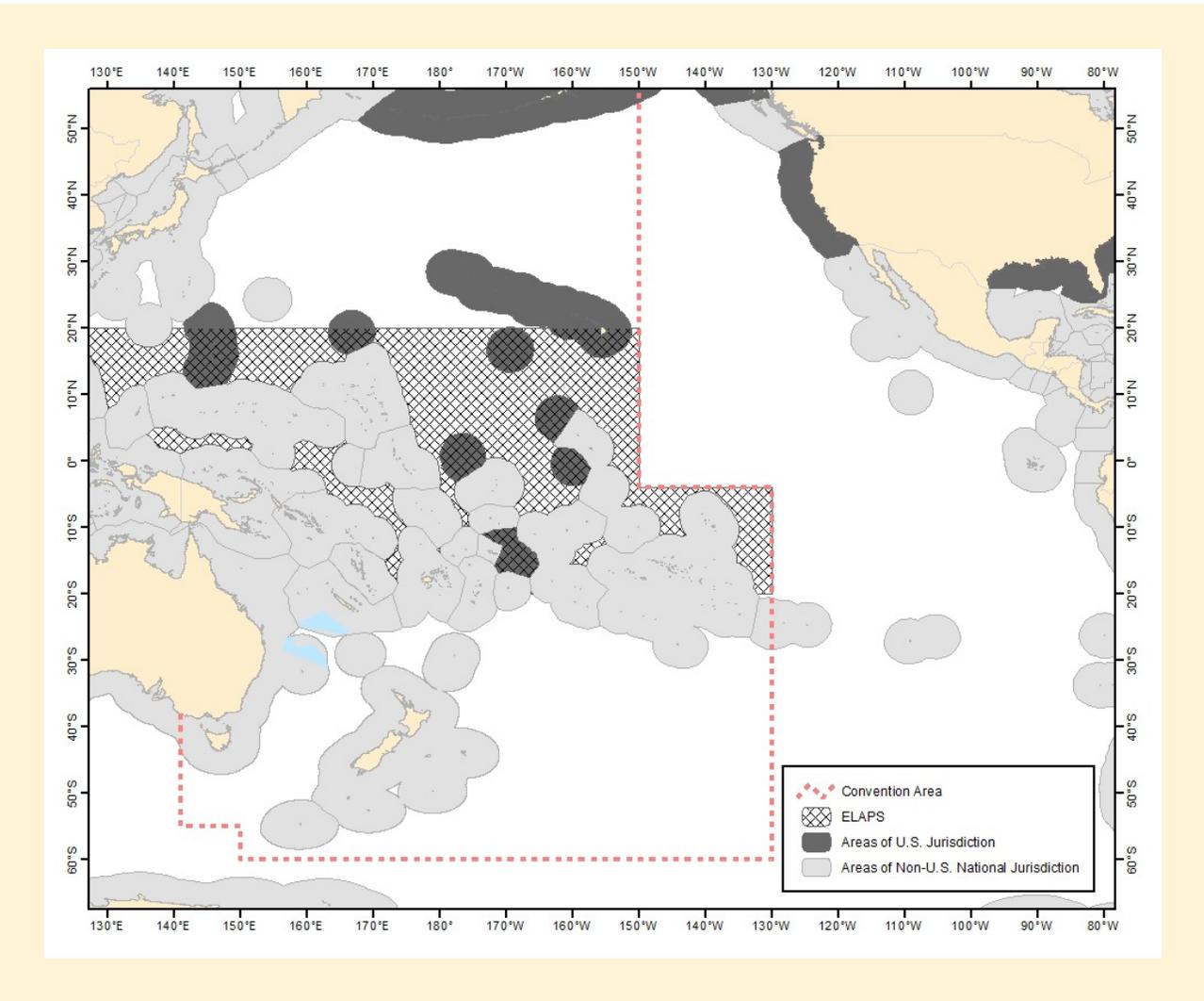
1. Fishing effort limits
2. Restrictions on the use of FADs

The requirements in each of these categories are described in detail below.

## Category #1 Fishing Effort Limits (2016)

The limit on the total number of days that U.S. purse seine vessels are allowed to fish in the Convention Area, within the area between 20° N. and 20° S. latitude on the high seas and in the U.S. EEZ (an area called the ELAPS or Effort Limit Area for Purse Seine), in calendar year 2016, is 1,828 fishing days. Figure 2, below, shows the ELAPS.

**Figure 2. ELAPS. The ELAPS does not include territorial seas.**



## Key Questions and Answers:

### Question 1: To which vessels, exactly, do the limits apply?

**Answer:** The limits apply to fishing vessels of the United States equipped with purse seine gear.

### Question 2: What is the definition of a fishing day?

**Answer:** “Fishing day” means any day in which a U.S. fishing vessel equipped with purse seine gear searches for fish, deploys a FAD, services a FAD, or sets a purse seine, with the exception of setting a purse seine solely for the purpose of testing or cleaning the gear and resulting in no catch.

### Question 3: When do fishing days start being counted against the limit – in other words, when does the “limit period” start? And when does it end?

**Answer:** The limit period for 2016 begins at the start of the calendar year and ends at the end of the calendar year; specifically, it begins at 00:00 on January 1, 2016, Universal Coordinated Time (UTC), and ends at 24:00 on December 31, 2016, UTC.

### Question 4: How will I know when the limit in 2016 is reached?

**Answer:** NMFS will monitor the number of fishing days using information collected in vessel logbooks and other available sources. If and when NMFS determines that the limit will be reached on a specific future date, NMFS will issue a notice in the *Federal Register* announcing that the purse seine fishery will be closed from that specific future date until the end of calendar year 2016. The notice will be published at least seven calendar days before the start of the closure.

### Question 5: What happens when the limit is reached? How long will any prohibitions be in effect?

**Answer:** Starting on the first day of the fishery closure, as announced in the *Federal Register* notice, fishing vessels of the United States equipped with purse seine gear may not be used to fish on the high seas or in the U.S. EEZ in the Convention Area between 20° N. and 20° S. latitude (i.e., in the ELAPS). This prohibition will be in effect through the end of the calendar year.

### Question 6: What specific activities fall under the definition of fishing and are prohibited during the fishery closure? May I conduct bunkering (refueling) operations in the ELAPS during the closure?

**Answer:** The definition of fishing, at 50 CFR 300.211, is as follows:

*Fishing* means using any vessel, vehicle, aircraft or hovercraft for any of the following activities, or attempting to do so:

1. Searching for, catching, taking, or harvesting fish;
2. Engaging in any other activity which can reasonably be expected to result in the locating, catching, taking, or harvesting of fish for any purpose;
3. Placing, searching for, or recovering fish aggregating devices or associated electronic equipment such as radio beacons;
4. Engaging in any operations at sea directly in support of, or in preparation for, any of the activities previously described in paragraphs (1) through (3) of this definition, including, but not limited to, bunkering;
5. Engaging in transshipment at sea, either unloading or loading fish.

However, the prohibition on fishing in the ELAPS during the U.S. purse seine fishery closure does not include bunkering. Therefore, U.S. purse seine vessels may conduct bunkering (refueling) operations in the ELAPS during the closure period, provided they comply with all applicable international and Coast Guard requirements for vessel-to-vessel oil transfers.

### Question 7: Where can I find the regulations and supporting information regarding the fishing effort limit in the ELAPS?

**Answer:** The regulations are available at 50 CFR 300.223(a). The rule that established the ELAPS limit for 2016 is available on the Federal e-rulemaking portal, at [www.regulations.gov](http://www.regulations.gov) (search for Docket ID NOAA-NMFS-2016-0038), along with supporting information.

## Category #2 Restrictions on the Use of FADs (2016 and 2017)

1. Three-month FAD prohibition periods: From 00:00 July 1 through 24:00 on September 30, UTC in 2016 and from 00:00 July 1 through 24:00 on September 30, UTC in 2017, U.S. purse seine vessel owners, operators, and crew are prohibited from doing any of the activities listed below in the Convention Area between 20° N. and 20° S. latitude (excluding territorial seas and archipelagic waters).
2. Annual FAD set limits: There is a limit of 2,522 FAD sets that may be made by U.S. purse seine vessels in the Convention Area between 20° N. and 20° S. latitude in each of 2016 and 2017.
3. 2017 high seas FAD prohibitions: Throughout 2017 there are specific prohibitions on the use of FADs in the Convention Area between 20° N. and 20° S. latitude.

During the July-September FAD prohibition periods in each of 2016 and 2017, after the annual FAD set limit is reached in either 2016 or 2017 (until the end of the respective calendar year), and on the high seas throughout 2017, U.S. purse seine vessel owners, operators, and crew are prohibited from doing any of the following activities in the Convention Area in the 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 on the following page for exceptions).
- Submerging lights under water from a purse seine vessel or any associated skiffs, other watercraft or equipment (see Question 6 on the following page for exceptions).
- Suspending or hanging lights over the side of the purse seine vessel, skiff, watercraft or equipment (see Question 6 on the following page 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 on the following page 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?”

**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: Are there any exceptions to the prohibitions on repairing, maintaining or otherwise servicing a FAD?

**Answer:** Yes, 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, after the annual FAD set limit is reached, or on the high seas in 2017?

**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, after the annual FAD set limit is reached, or on the high seas in 2017?

**Answer:** Yes, you may use lights 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: Do we have to submit daily FAD reports?

**Answer:** Vessel owners and operators will be required to submit daily FAD reports if directed to do so by NMFS. NMFS would use this information to help monitor the number of FAD sets made with respect to the annual FAD set limits. NMFS may contact vessel owners and operators directly with instructions on the timing and submission of the reports. This requirement was established in a previous rule (see 50 CFR 300.218(g)).

