



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 110819515-3085-01]

RIN 0648-BA98

Western Pacific Fisheries; Fishing in the Marianas Trench, Pacific Remote Islands, and Rose Atoll Marine National Monuments

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to establish requirements for fishing in the Marianas Trench, Pacific Remote Islands, and Rose Atoll Marine National Monuments. The proposed rule is intended to implement fishery management measures consistent with Presidential Proclamations 8335, 8336, and 8337 that established the Monuments.

DATES: NMFS must receive comments on the proposed rule by [insert date 45 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments on this proposed rule, identified by NOAA-NMFS-2012-0070, by either of the following methods:

- Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2012-0070, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.
- Mail: Send written comments to Michael D. Tosatto, Regional Administrator, NMFS Pacific Islands Region (PIR), 1601 Kapiolani Blvd, Suite 1110, Honolulu, HI 96814-4700.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous), and will accept attachments to electronic comments in Microsoft Word, Excel, or Adobe PDF file formats only.

The Western Pacific Fishery Management Council (Council) prepared Amendment 3 to the Fishery Ecosystem Plan for the Mariana Archipelago, Amendment 2 to the Fishery Ecosystem Plan

for the Pacific Remote Island Areas, Amendment 3 to the Fishery Ecosystem Plan for American Samoa, and Amendment 6 to the Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific. The amendments are presented as a single document, which includes background information on this proposed rule, an environmental assessment, and a regulatory impact review. You may obtain the draft amendment document from www.regulations.gov or from the Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813, tel 808-522-8220, fax 808-522-8226, or from www.wpcouncil.org.

You may submit written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule to Michael D. Tosatto (see ADDRESSES) and by e-mail to OIRA_Submission@omb.eop.gov or fax to 202-395-7285.

FOR FURTHER INFORMATION CONTACT: Jarad Makaiau, NMFS PIR Sustainable Fisheries, tel 808-944-2108.

SUPPLEMENTARY INFORMATION: The Council and NMFS manage fisheries through fishery ecosystem plans for American Samoa, the Mariana Archipelago (Guam and the Commonwealth of the Northern Mariana Islands (CNMI)), the Pacific Remote Islands (PRI), Hawaii, and western Pacific pelagic fisheries. Fishing regulations for the

western Pacific are found mostly in Title 50 of the Code of Federal Regulations, Part 665 (50 CFR 665).

In 2009, President Bush issued Presidential Proclamations that established three marine national monuments in the central and western Pacific under the authority of the Antiquities Act, as follows:

- Proclamation 8335 of January 6, 2009, "Establishment of the Marianas Trench Marine National Monument" (74 FR 1557, January 12, 2009).
- Proclamation 8336 of January 6, 2009, "Establishment of the Pacific Remote Islands Marine National Monument" (74 FR 1565, January 12, 2009).
- Proclamation 8337 of January 6, 2009, "Establishment of the Rose Atoll Marine National Monument" (74 FR 1577, January 12, 2009).

The proclamations recognize that it is in the public interest to preserve these submerged lands, waters, and marine resources, which are biologically diverse, contain sites of historical and scientific interest, and are essential to the long-term study of tropical marine ecosystems. For more detailed information regarding the marine resources and background for the management of the Monuments, please refer to the Proclamations, available at www.regulations.gov.

Among other things, the Proclamations define the Monuments' boundaries, prohibit commercial fishing, and describe the management of Monument resources. The Proclamations direct the Secretary of Commerce to take action under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) to regulate fisheries and ensure proper care and management of the monument, including allowing for traditional indigenous fishing practices. The Council recommended incorporating the Proclamations' fishery management provisions into its fishery ecosystem plans, and recommended that NMFS establish certain provisions relating to traditional indigenous fishing practices. This proposed rule would implement the Council's recommendations.

The Marianas Trench Marine National Monument (Fig. 1) includes the waters and submerged lands of the three northernmost islands of the CNMI (Farallon de Pajaros (Uracas), Maug, and Asuncion, collectively the "Islands Unit"), the submerged lands of designated volcanic sites ("Volcanic Unit"), and the Marianas Trench ("Trench Unit"). The Pacific Remote Islands Marine National Monument (Figs. 2 through 6) includes the waters and submerged and emergent lands of Wake Island, Baker Island, Howland Island, and Jarvis Islands, Johnston Atoll, Kingman Reef, and Palmyra Atoll ("Pacific Remote

Islands”), seaward to a distance approximately 50 nautical miles (nm). The Rose Atoll Marine National Monument in American Samoa (Fig. 7) includes the emergent and submerged lands and waters of Rose Atoll, seaward to a distance approximately 50 nm.

Consistent with the Proclamations, and based on recommendation from the Council, this proposed rule would create new subparts in 50 CFR Part 665, one for each of the three Monuments. Briefly, the proposed rule would implement new requirements as follows:

- Codify the boundaries of the Monuments and their various management units.
- Prohibit commercial fishing in the Pacific Remote Islands and Rose Atoll Monuments, and in the Islands Unit of the Marianas Trench Monument.
- Establish management measures for non-commercial and recreational fishing in the Monuments, including but not limited to the following:
 - Require Federal permits and reporting for non-commercial and recreational charter fishing to aid in the monitoring of fishing activities.
 - Allow customary exchange in non-commercial fisheries in the Marianas Trench and Rose Atoll Marine National

Monuments to help preserve traditional, indigenous, and cultural fishing practices.

- o Define customary exchange as the non-market exchange of marine resources between fishermen and community residents for goods, and/or services for cultural, social, or religious reasons, and which may include cost recovery through monetary reimbursements and other means for actual trip expenses (ice, bait, food, or fuel) that may be necessary to participate in fisheries in the western Pacific.
- o Limit permit eligibility for non-commercial fishing to community residents, as identified in the fishery ecosystem plans -- specifically, American Samoa, Guam and the CNMI are fishing communities -- and limit permit eligibility for recreational charters to businesses of local fishing communities for the Rose Atoll Monument and Marianas Monument Islands Unit.
- o Prohibit all fishing within 12 nm of the Pacific Remote Islands, subject to U.S. Fish & Wildlife Service authority to allow non-commercial fishing in consultation with NMFS and the Council.

- o Prohibit all fishing within 12 nm around Rose Atoll.

The Council and NMFS would review this regulation after three years.

- Prohibit the conduct of commercial fishing outside the Monument and non-commercial fishing within the Monument during the same trip.

NMFS would make administrative housekeeping changes to the Federal permit and reporting requirements at 50 CFR 665.13 and 665.14, and the vessel identification requirements at 50 CFR 665.16 to incorporate the new permits that this proposed rule would establish.

NMFS would also make administrative housekeeping changes to the requirements for low-use marine protected areas in the Pacific Remote Islands. NMFS currently allows limited fishing within certain areas of the Pacific Remote Islands (at Johnston Atoll, Palmyra Atoll, and Wake Island). Because this proposed rule would prohibit fishing within 12 nm of the islands, it supersedes the provisions allowing fishing in the low-use marine protected areas. To eliminate the potential conflicting requirements, NMFS would remove the provisions allowing limited take in the monument areas; specifically, the definition of the low-use area at 50 CFR 665.599, applicable permit provisions at 50 CFR 665.624, and the related prohibition at 50 CFR 665.625.

NMFS must receive any public comments on this proposed rule by the close of business on [insert date 45 days after date of publication in the FEDERAL REGISTER], and will not consider late comments. In addition to soliciting public comments on this proposed rule, NMFS is soliciting comments through April 2, 2013, on proposed amendments to the Fishery Ecosystem Plans for the Marianas Archipelago, the Pacific Remote Island Areas, American Samoa, and Western Pacific Pelagics Fisheries, as stated in the Notice of Availability published on February 2, 1023 (78 FR 7385). The Secretary of Commerce will consider public comments on this proposed rule in the decision to approve, disapprove, or partially approve the FEP amendments, if NMFS receives such comments by April 2, 2013.

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 Fishery Ecosystem Plans for the Mariana Archipelago, the Pacific Remote Island Areas, American Samoa, and Western Pacific Pelagics Fisheries, other provisions of the Magnuson-Stevens Act, and other applicable laws, subject to further consideration after public comment.

Executive Order 12866

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

Certification under the Regulatory Flexibility Act

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

In January 2009, President George W. Bush established, by Presidential Proclamations, three marine national monuments in the western Pacific. Consistent with these proclamations, this proposed rule would prohibit commercial fishing in the Rose Atoll and Pacific Remote Islands (PRI) Monuments, and within the Islands Unit of the Marianas Trench Monuments. The proposed rule would also establish provisions for managing non-commercial fishing activities in the Monuments. These provisions include, among other requirements: managing non-commercial fishing with Federal permit and reporting requirements to aid in the monitoring of fishing activities, limiting non-commercial fishing eligibility to residents and businesses of local fishing communities, allowing customary exchange, and creating certain no-take/no-fishing marine protected areas.

The proposed rule would apply to the following categories (as determined by the SBA) of small entities: commercial fishing vessels and recreational charter fishing vessels. NMFS believes that businesses operating as recreational charter and commercial fishing vessels in the Territories and in Hawaii would be considered small entities, with annual revenues below \$7 million and \$4 million, respectively. The proposed rule would apply to hundreds of vessels, regardless of gear type and size, many of which are primarily non-commercial fishing vessels that occasionally sell fish or take clients out on charter fishing trips. However, as discussed below, the rule will likely have little effect on overall commercial fishing and charter fishing activities relative to the status quo.

Fishing activity within the areas now contained in the Monuments has historically been low, even prior to the Proclamations. One recent study estimated that historically, about three trips with the primary purpose of fishing (commercial or non-commercial) were made annually to what is now the Islands Unit of the Marianas Trench Monument between 1970 and 2010. As for the PRI, commercial fishing within 50 nm of each island was prohibited by the Proclamation. Fishing activities around the Pacific Remote Island Areas (PRIA) outside the monument is currently low. As of January 2013, the type and

number of PRIA fishing permits issued are as follows: PRIA troll handline (3), PRIA bottomfish (0), PRIA crustaceans (0), PRIA precious corals (0) and PRIA coral reef ecosystem (0). Longline and purse seine fishing has also occurred in the EEZ around the PRIA, outside Monument waters, in recent years. Within the PRI Monument, based on anecdotal information, a small amount of recreational fishing may be occurring by charter vessels visiting Palmyra Atoll from Hawaii. Fishing effort, both commercial and non-commercial, around Rose Atoll is unknown, but likely to be low, as most fishing occurs closer to the shoreline of more populated areas of Tutuila and Manua. With limited information on commercial, non-commercial, and recreational fishing in and around the Monuments, NMFS based the analysis provided in the Environmental Assessment in support of the proposed action assuming that 10 vessels each would make one non-commercial or charter fishing trip annually to the Marianas Trench, 10 vessels each would make one trip annually to Rose Atoll, and 15 vessels each would make one trip annually to PRI.

Commercial fishing within the Rose Atoll and PRI Monuments, and the Islands Unit of the Mariana Trench Monument was banned through the Proclamations in 2009, so this proposed rule only codifies an existing prohibition on commercial fishing. However, a few provisions of this proposed rule could potentially affect

businesses operating commercial fishing and charter fishing vessels. The proposed action prohibits fishing vessels from conducting commercial fishing outside the Monument boundaries and non-commercial fishing inside the Monument during the same trip. Any fishermen who wish to sell fish caught during their trip would not be able to go to any of the Monuments to fish recreationally or non-commercially; this applies to all fishing vessels, as well as charter fishing vessels. This is likely to have little to no effect on revenues, as fishermen whose primary trip goal is to earn revenue, however modest, will choose not to fish non-commercially in Monument waters.

Recreational charter vessel owners and operators would generally be allowed to continue to take recreational charter fishing trips to the Monuments; however, they cannot sell, barter, or trade fish caught within the Rose Atoll and PRI Monuments, or fish caught within the Islands Unit of the Marianas Trench Monument, nor can they supplement trip fee revenues by selling fish caught outside of these Monument boundaries during non-commercial or recreational fishing trips into these areas

In general, the primary revenue sources for charter fishing vessels are boat charter fees paid by customers, and any revenue earned from selling fish would supplement trip fees. Sales of

fish caught outside the Rose Atoll and PRI Monuments, and the Islands Unit of the Marianas Trench Monument are still permitted, as long as no fish were caught inside those areas on the same trip. The restriction on supplemental fish sales is not expected to have a significant impact to small entities operating charter fishing trips to Rose Atoll and PRI Monuments or the Islands Unit of the Marianas Trench Monument because the overall number of recreational fishing trips to any of the three Monuments is likely to be less than ten to fifteen each year, and that number is likely very small relative to the total number of charter fishing trips by the affected vessels taken outside the Monuments annually.

Any fishermen wishing to fish non-commercially in Rose Atoll or in the Islands Unit of the Marianas Trench Marine National Monument would be subject to new community residency requirements under the proposed action. Fishermen who are community residents of American Samoa may fish in Rose Atoll, while those who wish to fish in the Islands Unit of the Marianas Trench Monument must be community residents of Guam or CNMI. These restrictions are necessary to ensure that customary exchange does not provide a toehold for commercial fishing, which is prohibited by the Proclamations. Residency requirements do not apply to those who wish to fish in PRI Monument or in the

Volcano or Trench Units of the Marianas Trench Monument. A recreational fishing charter business operating in the Rose Atoll Monument must be legally established in American Samoa, and a recreational fishing charter business operating in the Islands Unit of the Marianas Trench Monument must be legally established in Guam or the CNMI. This could adversely affect U.S. charter fishing vessels that do not meet the community residency requirements that would otherwise choose to apply for a permit to fish in Rose Atoll or the Islands Unit. With the limited number of trips to these areas, and most, if not all, made by residents of the local fishing community, NMFS predicts that the new community residency requirements would affect few, if any, small entities.

Both recreational charter fishermen and non-commercial fishermen who wish to fish in the Monuments would be required to obtain Federal permits and complete logbook reports. These would be new requirements, except for non-commercial fishermen in the PRI Monument, who would be subject to existing permit requirements. The purpose of these requirements is to allow NMFS and the Council to track and evaluate non-commercial fishing in the Monuments. The time incurred to meet these requirements is estimated to be 15 minutes for each applicant to complete a permit application for each vessel annually and 20 minutes to

complete a daily trip log sheet per trip. NMFS will charge a minor fee to process permit applications, the amount to be determined in accordance with the NOAA Finance Manual.

Information provided as part of the permitting requirement includes vessel-specific information while information requested in the daily logbook reports include fish species caught and fishing location. Fulfilling these requirements is not expected to require any professional skills that vessel owner and operators do not already possess. Given the low number of non-commercial fishing trips taken by non-commercial fishermen, including small commercial entities, to the monuments, NMFS conservatively estimates that each permitted charter fishing vessel and non-commercial fishing vessel will take one trip to any of the Monuments per year. The environmental assessment for the proposed action estimates 35 non-commercial fishing permit applications per year. There is insufficient information to develop an estimate as to what proportion of these applications would be from businesses operating charter vessels, rather than non-commercial fishermen fishing for sustenance or to maintain traditional cultural practices.

NMFS also considered, among other alternatives, taking no action to implement the Council recommendation. Because commercial fishing within the Monuments has been banned under

the Proclamations since 2009, the analysis of economic impacts to small entities of implementing the proposed action considers codifying the commercial fishing ban as part of the baseline economic environment, and does not consider the ban on commercial fishing within Monument waters as an incremental economic impact of implementing the proposed action. Continuing to take no action would have small positive economic impacts on commercial fishing and recreational charter fishing vessels relative to the preferred action because it would allow non-commercial fishing within the Monuments, would allow fishing vessel to conduct commercial fishing outside the Monument boundaries and non-commercial fishing inside the Monument during the same trip, and would not impose permitting and logbook requirements. However, the No Action Alternative does not meet the objective of establishing requirements for fishing activities in the Monuments, including managing non-commercial fishing as a sustainable activity.

The proposed rule does not duplicate, overlap, or conflict with other Federal rules and is not expected to have significant impact on small entities (as discussed above), organizations or government jurisdictions. There does not appear to be disproportionate economic impacts from the proposed rule based on home port, gear type, or relative vessel size. The proposed

rule also will not place a substantial number of small entities, or any segment of small entities, at a significant competitive disadvantage to large entities.

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

Paperwork Reduction Act

This proposed rule contains a collection-of-information requirement that has been submitted to and is subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). NMFS will provide the OMB control number for the information collection when OMB clears the collection-of-information. The public reporting burden is described below, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection information.

For both types of non-commercial fishing (non-commercial and recreational charter) combined, NMFS expects to receive up to 10 permit applications each year for Rose Atoll and the Marianas Islands Unit, each, and up to 15 permit applications a year for the Pacific Remote Islands Monument, for a total of 35 applications in a year. NMFS estimates that an application would take 15 minutes to complete, for a total maximum burden of 8.75

hours. If each fishing trip is three days, there could be 105 logbooks (35 trips x 3 days) in a year. At 20 minutes per log sheet, the maximum reporting burden would be 35 hours per year. Therefore, NMFS expects the total maximum annual burden for permit applications and reporting to be 43.75 hr.

Public comment is sought regarding: whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to Michael D. Tosatto (see ADDRESSES), and by e-mail to OIRA_Submission@omb.eop.gov or by fax to 202-395-7285.

This final rule also contains a collection-of-information requirement subject to the PRA, and which has been approved by the Office of Management and Budget (OMB) under control numbers 0648-0360, -0361, -0584, -0586, and -0589. The one-time public reporting burden for vessel identification requirements is estimated at 45 minutes and \$100 in supplies per vessel. This

includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 665

Administrative practice and procedure, American Samoa, Commercial fishing, Commonwealth of the Northern Mariana Islands, Fisheries, Guam, Marianas Trench, Monuments and memorials, Pacific Remote Islands, Rose Atoll.

Dated: February 13, 2013.

Alan D. Risenhoover,
Director, Office of Sustainable Fisheries,
performing the functions and duties of the
Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR chapter VI as follows:

PART 665 -- FISHERIES IN THE WESTERN PACIFIC

1. The authority citation for 50 CFR part 665 continues to read as follows:

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

2. In § 665.12, add the definitions of "Customary exchange" and "Recreational fishing," in alphabetical order, and revise the definition of "Non-commercial fishing" to read as follows:

§ 665.12 Definitions.

* * * * *

Customary exchange means the non-market exchange of marine resources between fishermen and community residents for goods, and/or services for cultural, social, or religious reasons. Customary exchange may include cost recovery through monetary reimbursements and other means for actual trip expenses, including but not limited to ice, bait, fuel, or food, that may be necessary to participate in fisheries in the western Pacific.

* * * * *

Non-commercial fishing means fishing that does not meet the definition of commercial fishing in the Magnuson-Stevens Fishery Conservation and Management Act, and includes, but is not

limited to, sustenance, subsistence, traditional indigenous, and recreational fishing.

* * * * *

Recreational fishing means fishing conducted for sport or pleasure, including charter fishing.

* * * * *

3. In § 665.13,

a. Revise paragraphs (a), (c)(1), and (c)(2);

b. Revise paragraph (f)(2) introductory text, and add paragraphs (f)(2)(ix) through (f)(2)(xiii); and

c. Revise paragraph (g), to read as follows:

The revisions and additions read as follows:

§ 665.13 Permits and fees.

(a) Applicability. The requirements for permits for specific western Pacific fisheries are set forth in subparts B through I of this part.

* * * * *

(c) ***

(1) An application for a permit to operate in a Federal western Pacific fishery that requires a permit and is regulated under subparts B through I of this part may be obtained from NMFS PIRO. The completed application must be submitted to PIRO for consideration. In no case shall PIRO accept an application

that is not on a Federal western Pacific fisheries permit application form.

(2) A minimum of 15 days after the day PIRO receives a complete application should be allowed for processing the application for fisheries under subparts B through I of this part. If an incomplete or improperly completed application is filed, NMFS will notify the applicant of the deficiency. If the applicant fails to correct the deficiency within 30 days following the date of the letter of notification of deficiency, the application will be administratively closed.

* * * * *

(f) ***

* * * * *

(2) PIRO will charge a non-refundable processing fee for each application (including transfer and renewal) for each permit listed in paragraphs (f)(2)(i) through (f)(2)(xiii) of this section. The amount of the fee is calculated in accordance with the procedures of the NOAA Finance Handbook for determining the administrative costs incurred in processing the permit. The fee may not exceed such costs. The appropriate fee is specified with each application form and must accompany each application. Failure to pay the fee will preclude the issuance, transfer, or renewal of any of the following permits:

* * * * *

(ix) Marianas Trench Monument non-commercial permit.

(x) Marianas Trench Monument recreational charter permit.

(xi) Pacific Remote Islands Monument recreational charter permit.

(xii) Rose Atoll Monument non-commercial permit.

(xiii) Rose Atoll Monument recreational charter permit.

* * * * *

(g) Expiration. A permit issued under subparts B through I of this part is valid for the period specified on the permit unless revoked, suspended, transferred, or modified under 15 CFR part 904.

* * * * *

4. In § 665.14 revise paragraphs (b) (1) (i) and (b) (2) (iv) to read as follows:

§ 665.14 Reporting and recordkeeping.

* * * * *

(b) ***

(1) ***.

(i) The operator of a fishing vessel subject to the requirements of §§ 665.124, 665.142, 665.162, 665.203(a)(2), 665.224, 665.242, 665.262, 665.404, 665.424, 665.442, 665.462, 665.603, 665.624, 665.642, 665.662, 665.801, 665.905, 665.935, or 665.965

must maintain on board the vessel an accurate and complete record of catch, effort, and other data on paper report forms provided by the Regional Administrator, or electronically as specified and approved by the Regional Administrator, except as allowed in paragraph (b) (1) (iii) of this section.

* * * * *

(2) ***

* * * * *

(iv) If fishing was authorized under a permit pursuant to §§ 665.124, 665.224, 665.424, 665.624, 665.905, 665.935, or 665.965, the original logbook information for each day of fishing must be submitted to the Regional Administrator within 30 days of the end of each fishing trip.

* * * * *

5. In § 665.16 revise paragraph (a) (3) to read as follows:
§ 665.16 Vessel identification.

(a) * * *

(3) A vessel that is registered for use with a valid permit issued under Subparts B through E and Subparts G through I of this part must be marked in accordance with paragraph (b) of this section.

* * * * *

6. Revise § 665.599 to read as follows:

§ 665.599 Area restrictions.

Except as provided in § 665.934, fishing is prohibited in all no-take MPAs. The following U.S. EEZ waters are no-take MPAs: Landward of the 50 fathom curve at Jarvis, Howland, and Baker Islands, and Kingman Reef; as depicted on National Ocean Survey Chart Numbers 83116 and 83153.

7. Remove and reserve § 665.624 paragraph (a)(1)(i) to read as follows:

§ 665.624 Permits and fees.

(a) * * *

(1) * * *

(i) [Reserved]

* * * * *

8. Remove and reserve § 665.625 paragraphs (a) and (b)(3) to read as follows:

§ 665.625 Prohibitions.

(a) [Reserved]

(b) * * *

(3) [Reserved]

* * * * *

9. In 50 CFR part 665, add subparts G, H, and I to read as follows:

Subpart G -- Marianas Trench Marine National Monument

Sec.

- 665.900 Scope and purpose.
- 665.901 Boundaries.
- 665.902 Definitions.
- 665.903 Prohibitions.
- 665.904 Regulated activities.
- 665.905 Fishing permit procedures and criteria.
- 665.906 International law.

Subpart H -- Pacific Remote Islands Marine National Monument

Sec.

- 665.930 Scope and purpose.
- 665.931 Boundaries.
- 665.932 Definitions.
- 665.933 Prohibitions.
- 665.934 Regulated activities.
- 665.935 Fishing permit procedures and criteria.
- 665.936 International law.

Subpart I -- Rose Atoll Marine National Monument

Sec.

- 665.960 Scope and purpose.
- 665.961 Boundaries.
- 665.962 Definitions.
- 665.963 Prohibitions.
- 665.964 Regulated activities.
- 665.965 Fishing permit procedures and criteria.
- 665.966 International law.

Subpart G -- Marianas Trench Marine National Monument

§ 665.900 Scope and purpose.

The regulations in this subpart codify certain provisions of the Proclamation, and govern the administration of fishing in the Monument. Nothing in these regulations shall be deemed to diminish or enlarge the jurisdiction of the Territory of Guam or the Commonwealth of the Northern Mariana Islands.

§ 665.901 Boundaries.

The Marianas Trench Marine National Monument includes the following:

(a) Islands Unit. The Islands Unit includes the waters and submerged lands of the three northernmost Mariana Islands (Farallon de Pajaros (Uracas), Maug, and Asuncion). The shoreward boundary of the Islands Unit is the mean low water line. The seaward boundary of Islands Unit is defined by straight lines connecting the following coordinates in the order listed:

ID	E. long.	N. lat.
1	144° 1' 22.97"	21° 23' 42.40"
2	145° 33' 25.20"	21° 23' 42.40"
3	145° 44' 31.14"	21° 11' 14.60"
4	146° 18' 36.75"	20° 49' 17.46"
5	146° 18' 36.75"	19° 22' 0.00"
6	145° 3' 12.22"	19° 22' 0.00"
7	144° 1' 22.97"	20° 45' 44.11"
1	144° 1' 22.97"	21° 23' 42.40"

(b) Volcanic Unit. The Volcanic Unit includes the submerged lands of designated volcanic sites. The boundaries of the Volcanic Unit are defined as circles of a one nautical mile radius centered on each of the following points:

ID	E. long.	N. lat.
Fukujin	143° 27' 30"	21° 56' 30"
Minami Kasuga #2	143° 38' 30"	21° 36' 36"
N.W. Eifuku	144° 2' 36"	21° 29' 15"
Minami Kasuga #3	143° 38' 0"	21° 24' 0"
Daikoku	144° 11' 39"	21° 19' 27"
Ahyi	145° 1' 45"	20° 26' 15"

Maug	145° 13' 18"	20° 1' 15"
Alice Springs	144° 30' 0"	18° 12' 0"
Central trough	144° 45' 0"	18° 1' 0"
Zealandia	145° 51' 4"	16° 52' 57"
E. Diamante	145° 40' 47"	15° 56' 31"
Ruby	145° 34' 24"	15° 36' 15"
Esmeralda	145° 14' 45"	14° 57' 30"
N.W. Rota #1	144° 46' 30"	14° 36' 0"
W. Rota	144° 50' 0"	14° 19' 30"
Forecast	143° 55' 12"	13° 23' 30"
Seamount X	144° 1' 0"	13° 14' 48"
South Backarc	143° 37' 8"	12° 57' 12"
Archaean site	143° 37' 55"	12° 56' 23"
Pika site	143° 38' 55"	12° 55' 7"
Toto	143° 31' 42"	12° 42' 48"

(c) Trench Unit. The Trench Unit includes the submerged lands of the Marianas Trench. The boundary of the Trench Unit extends from the northern limit of the EEZ around the Commonwealth of the Northern Mariana Islands to the southern limit of the EEZ around Guam as defined by straight lines connecting the following coordinates in the order listed:

ID	E. long.	N. lat.
1	145° 5' 46"	23° 53' 35"
2	145° 52' 27.10"	23° 45' 50.54"
3	146° 36' 18.91"	23° 29' 18.33"
4	147° 5' 16.84"	23° 11' 43.92"
5	147° 22' 31.43"	20° 38' 41.35"
6	147° 40' 48.31"	19° 59' 23.30"
7	147° 39' 59.51"	19° 27' 2.96"
8	147° 48' 51.61"	19° 8' 18.74"
9	148° 21' 47.20"	18° 56' 6.46"
10	148° 42' 50.50"	17° 58' 2.20"
11	148° 34' 47.12"	16° 40' 53.86"
12	148° 5' 39.95"	15° 25' 51.09"
13	146° 23' 24.38"	12° 21' 38.38"
14	145° 28' 33.28"	11° 34' 7.64"
15	143° 3' 9"	10° 57' 30"

16	142° 19' 54.93"	11° 47' 24.83"
17	144° 42' 31.24"	12° 21' 24.65"
18	145° 17' 59.93"	12° 33' 5.35"
19	147° 29' 32.24"	15° 49' 25.53"
20	147° 27' 32.35"	17° 57' 52.76"
21	147° 20' 16.96"	19° 9' 19.41"
22	146° 57' 55.31"	20° 23' 58.80"
23	145° 44' 31.14"	21° 11' 14.60"
24	144° 5' 27.55"	23° 2' 28.67"
1	145° 5' 46"	23° 53' 35"

§ 665.902 Definitions.

The following definitions are used in this subpart:

Management unit species or MUS means the Mariana Archipelago management unit species as defined in §§ 665.401, 665.421, 665.441, and 665.461, and the pelagic management unit species as defined in § 665.800.

Monument means the submerged lands and, where applicable, waters of the Marianas Trench Marine National Monument as defined in § 665.901.

Proclamation means Presidential Proclamation 8335 of January 6, 2009, "Establishment of the Marianas Trench Marine National Monument."

§ 665.903 Prohibitions.

In addition to the general prohibitions specified in § 600.725 of this part, and § 665.15 and subpart D of this chapter, the following activities are prohibited in the Islands

Unit and, thus, unlawful for a person to conduct or cause to be conducted.

(a) Commercial fishing in violation of § 665.904(a).

(b) Non-commercial fishing, except as authorized under permit and pursuant to the procedures and criteria established in § 665.905.

(c) Transferring a permit in violation of § 665.905(d).

(d) Commercial fishing outside the Islands Unit and non-commercial fishing within the Islands Unit on the same trip in violation of § 665.904(c).

§ 665.904 Regulated activities.

(a) Commercial fishing is prohibited in the Islands Unit.

(b) Non-commercial fishing is prohibited in the Islands Unit, except as authorized under permit and pursuant to the procedures and criteria established in § 665.905.

(c) Commercial fishing outside the Islands Unit and non-commercial fishing within the Islands Unit during the same trip is prohibited.

§ 665.905 Fishing permit procedures and criteria.

(a) Marianas Trench Monument Islands Unit non-commercial permit.

(1) Applicability. Both the owner and operator of a vessel used to non-commercially fish for, take, retain, or possess MUS

in the Islands Unit must have a permit issued under this section, and the permit must be registered for use with that vessel.

(2) Eligibility criteria. A permit issued under this section may be issued only to a community resident of Guam or the CNMI.

(3) Terms and conditions.

(i) Customary exchange of fish harvested within the Islands Unit under a non-commercial permit is allowed, except that customary exchange by fishermen engaged in recreational fishing is prohibited. Customary exchange of fish harvested under a non-commercial fishing permit in the Islands Unit may include family and friends of residents of CNMI and Guam fishing communities.

(ii) Monetary reimbursement under customary exchange shall not exceed actual fishing trip expenses related to ice, bait, fuel, or food.

(b) Marianas Trench Monument Islands Unit recreational charter permit.

(1) Applicability. Both the owner and operator of a vessel chartered to recreationally fish for, take, retain, or possess MUS in the Islands Unit must have a permit issued under this section, and the permit must be registered for use with that

vessel. Charter boat customers are not required to obtain a permit.

(2) Eligibility criteria. To be eligible for a permit issued under this section, a charter business must be established legally under the laws of Guam or the CNMI.

(3) Terms and conditions.

(i) The sale or exchange through barter or trade of fish caught in the Monument by a charter boat is prohibited.

(ii) No MUS harvested under a recreational charter fishing permit may be used for the purposes of customary exchange.

(c) Application. An application for a permit required under this section must be submitted to PIRO as described in § 665.13.

(d) Transfer. A permit issued under this section is not transferrable.

(e) Reporting and recordkeeping. The operator of a vessel subject to the requirements of this section must comply with the terms and conditions described in § 665.14.

§ 665.906 International law.

These regulations shall be applied in accordance with international law. No restrictions shall apply to or be enforced against a person who is not a citizen, national, or resident alien of the United States (including foreign flag vessels) unless in accordance with international law.

Subpart H -- Pacific Remote Islands Marine National Monument

§ 665.930 Scope and purpose.

The regulations in this subpart codify certain provisions of the Proclamation, and govern the administration of fishing in the Monument.

§ 665.931 Boundaries.

The Monument, including the waters and submerged and emergent lands of Wake, Baker, Howland, and Jarvis Islands, Johnston Atoll, Kingman Reef, and Palmyra Atoll, is defined as follows:

(a) Wake Island. The Wake Island unit of the Monument includes the waters and submerged and emergent lands around Wake Island within an area defined by straight lines connecting the following coordinates in the order listed:

ID	E. long.	N. lat.
1	165° 42' 56"	20° 9' 27"
2	167° 32' 23"	20° 9' 27"
3	167° 32' 23"	18° 25' 51"
4	165° 42' 56"	18° 25' 51"
1	165° 42' 56"	20° 9' 27"

(b) Howland and Baker Islands. The Howland and Baker Islands units of the Monument include the waters and submerged and emergent lands around Howland and Baker Islands within an area defined by straight lines connecting the following coordinates in the order listed:

ID	W. long.	Lat.
1	177° 27' 7"	1° 39' 15" N.
2	175° 38' 32"	1° 39' 15" N.
3	175° 38' 32"	0° 38' 33" S.
4	177° 27' 7"	0° 38' 33" S.
1	177° 27' 7"	1° 39' 15" N.

(c) Jarvis Island. The Jarvis Island unit of the Monument includes the waters and submerged and emergent lands around Jarvis Island within an area defined by straight lines connecting the following coordinates in the order listed:

ID	W. long.	Lat.
1	160° 50' 52"	0° 28' 39" N.
2	159° 8' 53"	0° 28' 39" N.
3	159° 8' 53"	1° 13' 15" S.
4	160° 50' 52"	1° 13' 15" S.
1	160° 50' 52"	0° 28' 39" N.

(d) Johnston Atoll. The Johnston Atoll unit of the Monument includes the waters and submerged and emergent lands around Johnston Atoll within an area defined by straight lines connecting the following coordinates in the order listed:

ID	W. long.	N. lat.
1	170° 24' 37"	17° 35' 39"
2	168° 37' 32"	17° 35' 39"
3	168° 37' 32"	15° 53' 26"
4	170° 24' 37"	15° 53' 26"
1	170° 24' 37"	17° 35' 39"

(e) Kingman Reef and Palmyra Atoll. The Kingman Reef and Palmyra Atoll units of the Monument include the waters and submerged and emergent lands around Kingman Reef and Palmyra

Atoll within an area defined by straight lines connecting the following coordinates in the order listed:

ID	W. long.	N. lat.
1	163° 11' 16"	7° 14' 38"
2	161° 12' 3"	7° 14' 38"
3	161° 12' 3"	5° 20' 23"
4	161° 25' 22"	5° 1' 34"
5	163° 11' 16"	5° 1' 34"
1	163° 11' 16"	7° 14' 38"

§ 665.932 Definitions.

The following definitions are used in this subpart:

Management unit species or MUS means the Pacific Remote Island Areas management unit species as defined in §§ 665.601, 665.621, 665.641, and 665.661, and the pelagic management unit species as defined in § 665.800.

Monument means the waters and submerged and emergent lands of the Pacific Remote Islands Marine National Monument, as defined in § 665.931.

Proclamation means Presidential Proclamation 8336 of January 6, 2009, "Establishment of the Pacific Remote Islands Marine National Monument."

§ 665.933 Prohibitions.

In addition to the general prohibitions specified in § 600.725 of this part, and § 665.15 and subparts E and F of this chapter, the following activities are prohibited in the

Monument and, thus, unlawful for a person to conduct or cause to be conducted.

(a) Commercial fishing in the Monument.

(b) Non-commercial fishing in the Monument, except as authorized under permit and pursuant to the procedures and criteria established in § 665.935.

(c) Transferring a permit in violation of § 665.935(d).

(d) Commercial fishing outside the Monument and non-commercial fishing within the Monument on the same trip in violation of § 665.934(c).

(e) Non-commercial fishing within 12 nm of emergent land within the Monument, unless authorized by the U.S Fish & Wildlife Service, in consultation with NMFS and the Council, in violation of § 665.934(d).

§ 665.934 Regulated activities.

(a) Commercial fishing is prohibited in the Monument.

(b) Non-commercial fishing is prohibited in the Monument, except under permit and pursuant to the procedures and criteria established in § 665.935 or pursuant to 665.934(d).

(c) Commercial fishing outside the Monument and non-commercial fishing within the Monument during the same trip is prohibited.

(d) Non-commercial fishing is prohibited within 12 nm of emergent land within the Monument, unless authorized by the U.S. Fish & Wildlife Service, in consultation with NMFS and the Council.

§ 665.935 Fishing permit procedures and criteria.

(a) Non-commercial fishing.

(1) Applicability. Except as provided in section 665.934(d), a vessel that is used to non-commercially fish for, take, retain, or possess MUS in the Monument must be registered for use with a permit issued pursuant to §§ 665.603, 665.624, 665.642, 665.662, 665.801(f), or 665.801(g).

(2) Terms and conditions. Customary exchange of fish harvested in the Monument is prohibited.

(b) Pacific Remote Islands Monument recreational charter permit.

(1) Applicability. Except as provided in section 665.934(d), both the owner and operator of a vessel that is chartered to recreationally fish for, take, retain, or possess MUS in the Monument must have a permit issued under this section, and the permit must be registered for use with that vessel. Charter boat customers are not required to obtain a permit.

(2) Terms and conditions.

(i) The sale or exchange through barter or trade of fish caught by a charter boat fishing in the Monument is prohibited.

(ii) Customary exchange of fish harvested under a Monument recreational charter permit is prohibited.

(c) Application. An application for a permit required under this section must be submitted to PIRO as described in § 665.13.

(d) Transfer. A permit issued under this section is not transferrable.

(e) Reporting and recordkeeping. The operator of a vessel subject to the requirements of this section must comply with the terms and conditions described in § 665.14.

§ 665.936 International law.

These regulations shall be applied in accordance with international law. No restrictions shall apply to or be enforced against a person who is not a citizen, national, or resident alien of the United States (including foreign flag vessels) unless in accordance with international law.

Subpart I -- Rose Atoll Marine National Monument

§ 665.960 Scope and purpose.

The regulations in this subpart codify certain provisions of the Proclamation, and govern the administration of fishing within the Monument. Nothing in these regulations shall be

deemed to diminish or enlarge the jurisdiction of the Territory of American Samoa.

§ 665.961 Boundaries.

The Monument consists of emergent and submerged lands and waters extending seaward approximately 50 nm from Rose Atoll. The boundary is defined by straight lines connecting the following coordinates in the order listed:

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

§ 665.962 Definitions.

The following definitions are used in this subpart:

Management Unit Species or MUS means the American Samoa management unit species as defined in §§ 665.401, 665.421, 665.441, and 665.461, and the pelagic management unit species as defined in § 665.800.

Monument means the waters and emergent and submerged lands of the Rose Atoll Marine National Monument, as defined in § 665.961.

Proclamation means Presidential Proclamation 8337 of January 6, 2009, "Establishment of the Rose Atoll Marine National Monument."

§ 665.963 Prohibitions.

In addition to the general prohibitions specified in § 600.725 of this part, and § 665.15 and Subpart B of this chapter, the following activities are prohibited in the Monument and, thus, unlawful for a person to conduct or cause to be conducted.

(a) Commercial fishing in the Monument.

(b) Non-commercial fishing in the Monument, except as authorized under permit and pursuant to the procedures and criteria established in § 665.965.

(c) Transferring a permit in violation of § 665.965(d).

(d) Commercial fishing outside the Monument and non-commercial fishing within the Monument on the same trip in violation of § 665.964(c).

(e) Fishing within 12 nm of emergent land within the Monument in violation of § 665.964(d).

§ 665.964 Regulated activities.

(a) Commercial fishing is prohibited in the Monument.

(b) Non-commercial fishing is prohibited in the Monument, except as authorized under permit and pursuant to the procedures and criteria established in § 665.965.

(c) Commercial fishing outside the Monument and non-commercial fishing within the Monument during the same trip is prohibited.

(d) All fishing is prohibited within 12 nm of emergent land within the Monument.

§ 665.965 Fishing permit procedures and criteria.

(a) Rose Atoll Monument non-commercial fishing permit.

(1) Applicability. Both the owner and operator of a vessel used to non-commercially fish for, take, retain, or possess MUS in the Monument must have a permit issued under this section, and the permit must be registered for use with that vessel.

(2) Eligibility criteria. A permit issued under this section may be issued only to a community resident of American Samoa.

(3) Terms and conditions.

(i) Customary exchange of fish harvested under a non-commercial permit within the Monument is allowed, except that customary exchange by fishermen engaged in recreational fishing is prohibited. Customary exchange of fish harvested under a non-commercial permit in the Monument may include family and friends of residents of the American Samoa fishing community.

(ii) Monetary reimbursement under customary exchange shall not exceed actual fishing trip expenses related to ice, bait, fuel, or food.

(b) Rose Atoll Monument recreational charter permit.

(1) Applicability. Both the owner and operator of a vessel that is chartered to fish recreationally for, take, retain, or possess MUS in the Monument must have a permit issued under this section, and the permit must be registered for use with that vessel. Charter boat customers are not required to obtain a permit.

(2) Permit Eligibility criteria. To be eligible for a permit issued under this section, a charter business must be established legally under the laws of American Samoa.

(3) Terms and conditions.

(i) The sale or exchange through barter or trade of fish caught by a charter boat fishing in the Monument is prohibited.

(ii) No MUS harvested under a recreational charter fishing permit may be used for the purposes of customary exchange.

(c) Application. An application for a permit required under this section must be submitted to PIRO as described in § 665.13.

(d) Transfer. A permit issued under this section is not transferrable.

(e) Reporting and recordkeeping. The operator of a vessel subject to the requirements of this section must comply with the terms and conditions described in § 665.14.

§ 665.966 International law.

These regulations shall be applied in accordance with international law. No restrictions shall apply to or be enforced against a person who is not a citizen, national, or resident alien of the United States (including foreign flag vessels) unless in accordance with international law.

Figure 1. Marianas Trench Marine National Monument.

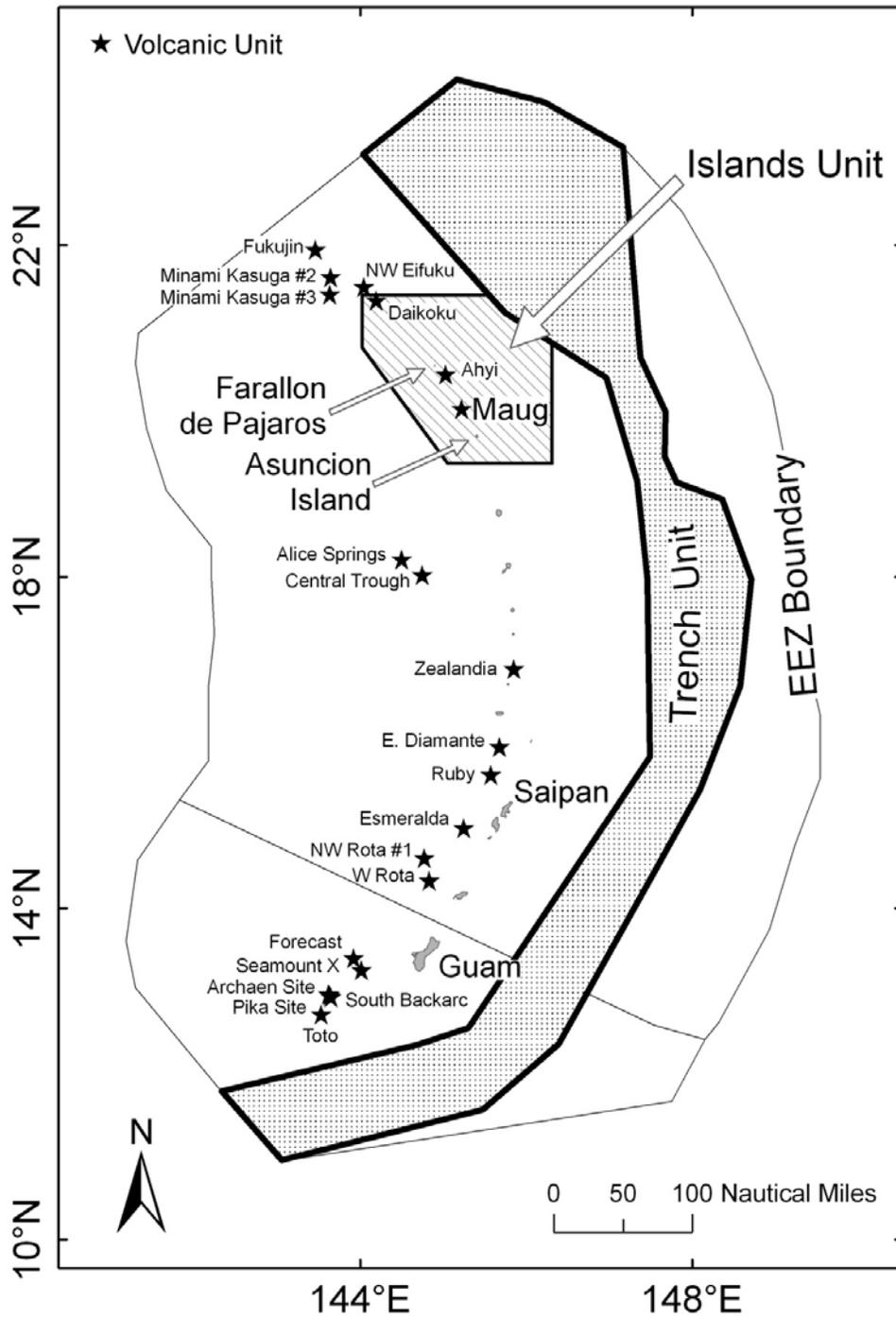


Figure 2. Wake Island, Pacific Remote Islands Marine National Monument.

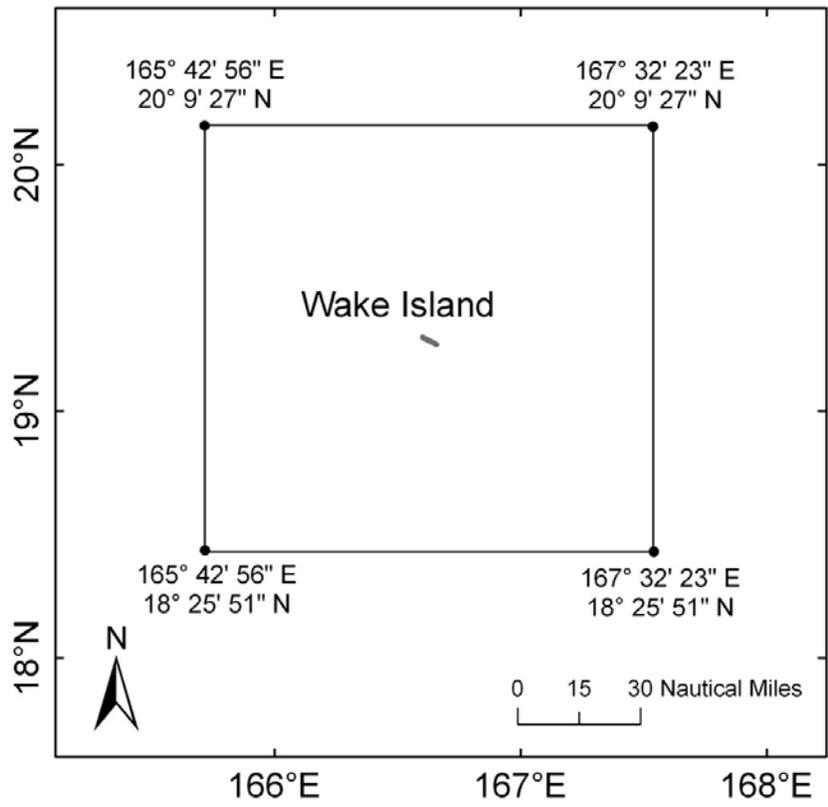


Figure 3. Howland and Baker Islands, Pacific Remote Islands Marine National Monument.

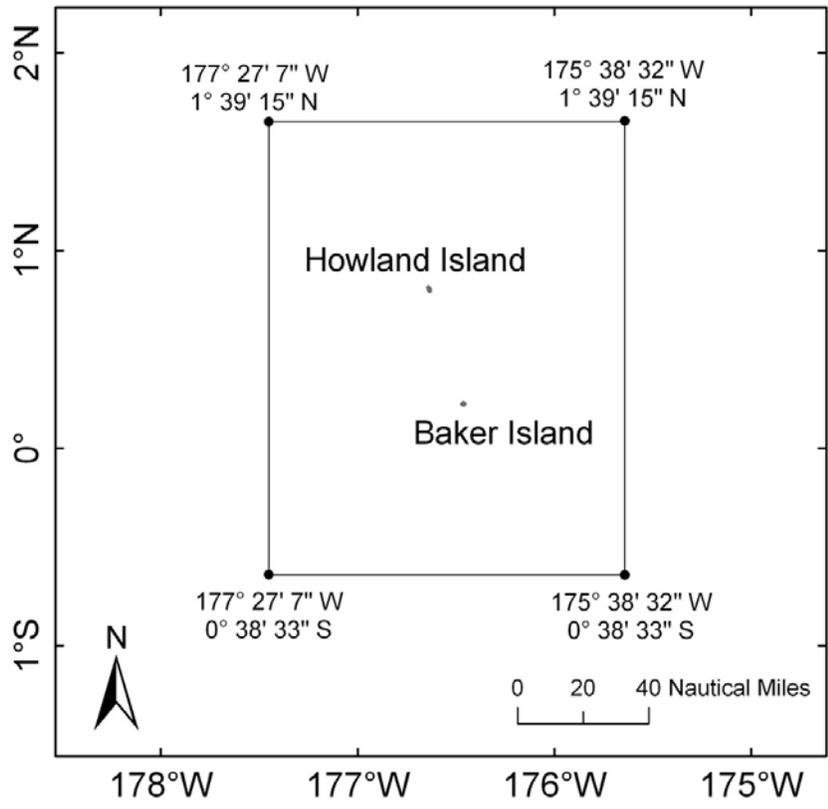


Figure 4. Jarvis Island, Pacific Remote Islands Marine National Monument.

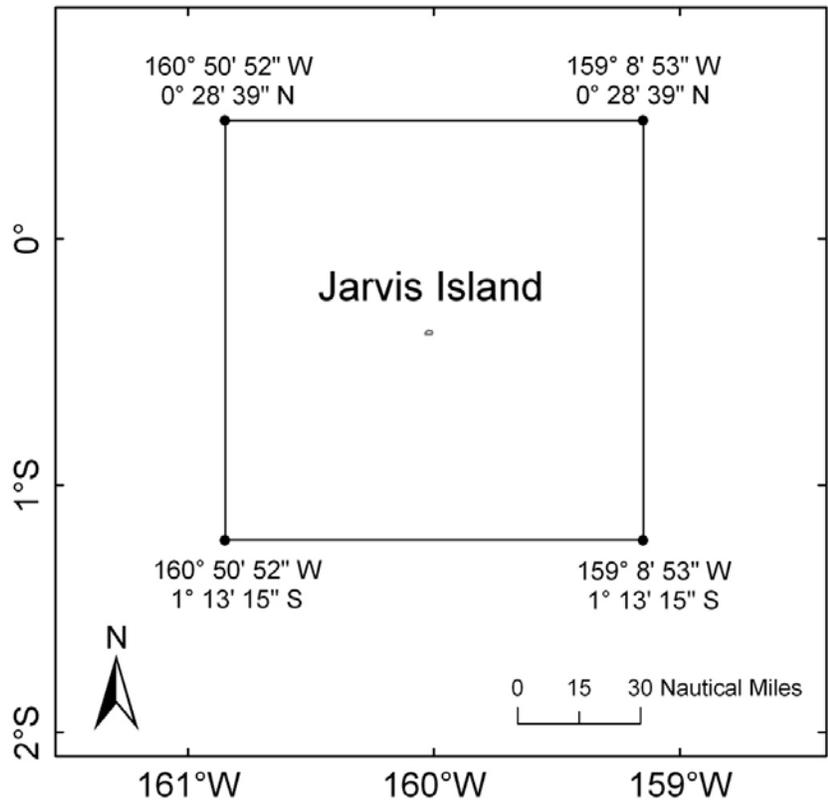


Figure 5. Johnston Atoll, Pacific Remote Islands Marine National Monument.

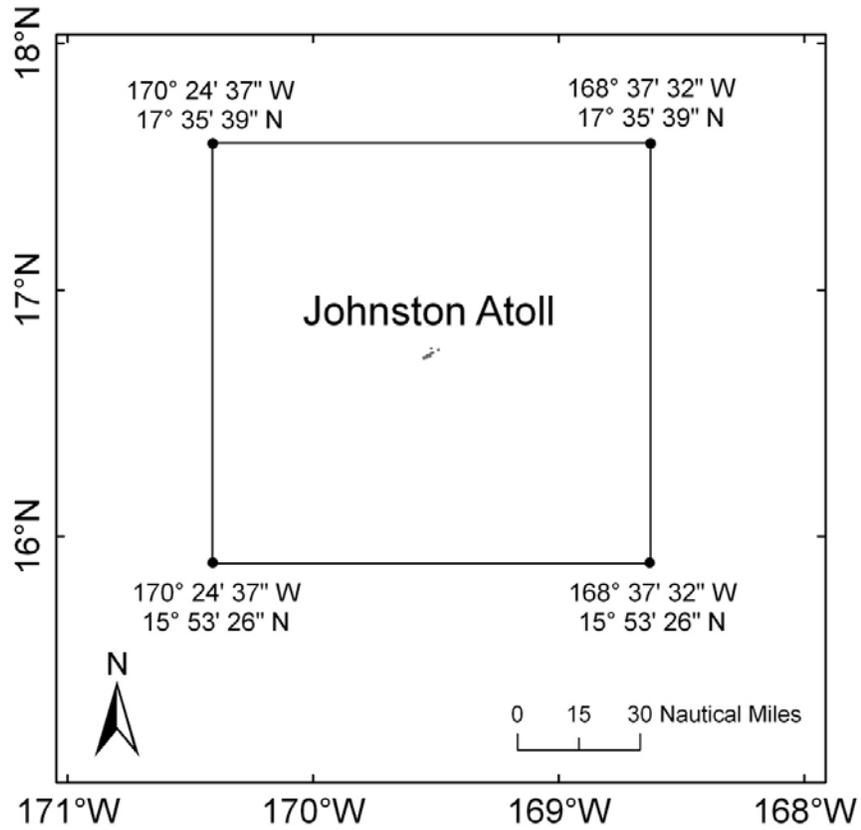


Figure 6. Kingman Reef and Palmyra Atoll, Pacific Remote Islands Marine National Monument.

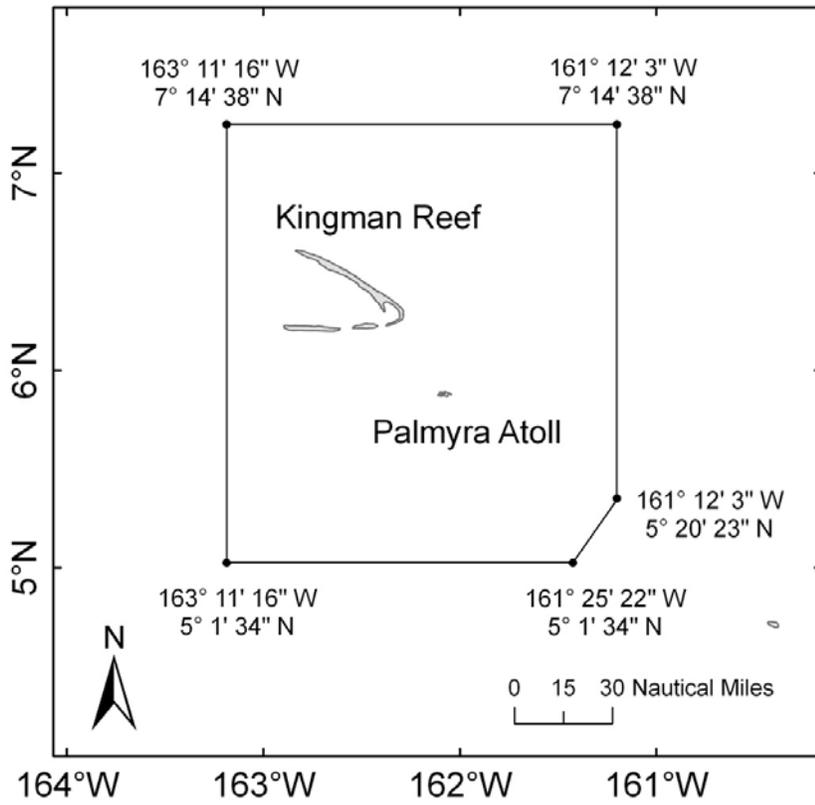
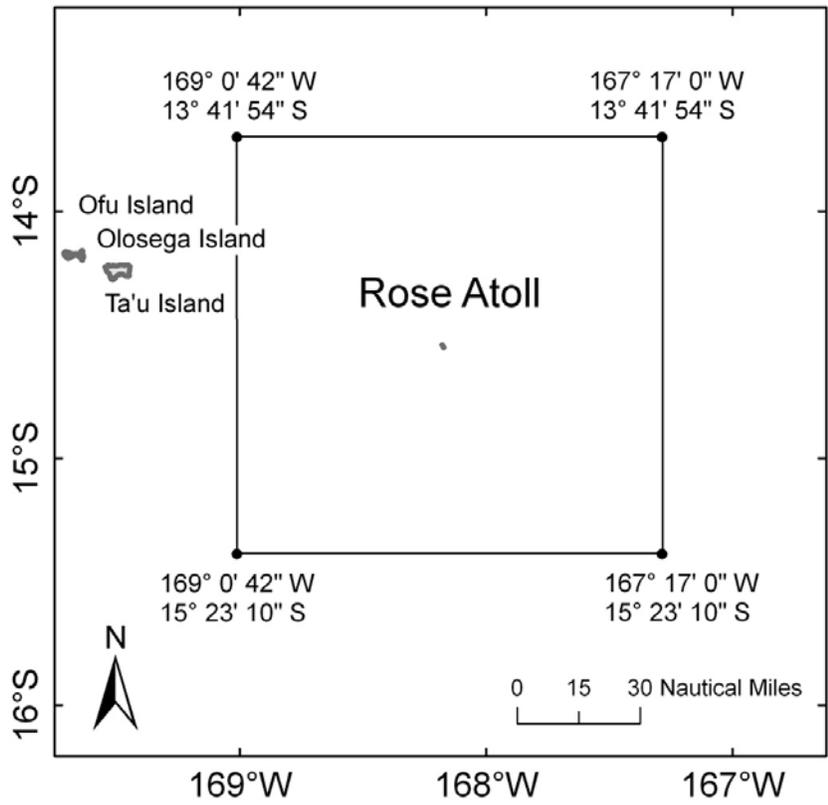


Figure 7. Rose Atoll Marine National Monument.



[FR Doc. 2013-03873 Filed 02/20/2013 at 8:45 am; Publication Date: 02/21/2013]