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Small Entity Compliance Guide

Vessel Capacity Limits in the Purse Seine Fishery Operating in the Eastern Pacific Ocean

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The National Marine Fisheries Service (NMFS) has issued regulations under the authority of the Tuna Conventions Act of 1950 for the U.S. purse seine fishery operating in the eastern Pacific Ocean (EPO). The regulations implement decisions of the Inter-American Tropical Tuna Commission (IATTC) that limit the vessel capacity of the purse seine fleet in terms of total cubic meters of well volume. The final regulations were published in the *Federal Register* on January 4, 2011, and will be codified in the *Code of Federal Regulations* at 50 CFR Part 300 Subpart C. The regulations will be effective 30 days after the date of publication in the Federal Register and will be available for review at the *Electronic Code of Federal Regulations* website¹.

This guide provides a plain-language summary of how owners and operators of affected purse seine vessels, and other affected entities, can comply with NMFS regulations and is issued in accordance with Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996.

Regulations are subject to change, so this guide may become out of date.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*.

¹ Link to the *Electronic Code of Federal Regulations* website: http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?sid=022bc8f6898f52fb83c67b21a4668b24&c=ecfr&tpl=/ecfrbrowse/Title50/50tab_02.tpl.

Affected Area

The new requirements apply to the IATTC Convention Area. The IATTC Convention Area includes the waters bounded by the coast of the Americas, the 50° N. and 50° S. parallels, and the 150° W. meridian. This area includes the U.S. west coast Exclusive Economic Zone (EEZ).

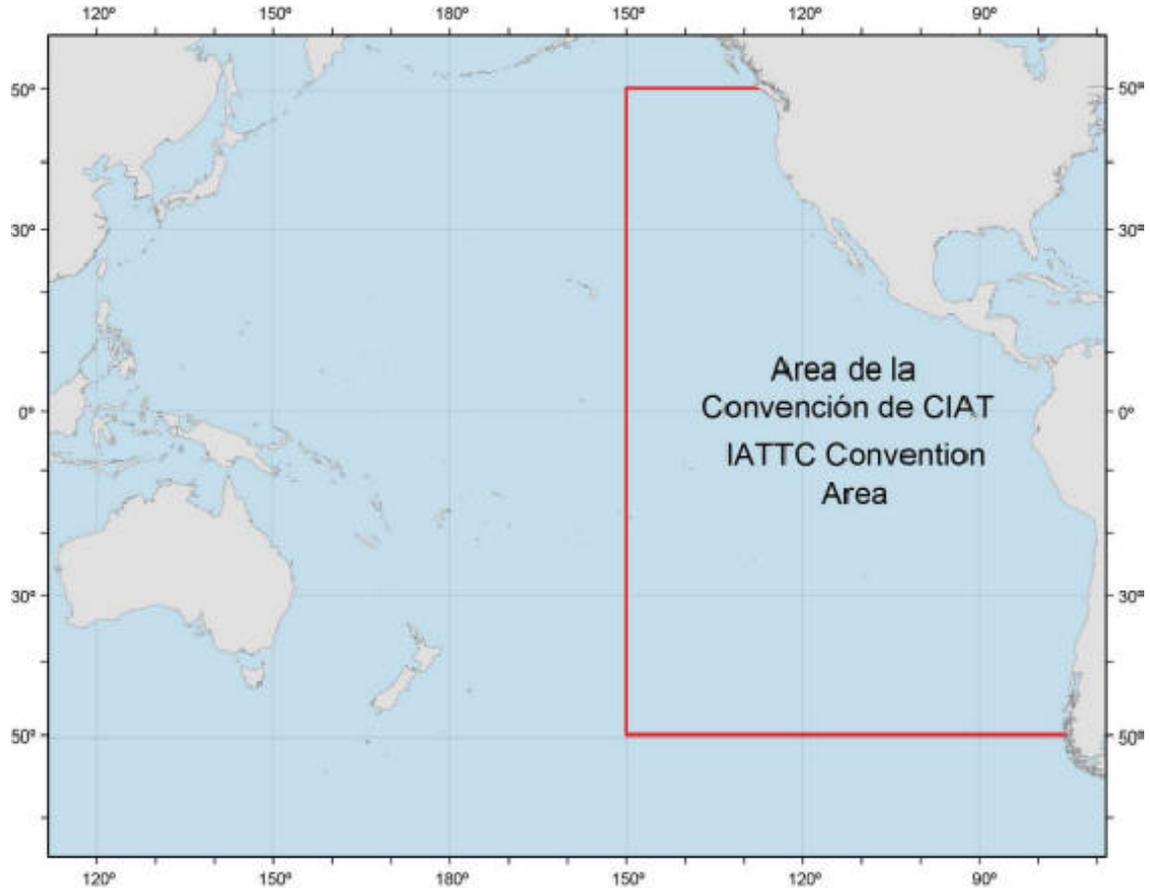


Figure 1. Map of IATTC Convention Area.

Affected Vessels

All U.S. purse seine vessels that fish for tuna species in the IATTC Convention Area and request “active” or “inactive” status on the IATTC Vessel Register will be affected by these regulations. These regulations will not affect purse seine vessels fishing under a South Pacific Tuna Treaty license that use their one-trip option to fish in the IATTC Convention Area. Some requirements vary according to the IATTC class size of a purse seine vessel. The class sizes are determined by the metric tons of well volume carrying capacity.

Table 1. IATTC vessel class sizes and corresponding well volume carrying capacity in cubic meters and metric tons.

IATTC Class Size	Metric tons (mt)	Cubic Meters (m ³)
1	< 46	<54
2	46 - 91	54 -107
3	92 - 181	108 212
4	182 - 272	213 – 318
5	273 - 363	319 – 425
6	>363	>425

Explanation of New Regulations

The new regulations establish the following requirements:

(1) A vessel capacity limit for the U.S. purse seine fleet fishing for tuna and operating in the EPO of 31,775 cubic meters.

The IATTC currently authorizes the United States to have 31,775 cubic meters of total well volume carrying capacity in the U.S. purse seine fleet operating in the EPO. Prior to this rulemaking, U.S. regulations had established a fleet capacity limit of 8,969 metric tons, which is equivalent to about 10,498 cubic meters. Thus, there has been about a three-fold increase in the total amount of capacity allowed in the purse seine fleet operating in the EPO as a result of this rulemaking.

(2) All purse seine vessels, regardless of size or amount of tuna landed, must be on the Vessel Register and categorized as active² in order to be authorized to target tuna in the IATTC Convention Area.

This rulemaking removed the exemption that allowed smaller vessels (class sizes 1-5) to opportunistically target tuna species in the EPO without being listed on the IATTC Vessel Register. These vessels will now be required to apply to be on the Vessel Register every year if they anticipate fishing for tunas; however, there is no associated cost for vessels class sizes 1-5 to register for the IATTC Vessel Register because there are no IATTC observer requirements for vessels under class size 6.

This regulatory amendment is necessary because the IATTC Resolution on a Vessel Register (Resolution C-00-06) requires all vessels to provide the IATTC with applicable vessel information and be listed on the IATTC Vessel Register in order to be authorized to fish in the IATTC Convention Area for species under the purview of the IATTC.

² In regulations at 50 CFR 300.22 (b)(1)(ii), paragraph (b)(4)(i)

(3) Purse seine vessels that are class size 5 and smaller that primarily fish for coastal pelagic species off the U.S. west coast are exempt from the frivolous request provisions for active status.³

The frivolous request provisions essentially provide a disincentive to vessels that apply to be on the vessel register and do not fish for tuna in the EPO by putting them at the bottom of the hierarchy when applying to be on the vessel register the following year. These provisions are intended to discourage vessel owners who do not have any intent to fish in the Convention Area from applying to be on the vessel register and occupying assigned capacity. The smaller purse seine vessels that opportunistically fish for tunas and spend the majority of the year targeting coastal pelagic species will be exempt from these provisions because it would be difficult, if not impossible, for vessel owners to anticipate whether unassociated schools of tuna would come within their range off the U.S. west coast during the summer months in a given year.

(4) Capacity measurements must also be reported in cubic meters.

Including capacity measurements in cubic meters as well as metric tons is an administrative change. Since 2000, the IATTC has used well volume, in cubic meters, instead of weight, in metric tons, to measure the carrying capacities of vessels. Because a well can be loaded with different species of fish, measuring carrying capacity in weight is subjective, as a load of fish packed into a well at a higher density weighs more than a load of fish packed at a lower density. Using volume as a measure of capacity eliminates this variability and standardizes measurements. The IATTC staff began collecting capacity data by volume in 1999, but has not yet obtained this information for all vessels. For vessels for which reliable information on well volume is not available, NMFS will calculate the estimated cubic meters of well volume using the estimated fish hold capacity at no cost to the vessel owner. This calculation will be based on a vessel's landings history in metric tons and a conversion factor will be used to convert the measurement into cubic meters. NMFS will use the same conversion factor that is used by the IATTC (1.1705 cubic meters to 1 metric ton). Alternatively, if vessel owners prefer, they can opt to have a maritime surveyor assess the vessel capacity in cubic meters; however, this is not required. Switching to cubic meter measurements will benefit the IATTC and make measurements less subjective.

Other Relevant Information for Purse Seine Vessels Targeting Tuna and Tuna-like Species in the IATTC Convention Area

For a purse seine vessel to be listed on the Vessel Register and categorized as either "active" or "inactive," the vessel owner or managing owner must submit to the Regional Administrator the required permit applications, written notifications, fees, and reporting requirements as described in applicable regulations⁴.

³ In regulations at 50 CFR 300.22(b)(4)(ii)

⁴ In regulations at 50 CFR §216.24(b), and under paragraphs (b)(4)(i) and (b)(4)(iii) of 50 CFR §300.22

In summary, these requirements include, but are not limited to:

- A logbook requirement for all vessels fishing for tuna and tuna-like species in the IATTC Convention Area.
- Vessels that are targeting tuna and fishing for tuna and tuna-like species in the IATTC Convention Area must be included on the IATTC Vessel Register and categorized as active to fish (the only exemption is for vessels licensed under the South Pacific Tuna Treaty that are exercising their one trip option).
- Information on each commercial purse seine vessel must be provided to NMFS, including, but not limited to, the vessel name and registration number; the name and business address of the owner(s) and managing owner(s); a photograph of the vessel with the registration number legible; previous vessel name(s) and previous flag (if known and if any); port of registry; International Radio Call Sign; vessel length, beam, and moulded depth; gross tonnage, fish hold capacity in cubic meters, and carrying capacity in metric tons and cubic meters; engine horsepower; date and place where built; and type of fishing method or methods used.
- For a purse seine vessel to be listed on the IATTC Vessel Register and categorized as either “active” or “inactive”, the vessel owner or managing owner must submit to the Regional Administrator the required permit applications, written notifications, and fees. This can be requested as early as August 1 of each year for the following year. The initial cutoff for vessels not requesting a dolphin mortality limit is November 30 of each year for the following year; however, if there is sufficient capacity available for the fleet, additional requests will be considered throughout the fishing year.

For class size 6 vessels, a permit application, permit application fee, and vessel assessment fee are required. For class size 5 or smaller vessels, written notification to NMFS is required, including but not limited to, a vessel photograph, the vessel information as described under bullet 3 of this summary, and the owner or managing owner's signature and business telephone and fax numbers. No fees are required.

- For class size 6 vessels, the captain of the vessel must have obtained a valid operator permit to have active status on the IATTC Vessel Register.