DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
50 CFR Part 665
[Docket No. 110909576–2120–02]
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: Final rule.

SUMMARY: This final rule modifies 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. This rule simplifies enforcement and administration of the management areas.

DATES: This rule is effective July 11, 2012.


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

SUPPLEMENTARY INFORMATION: 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 American Samoa. In 2002, concerns about potential catch competition and gear conflicts between small and large vessels led to the implementation of two large vessel prohibited areas (LVPA), one around Swain’s Island and one around Tutuila, the Manua Islands, and Rose Atoll (67 FR 4369, January 30, 2002).

In 2009, Presidential Proclamation 8337 created the Rose Atoll Marine National Monument (74 FR 1577, January 12, 2009). The monument includes 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. This rule aligns some of the boundaries to simplify administration and enforcement of the two areas. This rule modifies the LVPA boundaries, as follows:

(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 remain unchanged. Fig. 1 shows the revised boundaries of the LVPA.

Comments and Responses

On April 20, 2012, NMFS published a proposed rule and request for public comment (77 FR 23654). The comment period for the proposed rule ended on May 11, 2012. NMFS received no public comments.

Changes From the Proposed Rule

There are no changes in this final rule.

Classification

The Administrator, Pacific Islands Region, NMFS, determined that this action is necessary for the conservation and management of the large vessel pelagic fisheries around American Samoa, and that it is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

This final 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 during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here.

NMFS received no comments regarding this certification; as a result, a regulatory flexibility analysis was not required and none was prepared.

BILLING CODE 3510–22–P
Dated: June 5, 2012.

Alan D. Risenhoover,
Acting Deputy Assistant Administrator For Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR chapter VI is 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:

<table>
<thead>
<tr>
<th>Point</th>
<th>S. lat.</th>
<th>W. long.</th>
</tr>
</thead>
<tbody>
<tr>
<td>AS–1–A</td>
<td>13° 41′ 54″</td>
<td>167° 17″</td>
</tr>
<tr>
<td>AS–1–B</td>
<td>15° 23′ 10″</td>
<td>167° 17″</td>
</tr>
</tbody>
</table>
SUMMARY: NMFS is prohibiting directed fishing for Pacific ocean perch in the Western Aleutian District of the Bering Sea and Aleutian Islands management area (BSAI) by vessels participating in the BSAI trawl limited access fishery. This action is necessary to prevent exceeding the 2012 allocation of Pacific ocean perch in this area allocated to vessels participating in the BSAI trawl limited access fishery.


SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The allocation of Pacific ocean perch, in the Western Aleutian District, allocated as a directed fishing allowance to vessels participating in the BSAI trawl limited access fishery was established as 149 metric tons (mt) by the final 2012 and 2013 harvest specifications for groundfish in the BSAI (77 FR 10669, February 23, 2012). In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch in the Western Aleutian District by vessels participating in the BSAI trawl limited access fishery.

After the effective dates of this closure, the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification
This action responds to the best available information recently obtained from the fishery. The Acting Assistant Administrator for Fisheries, NOAA, (AA) finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such a requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the directed fishing closure of the Pacific ocean perch fishery in the Western Aleutian District by vessels participating in the BSAI trawl limited access fishery. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of June 5, 2012. The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: June 6, 2012.

Carrie Selberg,
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

BILLING CODE 3510–22–P