



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 110909578-1582-01]

RIN 0648-BB45

Western Pacific Pelagic Fisheries; Modification of American Samoa Large Vessel Prohibited Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to modify certain boundaries of the large fishing vessel prohibited area around Tutuila, the Manua Islands, and Rose Atoll in American Samoa to align with the boundaries of the Rose Atoll Marine National Monument. The proposed action would simplify enforcement and administration of the management area.

DATES: NMFS must receive comments on the proposed rule by [insert date 21 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may send comments on the proposed rule, identified by NOAA-NMFS-2011-0226, to either of the following addresses:

- Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal www.regulations.gov; or
- Mail: Michael D. Tosatto, Regional Administrator, NMFS, Pacific Islands Region (PIR), 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814-4700.

Instructions: You must send any comments to one of the above two address to ensure that NMFS receives, documents, and considers the comments. Comments sent to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and NMFS will generally post them to www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.) submitted voluntarily by the commenter may be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter "N/A" in the required name and organization fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only.

The Western Pacific Fishery Management Council (Council) prepared a regulatory amendment, including an environmental assessment and regulatory impact review, that provides background information on this proposed rule. The regulatory amendment is available from www.regulations.gov or the Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813, tel 808-522-8220, fax 808-522-8226, www.wpcouncil.org.

FOR FURTHER INFORMATION CONTACT: Adam Bailey, Sustainable Fisheries, NMFS PIR, 808-944-2248.

SUPPLEMENTARY INFORMATION: The Council and NMFS manage offshore fisheries around American Samoa under the Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific. A mix of small troll and longline vessels and larger longline and purse seine vessels target tunas and related fish in the U.S. Exclusive Economic Zone (EEZ) around the islands. A decade ago, small vessels known as alia dominated the fisheries. The alia use trolling or longline gear to target skipjack and yellowfin tuna and albacore for the fresh fish market and for canning in Pago Pago. More recently, larger vessels have made up most of the longline fishery. The large longliners also target albacore for canning, and they catch substantial quantities of yellowfin and skipjack tuna. In addition, U.S. purse seiners have occasionally fished around American Samoa to supply skipjack and yellowfin tuna for canning.

The mixture of small and large vessels operating in the same area for the same fish prompted concerns over the potential for gear conflicts and catch competition among the various fishing groups. Concerned that potential competition and conflicts could lead to reduced opportunities for sustained participation in the fisheries by smaller vessels, the Council recommended prohibiting large vessels from fishing in two areas of the EEZ around American Samoa. In 2002, NMFS implemented these "large vessel prohibited areas," or LVPA, one around Swain's Island and one around Tutuila, the Manua Islands, and Rose Atoll (67 FR 4369, January 30, 2002). The two areas prohibit fishing from vessels 50 ft in length overall or longer, and appear to have prevented conflicts between small and large vessels.

In 2009, Presidential Proclamation 8337 created the Rose Atoll Marine National Monument (74 FR 1577, January 12, 2009). The monument comprises Rose Atoll and surrounding waters to a distance approximately 50 nm around the atoll. The Proclamation prohibits commercial fishing in monument waters.

The monument and the LVPA around Tutuila, the Manua Islands, and Rose Atoll overlap, but the boundaries do not align. The Council is concerned that the non-alignment of the boundaries may confuse operators of large fishing vessels and reduce compliance with the fishing prohibitions in each area. To

simplify administration and enforcement of the two areas, the Council recommended adjusting certain boundaries of the LVPA.

The boundaries of the existing LVPA are described in Title 50, Code of Federal Regulations, [Part 806](#), by straight lines connecting the following coordinates:

Point	S. lat.	W. long.
AS-1-A	13° 30'	167° 25'
AS-1-B	15° 13'	167° 25'

and from Point AS-1-A westward along the latitude 13°30' S. until intersecting the U.S. EEZ boundary with Samoa, and from Point AS-1-B westward along the latitude 15°13' S. until intersecting the U.S. EEZ boundary with Samoa.

The corners of the Rose Atoll monument are marked by the following coordinates:

Point	S. lat.	W. long.
1	13° 41' 54"	169° 00' 42"
2	13° 41' 54"	167° 17' 0"
3	15° 23' 10"	167° 17' 0"
4	15° 23' 10"	169° 00' 42"

This proposed rule would do the following:

(a) Move the existing northernmost LVPA boundary southward to align with the northern boundary of the monument,

(b) Move the eastern LVPA boundary eastward to align with the eastern boundary of the monument, and

(c) Move a portion of the southern LVPA boundary southward to align with the southern boundary of the monument.

The western and most of the southern boundaries of the existing LVPA would remain unchanged. The resulting proposed LVPA would be described by straight lines connecting the following coordinates (see Fig. 1):

Point	S. lat.	W. long.
AS-1-A	13°41'54"	167°17'
AS-1-B	15°23'10"	167°17'
AS-1-C	15°23'10"	169°00'42"
AS-1-D	15°13'	169°00'42"

and from point AS-1-A westward along latitude 13°41'54" S. until intersecting the U.S. EEZ boundary with Samoa, and from point AS-1-D westward along latitude 15°13' S. until intersecting the U.S. EEZ boundary with Samoa.

This proposed rule aligns the northern, eastern, and southern boundaries of the monument with those of the LVPA, reducing the area of the LVPA by 326 nm². In other words, under this rule the portion of the EEZ around American Samoa where large vessels may fish would increase by 0.3 percent. The Council and NMFS do not believe that this modest change in the size of the LVPA will significantly affect fishing operations or result in potential environmental impacts, including social impacts, or impacts on target and non-target fish, or protected resources and their habitats.

NMFS must receive any public comments on this proposed rule by the close of business on [insert date 21 days after date of publication in the FEDERAL REGISTER], and will not consider late comments.

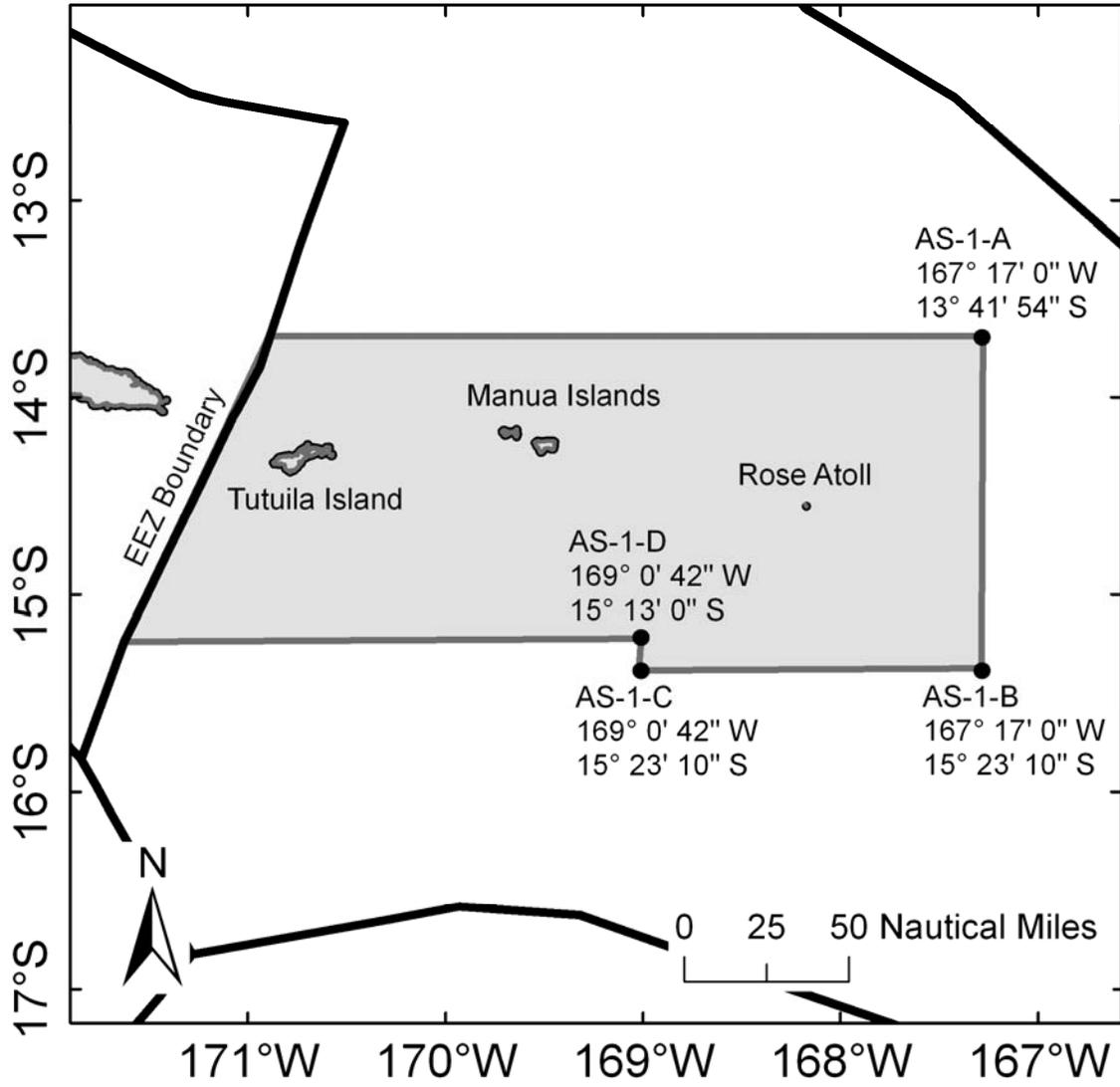


Figure 1. Proposed large vessel prohibited area.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the Pelagics FEP, other provisions of the Magnuson-Stevens Act, and other applicable laws, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Council for Regulation of the Department of Commerce certified to the Chief Council for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The analysis follows:

"The large vessel prohibited areas (LVPA) were created to separate activities of large vessel fishing activities from those of smaller vessels. The LVPA were implemented in 2002 under the Fishery Management Plan for Pelagic Fisheries of the Western Pacific Region. Subsequent Presidential Proclamation 8337 (74 FR 1577; January 12, 2009) established the Rose Atoll Marine National Monument (MNM). The Proclamation established the Rose Atoll MNM and banned all commercial fishing from the monument.

The proposed action would modify the boundaries of the LVPA around Tutuila Island, the Manua Islands, and Rose Atoll to

align with those of the Rose Atoll MNM. The proposed action would move the northern boundary of the LVPA toward shore, while extending the eastern boundary and a portion of the southern boundary farther from shore to encompass the MNM. This would expand the area in which large vessels are allowed to fish by 326 nm², an increase of 0.3 percent in the area where large vessels are allowed to fish in the EEZ around American Samoa.

The proposed action would directly affect operators of vessels 50 feet in length overall and longer, i.e., American Samoa-based longline vessels with Class C and D permits and all purse seine vessels. All Class C and D longline vessels that were active in 2009 and 2010 are assumed to be small entities for the purposes of this analysis, because they have revenues below \$4.0 million (see SBA size regulations at 13 CFR Part 121.201), while most purse seine vessels are not small entities. Based on limited financial information available on the purse seine fleet, NMFS believes that up to a quarter of purse seine vessels operating in 2009 were owned by small entities (74 FR 26160; June 1, 2009). However, when considering that the proposed action represents only minor adjustments to the boundaries, and that it would result in only a very small increase in the overall available fishing area for large vessels, the proposed action is not expected to have a significant economic impact on a substantial number of small

entities. In addition, by aligning boundaries of two areas where fishing is prohibited for these vessels, compliance with fishing prohibitions in both of these areas would be enhanced.

Other options that met the objectives of the proposed action were considered, including the no action alternative and two action alternatives. The two action alternatives would also have re-defined the boundaries of the prohibited area to encompass the monument, but would have increased the LVPA by 3,560 nm² or 1,339 nm², respectively. The Council rejected these alternatives in favor of the preferred alternative, because it achieved the goal of addressing the mismatch of the LVPA and monument boundaries and was the only one of the three action alternatives that would not further decrease the remaining area in which large vessels, such as longline and purse seine vessels could fish."

As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

List of Subjects in 50 CFR Part 665

Administrative practice and procedure, American Samoa, Fishing, Longline, Marine national monuments, Prohibited area management, Purse seine, Rose Atoll.

Dated: April 17, 2012.

Samuel D. Rauch III,
Acting Assistant Administrator for Fisheries,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR chapter VI is proposed to be amended as follows:

PART 665--FISHERIES IN THE WESTERN PACIFIC

1. The authority citation for part 665 continues to read as follows:

Authority: 16 U.S.C. 1801 et seq.

2. In § 665.806, (b) (1) revise the paragraph and table to read as follows:

§ 665.806 Prohibited area management.

* * * * *

(b) * * *

(1) Tutuila Island, Manua Islands, and Rose Atoll (AS-1).

The large vessel prohibited area around Tutuila Island, the Manua Islands, and Rose Atoll consists of the waters of the EEZ around American Samoa enclosed by straight lines connecting the following coordinates:

Point	S. lat.	W. long.
AS-1-A	13° 41' 54"	167° 17'
AS-1-B	15° 23' 10"	167° 17'
AS-1-C	15° 23' 10"	169° 00' 42"
AS-1-D	15° 13'	169° 00' 42"

and from point AS-1-A westward along latitude 13° 41' 54" S. until intersecting the U.S. EEZ boundary with Samoa, and from point AS-1-D westward along latitude 15° 13' S. until intersecting the U.S. EEZ boundary with Samoa.

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