

REPUBLIC OF THE MARSHALL ISLANDS
FAD BUOY TRACKING IMPLEMENTING ARRANGEMENT REGULATIONS
2022
(Title 51 MIRC)

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FAD BUOY TRACKING IMPLEMENTING ARRANGEMENT REGULATIONS 2022

PART I – PRELIMINARY

1. Short Title

These Regulations may be cited as the FAD Buoy Tracking Regulations 2022.

2. Interpretation

Unless the context otherwise requires, the words and expressions in these regulations have the same meaning as defined in the Act;

- (1) **“Act”** means the Legislations under Title 51 of the Marshall Islands Revised Code;
- (2) **“Activate”** means enable satellite communication services for a FAD Buoy by the FAD Buoy Service Provider;
- (3) **“Anchored FAD”** means a FAD that has a mooring line attached to an anchor or other object that ensures that the FAD remains in a fixed position;
- (4) **“Arrangement Area”** means the fisheries zones of the Parties to the Nauru Agreement and the high seas of the Western and Central Pacific Fisheries Commission Convention Area east of 130 degrees East and between 20 degrees North and 20 degrees South;
- (5) **“Associated electronic equipment”** means any device or system that can be used by any vessel to locate, track or otherwise monitor a Fish Aggregating Device (FAD);
- (6) **“Deactivate”** mean stopping or terminating satellite communications service for a FAD Buoy by the FAD Buoy Service Provider;
- (7) **“Deployment”** means the introduction into the sea of a FAD or associated electronic equipment;
- (8) **“Director”** means the Executive Director of the Marshall Islands Marine Resources Authority;
- (9) **“FAD”** means the Fish Aggregating Device;
- (10) **“FAD Buoy Operator”** means the entity listed on the PNA FAD Buoy Register responsible for a FAD Buoy;
- (11) **“FAD Buoy Service Provider”** means a business that provides FAD Buoys and associated services to FAD Buoy Operators related to FAD tracking;
- (12) **“Fishing Aggregating Device Buoy”** or **“FAD Buoy”** means an associated electronic equipment;
- (13) **“Fish Aggregating Device”** or **“FAD”** has the corresponding meaning in section 102(27) of the Act;
- (14) **“PNA”** means the Parties to Nauru Agreement;

- (15) **“PNA FAD Buoy Register”** means the FAD Buoy Register established by the PNA Office Chief Executive Officer;
- (16) **“PNA FIMS”** means the Parties to Nauru Agreement Fisheries Information Management System;
- (17) **“Servicing”** means the cleaning, maintenance, repair, enhancement, movement and any other related activity, of fish aggregating devices or associated electronic equipment;
- (18) **“Switch on”** means manually turning on a FAD buoy to enable the FAD buoy to send or receive satellite transmission of position and any other available information;
- (19) **“Switch off”** means manually turning off a FAD buoy to stop the FAD buoy being able to send or receive satellite transmission of position and any other available information.

3. Purpose

- (1) The purposes of these regulations are including but not limited to the following:
 - (a) to implement the PNA FAD Buoy Implementing Arrangement;
 - (b) to provide prescribed terms and conditions for the use of a FAD Buoy by fishing vessel in the Arrangement Area;
 - (c) to put in place measures for the management of the use of the Fishing Aggregating Devices and Associated electronic equipment and related matters.

4. Application

- (1) These regulations apply to, but are not limited. to the following:
 - (a) Fishing vessels entitled to fly the Marshall Islands flag
 - (b) Foreign purse seine fishing vessels licensed to fish in the fisheries waters;
 - (c) Other vessels that are involved in any activities related to the use of the FAD buoy, including in the deployment;

PART II – FAD BUOY MEASURES

5. Prohibition of an unregistered FAD Buoy

- (1) There shall be no FAD Buoy permitted in the fisheries waters unless it is registered with the PNA FAD Buoy Register.
- (2) A person whose FAD Buoy is found in the fisheries waters in contravention of sub-regulation (1) commits an offence and shall be liable to a fine prescribed in these regulations.

- (3) Subject to sub-regulation 7, and the prohibition on the use of FADs under relevant laws, no person shall deploy or fish on a FAD Buoy, within the Arrangement Area unless it is registered on the PNA FAD Buoy Register.
- (4) For each deployment of , or fishing on, a FAD Buoy, shall be considered as a separate offence.

6. Duties of FAD Buoy Operator

- (1) The FAD Buoy Operator shall be legally responsible during the currency of the registration of a FAD Buoy to ensure that it complies with all requirements under these regulations.
- (2) The FAD Buoy Operator shall ensure:
 - (a) That a FAD Buoy is registered on the PNA FAD Buoy Register before it is deployed within the Arrangement Area.
 - (b) That a deployed FAD Buoy is activated and is reporting normally and at all times, consistently and automatically in near real time to the PNA FIMS at least once in every 12 hours, or at a different interval as advised by the Director from time to time, while within the Arrangement Area except that a FAD Buoy that has drifted onto a reef or beach and is stationary may be deactivated after one month.
 - (c) That each transmission of data from the FAD Buoy deployed shall include the following information:
 - i. FAD Buoy Unique Identification Number (Manufacturer's ID number);
 - ii. Position fixes latitude and longitude
 - iii. Date and time expressed in Universal Time Constant (UTC) of the fixing of the position.
 - (d) To report to PNA FIMS within 24 hours when:
 - i. the FAD Buoy is switched off after retrieval from the water; or
 - ii. the FAD Buoy is deactivated; or
 - iii. the FAD Buoy fails to transmit for 72 hours
 - iv. a FAD Buoy has been stationary near shore for 72 hours and is believed to have drifted onto the reef or beach or similar area.

7. Exemption for Anchored FADS.

Subject to any requirements for the deployment of any anchored FADs, these regulations shall not apply to the FAD buoy attached to an anchored FAD in the Archipelagic waters or Territorial waters.

PART III. MISCELLANEOUS

8. Data Ownership

Ownership of all information generated from a FAD Buoy in the fisheries waters is vested in the Republic of the Marshall Islands.

9. Confidentiality

- (1) All data and information from FAD Buoy shall be classified as confidential information, and shall be subject to prescribed procedures under relevant laws.
- (2) Any person who divulges information obtained from a FAD Buoy to any person or persons not authorized to receive such information commits an offence and upon conviction shall be liable to a fine of not less than fifteen thousand dollars (\$15,000) and not exceeding one hundred thousand dollars (\$100,000).

10. Evidence

- (1) A FAD Buoy registered and used and operated in accordance with these Regulations shall be judicially recognized as notoriously accurate.
- (2) All information or data obtained or ascertained by the use of FAD Buoy shall be presumed, unless the contrary is proven, to:
 - (a) come from the registered FAD Buoy registered under such FAD Buoy operator;
 - (b) be accurately relayed or transferred.
- (3) Evidence may be given of information and data so obtained or ascertained under sub –regulation (2) whether from print out or visual display from the PNA FIMS.

PART IV– GENERAL OFFENCES AND PENALTIES

11. Offences and Penalties

A person who contravenes any provision of these regulations commits an offence, and where there is no specific penalty provided, shall be liable to a fine upon conviction of not less than twenty thousand dollar (\$20,000) and not exceeding two hundred thousand dollars (\$200,000).

PART V – PROMULGATION AND EFFECTIVE DATE

12. Effective date

These Regulations come into force on the date of promulgation as set below.

13. Promulgation

Pursuant to the Powers vested in the Marshall Islands Marine Resources Authority by section 120 of the Marshall Islands Marine Resources Act, and with the approval of Cabinet, pursuant to Cabinet Minute..... hereby promulgate, on thisday of 2022, the above Regulations.