

## NOAA FISHERIES

### West Coast Region

# Compliance Guide

## Fishing Restrictions for Tropical Tuna in the Eastern Pacific Ocean for 2018-2020

April 12, 2018

The National Marine Fisheries Service (NMFS) issued regulations under the authority of the Tuna Conventions Act of 1950, as amended, to implement Resolution C-17-02 adopted by the Inter-American Tropical Tuna Commission (IATTC) in 2017.<sup>1</sup> The final regulations were published in the *Federal Register* on April 11, 2018, [page 15503 of volume 83](#) and become effective May 11, 2018, except for the regulations that apply to designs for fish aggregating devices, which become effective on January 1, 2019. These regulations will be codified in the *Code of Federal Regulations* at [50 CFR part 300, subpart C](#).

This guide provides a summary of how owners and operators of affected entities can comply with these regulations.<sup>2</sup> These regulations are necessary for the United States to satisfy its obligations as a member of the IATTC.

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<sup>1</sup> IATTC Resolution C-17-02

[https://www.iattc.org/PDFFiles/Resolutions/\\_English/C-17-02-Tuna-conservation-in-the-EPO-2018-2020-and-amendment-to-Res.-C-17-01.pdf](https://www.iattc.org/PDFFiles/Resolutions/_English/C-17-02-Tuna-conservation-in-the-EPO-2018-2020-and-amendment-to-Res.-C-17-01.pdf).

<sup>2</sup> This small entity compliance guide is issued in accordance with Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996: Title II of Public Law 104-21. Regulations are subject to change, so this guide may become out of date. 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*.

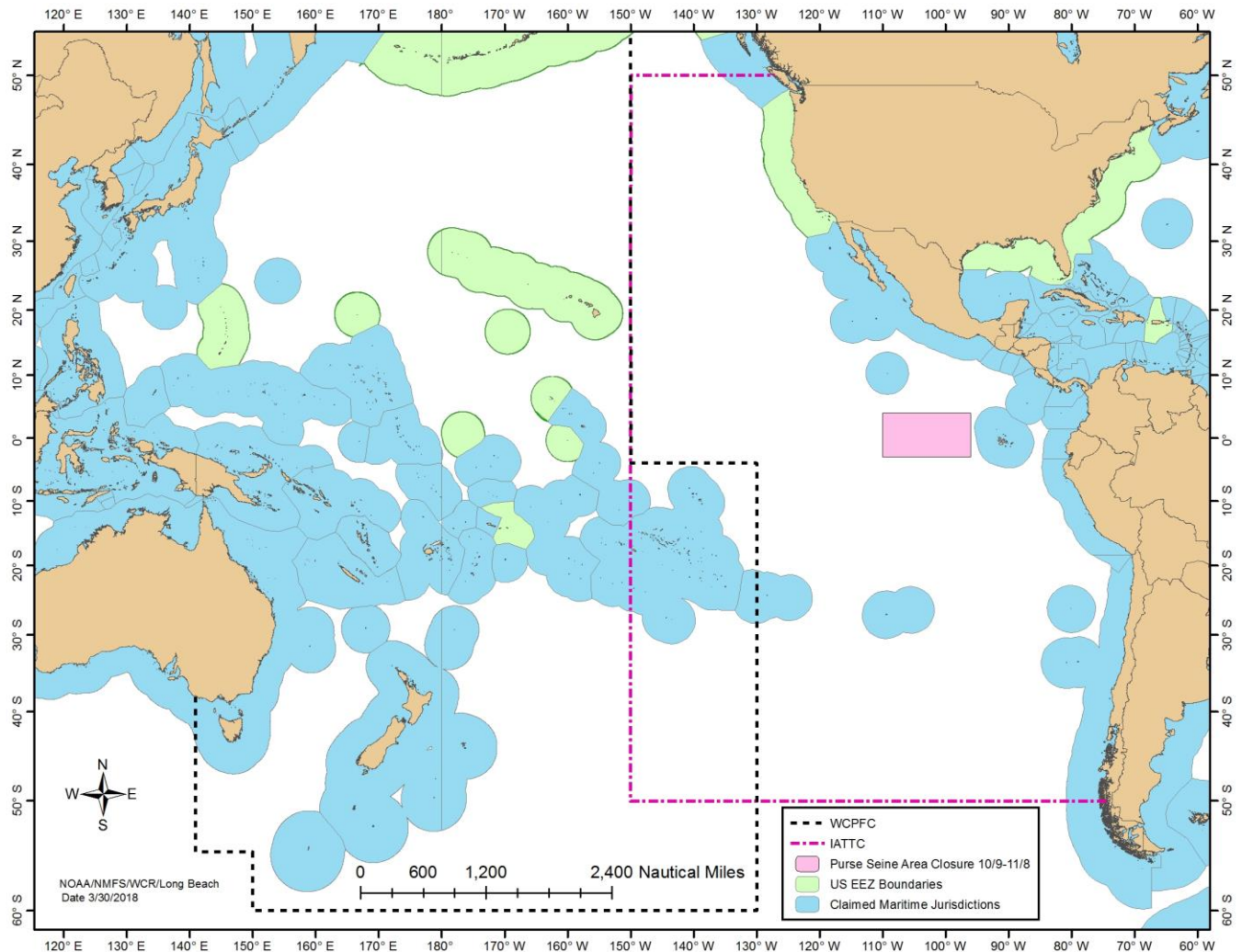
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## Area of Application

### Q1. Who does this compliance guide apply to?

This compliance guide applies to owners and operators of U.S. purse seine and longline vessels that catch tropical tuna in the IATTC Convention Area, excluding the Area of Overlap between the convention areas of the Western and Central Pacific Fisheries Commission (WCPFC) and the IATTC (**Figure 1**). Therefore, these regulations apply in all waters of the Pacific Ocean within the area bounded by the west coast of the Americas and by 50° N. latitude from the coast of North America to its intersection with 150° W. longitude, then 150° W. longitude to its intersection with 4° S. latitude, then 4° S. to its intersection with 130° W. longitude, then 130° W. longitude to its intersection with 50° S. latitude, and then 50° S. latitude to its intersection with the coast of South America. NMFS regulations at [50 CFR part 300, subpart O](#) implementing the decisions of the WCPFC continue to apply in the Area of Overlap.



**Figure 1.** The IATTC Convention Area is encompassed by the purple dashed line and the west coast of the Americas. The WCPFC Convention Area is encompassed within the black dashed line, and the Area of Overlap is the rectangular area bounded between the between the Convention Areas of the IATTC and WCPFC.

## Bigeye Tuna Catch Limits for Longline Vessels ([50 CFR 300.25](#))

### Q2. What is the season and catch limit for bigeye tuna caught on longline vessels?

The season begins on 0000 hours Coordinated Universal Time (UTC) January 1 and ends on either 2400 hours UTC on December 31 or when NMFS closes the fishery. For calendar years 2018-2020, there is a bigeye tuna catch limit of 750 metric tons for U.S. longline vessels greater than 24 meters in overall length (large longline vessels).

### Q3. How will I be notified when the catch level is reached?

NMFS will publish a notice in the *Federal Register* at least 7 days in advance of a closure announcing that the annual limit is projected to be reached. NMFS WCR will notify stakeholders of the upcoming closure through the IATTC distribution list<sup>3</sup>. Updates on the status of bigeye tuna catch limits within a calendar year can be found online<sup>4</sup>.

### Q4. What happens if a closure is announced?

Once the closure is announced, the following restrictions for large longline vessels will be in effect through the end of the calendar year:

- Vessels cannot be used to retain, transship, or land bigeye tuna that was captured by longline gear in the IATTC Convention Area, except when:
  - the bigeye tuna is already on board the vessel, provided that it is landed within 14 days after the closure date; or
  - the 14-day limit is waived in the case of a vessel has already declared to NMFS that the trip type is shallow-setting. However, the number of bigeye tuna retained must not exceed the number on board the vessel upon the effective closure date, as recorded by the NMFS observer on the vessel.
- Bigeye tuna may not be transshipped to a fishing vessel unless that fishing vessel is operated in compliance with a valid permit issued under 50 CFR §§ 660.707 or 665.801.
- Vessels cannot be used to fish in the Pacific Ocean using longline gear both inside and outside the IATTC Convention Area during the same fishing trip. Exceptions exist for trips that were declared to NMFS as shallow-setting or if the fishing trip began before the announcement of the closure.
- If the vessel is used to fish with longline gear outside the IATTC Convention Area and the vessel enters the IATTC Convention Area during an effective bigeye closure period on the same fishing trip, gear must be stowed in a way that isn't readily available for fishing. This does not apply to vessels using shallow-set gear and that have made a prior trip declaration to NMFS.

### Q5. How will I know if the bigeye limit for large longline vessels is increased?

This final rule regulates, for the first time, the practice of IATTC members or cooperating non-members (collectively known as CPCs) transferring catch limits for bigeye tuna in the EPO for longline vessels greater than 24 m in overall length. If the United States engages in a transfer of a bigeye tuna catch limit with another IATTC CPCs, NMFS will publish a notice in the *Federal Register* announcing the new catch limit for bigeye tuna in the EPO that is available to U.S. large longline vessels over 24 m in overall length. The same restrictions described above apply if an announcement is made that the new limit is projected to be reached.

<sup>3</sup> [http://www.westcoast.fisheries.noaa.gov/fisheries/migratory\\_species/iattc\\_distribution\\_list.html](http://www.westcoast.fisheries.noaa.gov/fisheries/migratory_species/iattc_distribution_list.html)

<sup>4</sup> [http://www.westcoast.fisheries.noaa.gov/fisheries/migratory\\_species/bigeye\\_tuna\\_harvest\\_status.html](http://www.westcoast.fisheries.noaa.gov/fisheries/migratory_species/bigeye_tuna_harvest_status.html)

## Purse Seine Closures ([50 CFR 300.25](#))

### Q6. When is the IATTC Convention Area closed for purse seine vessels?

Commercial U.S. purse seine vessels that are class 4-6 (over 182 mt of carrying capacity) may not be used to fish with purse seine gear in the Convention Area for 72 days in 2018, 2019, and 2020 during one of the following two periods:

- From 0000 hours Coordinated Universal Time (UTC) July 29, to 2400 hours UTC October 8, or
- From 0000 hours UTC November 9, to 2400 hours UTC January 19 of the following year.

### Q7. Can I choose which closure period I will observe each year?

Yes. To do so, vessel owners, managers, or association representatives of the applicable purse seine vessels must write a notification to the Regional Administrator by July 1 each year identifying which of the two closure periods they will observe.

In addition to the selected closure period, the notification must also include the vessel name, registration number, and the vessel owner or managing owner's name, signature, business address, and business telephone number. The notification must be submitted by fax at (562) 980-4047 or email to [RegionalAdministrator.WCRHMS@noaa.gov](mailto:RegionalAdministrator.WCRHMS@noaa.gov) and must be received no later than July 1 each year. Vessels that do not send a notification to NMFS will be required to observe the second closure period (November 9 – January 19).

### Q8. Is there a possibility for a reduced purse seine closure period?

Yes. If a vessel experiences a *force majeure* event, (i.e., is disabled by mechanical or structural failure, fire, or explosion while at sea, except while transiting between ports on a trip during which no fishing operations occur), the vessel owner or operator may apply for a reduced closure period.

A *force majeure* exemption request must be sent to NMFS WCR Sustainable Fisheries Division (fax at (562) 980-4047 or by email to [RegionalAdministrator.WCRHMS@noaa.gov](mailto:RegionalAdministrator.WCRHMS@noaa.gov)) within 20 calendar days of the vessel being unable to proceed to sea for 72 days. The request must include: the name and official number of the vessel, vessel owner or manager's name and signature, and evidence to support the request, which may include but is not limited to photographs, repair bills, certificates of departure from port, and in the case of a marine casualty, a completed copy of the U.S. Coast Guard Form CG-2692A (See 46 CFR 4.05-10).

### Q9. What happens after submitting a *force majeure* exemption request?

- If the request is accepted by the NMFS Sustainable Fisheries Division, it will be forwarded to the IATTC Director.
  - If the request is accepted by the IATTC, the vessel must observe a reduced closure period of 40 consecutive days of the vessel's selected closure period in the same year during which the *force majeure* event occurred.
  - If the request is accepted by the IATTC, but the vessel has already observed its closure period in the year in which the *force majeure* event occurred, the vessel must observe a reduced closure period of 40 consecutive days in one of the two closure periods the following year.
  - If a *force majeure* exemption is granted to a vessel, they must carry an IATTC observer on their trip during the closure period.
- If the request is declined by the NMFS Sustainable Fisheries Division or the IATTC, the applicant may supply additional information to further substantiate the request, but it may ultimately not be granted.

### Q10. Are there other closures for purse seine vessels?

Yes. There is a 31-day area closure for class 4-6 purse seine vessels each year. These vessels may not be used from 0000 hours UTC on October 9 to 2400 UTC on November 8 in 2018, 2019, and 2020 to fish with purse seine gear within the area bounded at the east and west by 96° and 110° W longitude and bounded at the north and south by 4° N and 3° S (**Figure 1**).

**Q11. Are there any other restrictions in place during closure periods?**

Unless a vessel is given an exemption to the closure period, the fishing gear of the vessel must be stowed in a manner that is not readily available for fishing (i.e, the boom must be lowered as far as possible so that the vessel cannot be used for fishing, but so that the skiff is accessible for use in emergency situations; the helicopter, if any, must be tied down; and launches must be secured).

**Fish-Aggregating Device (FAD) Restrictions (50 CFR 300.28 and [300.22](#) )**

**Q12. What is an active FAD?**

An Active FAD is a FAD that is equipped with gear capable of tracking location, such as radio or satellite buoys. A FAD with this equipment attached shall be considered an Active FAD unless/until the equipment is removed and the vessel owner or operator notifies the IATTC or Highly Migratory Species (HMS) Branch (see contact information below) that the FAD is no longer active (i.e., deactivated). Active FADs can only be deployed while at sea and the tracking equipment must be turned on while the FAD is onboard the vessel and before being deployed in the water.

**Q12. Are there restrictions on deploying a non-Active FAD?**

Yes. It is prohibited to deploy a FAD in the IATTC Convention Area that is not an Active FAD.

**Q13. Is there a limit on the number of Active FADs I can deploy?**

Yes. U.S. vessel owners and operators of purse-seine vessels with the following well volumes (m<sup>3</sup>), must have no more than the following number of Active FADs in the IATTC Convention Area at any one time:

Well volume (m <sup>3</sup> )	Active FAD limit
1,200 or more	450
426-1,199	300
213-425	120
0-212	70

**Q14. Can I deploy and retrieve Active FADs whenever I want?**

No. Vessel owners, operators, and crew of purse seine vessels of class size 4-6 (more than 182 metric tons carrying capacity) must not deploy a FAD during the 15 days prior to the start of the selected closure period (described in Question 6). Additionally, during the same 15 days prior to the start of the vessel’s selected closure period owners, operators, and crew of purse seine vessels of class size 6 (greater than 363 metric tons carrying capacity) must remove from the ocean the same number of FADs it sets upon during that same 15-day period.

**Q15. Are there restrictions on FAD construction?**

Yes. No later than January 1, 2019, all FADs onboard or deployed by U.S. vessel owners, operators, or crew must comply with the following design requirements:

- Raft: If the FAD includes a covered raft (e.g., flat raft or rolls of material), and if mesh netting is used for the cover, the mesh netting shall be tightly wrapped around the entire raft so no loose netting hangs below the FAD when it’s deployed.
- Subsurface: Any netting used in the subsurface structure of the FAD must be tightly tied into bundles ("sausages").

NMFS recognizes that any netting used in a FAD may become loose over time, yet in order to achieve the intent of the Resolution, the netting must remain secure and tight whenever deployed. Therefore, NMFS reminds the fleet that in order to comply with these regulations, the purse seine operators must remain vigilant in maintaining and securing all mesh net used in FADs.

**Q16. Do I have to report any information about my FADs?**

Yes. U.S. vessel owners and operators must record or maintain daily information on all Active FADs that have been deployed in the water in the IATTC Convention Area in the format and to the address provided by the HMS Branch. These reports must be submitted no later than 90 days after the month covered by the report. For example, reports covering the month of January 2018 must be submitted on or before May 1, 2018.

The information in the below table must be collected on a daily basis.

Variable	Description
Date	YYYY/MM/DD
Vessel Name	IATTC registry number
Active FADs	Highest number of active FADs on above date
Deactivated FADs	Number of FADs that have been deactivated
Location	Latitude and longitude of each FAD

These forms must be submitted to the IATTC at either of the addresses below:

Inter-American Tropical Tuna Commission  
8901 La Jolla Shores Drive  
La Jolla, CA 92037-1509

E-mail: [datahandlers@iattc.org](mailto:datahandlers@iattc.org)

## List of Contacts

### **NMFS West Coast Region**

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Website: [www.westcoast.fisheries.noaa.gov](http://www.westcoast.fisheries.noaa.gov)

### **For Questions on the HMS Branch**

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### **For Questions on WCPFC Observers**

NMFS Pacific Islands Regional Office

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### **For Questions on NMFS Permits**

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