



Billing Code 3510-NK-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

[Docket No. 150821762-5762-01]

RIN 0648-BF13

**Boundary Expansion of Thunder Bay National Marine Sanctuary;
Correction and Expansion of Fagatele Bay National Marine
Sanctuary, Regulatory Changes, and Sanctuary Name Change;
Correction**

AGENCY: Office of National Marine Sanctuaries (ONMS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Final rule; correcting amendment.

SUMMARY: NOAA originally published final rules expanding the boundaries of Thunder Bay National Marine Sanctuary (TBNMS) and National Marine Sanctuary of American Samoa (NMSAS), and specifying new boundary coordinates for those sanctuaries, on September 5, 2014, and July 26, 2012, respectively. Upon adding the new boundaries for both sanctuaries to NOAA nautical charts,

NOAA noticed that some of the coordinates did not match the description of the boundaries in the respective final rules. This action corrects those errors in the coordinates, and updates the format of the tables of coordinates for NMSAS. This action also makes corrections to the boundary description for the Swains Island unit of NMSAS and makes a correction to the use of the term "mean high high water". This correcting amendment will ensure proper mapping and enforcement of TBNMS and NMSAS. This action makes no substantive change to the regulations and does not expand or otherwise alter the size or geographic boundaries of the sanctuaries.

DATES: Effective [insert date of publication in the Federal Register].

FOR FURTHER INFORMATION CONTACT: Helene Scalliet, phone: (301) 713-3125 x281, or email: Helene.Scalliet@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background and Need for Correction

Thunder Bay National Marine Sanctuary

On September 5, 2014, NOAA issued final regulations expanding the boundary of Thunder Bay National Marine Sanctuary (TBNMS) (79 FR 52960). At that time, NOAA published incorrect

coordinates for Point 7 in the description of the new boundary for TBNMS, which inadvertently placed the point a few hundred feet into Canadian waters. NOAA does not have the authority to include any foreign waters into a national marine sanctuary, and did not intend to do so. This error was discovered when NOAA began to revise the nautical charts corresponding to that area. The new coordinates for Point 7 now correspond with the textual description of the boundary in the preamble and the regulations for TBNMS at 15 CFR 922.190. This change corrects the coordinates for Point 7 in appendix A to subpart R of 15 CFR part 922. This is a technical change and makes no substantive change to the regulations.

National Marine Sanctuary of American Samoa

On July 26, 2012, NOAA issued final regulations expanding the boundary of National Marine Sanctuary of American Samoa (NMSAS) (77 FR 43942), with three technical errors in the boundary descriptions. This correcting amendment addresses the three technical errors, and also updates the format of the tables of coordinates for NMSAS, as follows:

1. In the NMSAS regulations describing the boundary of the sanctuary (15 CFR 922.101), the description of the boundaries of the various units that comprise NMSAS used the term "mean high high water." However, the correct term

should have been "mean higher high water line". This term is defined by NOAA as "the average of the higher high water height of each tidal day observed over the National Tidal Datum Epoch. For stations with shorter series, comparison of simultaneous observations with a control tide station is made in order to derive the equivalent datum of the National Tidal Datum Epoch," as described online at http://tidesandcurrents.noaa.gov/datum_options.html. There is no such term as "mean high high water" in the list of definitions of various tidal datums commonly used by NOAA. Accordingly, this rule replaces the phrase used in the regulation, "mean high high water," with the correct phrase, "mean higher high water." This change corrects an error and does not make a substantive change to the location or scope of the sanctuary boundary.

2. For two of the five units that comprise NMSAS, an error was made in the tables of coordinates in the appendix to subpart J. The textual descriptions of the boundary for Zone B of the Aunu'u Unit (§922.101(c)(2)) and for the Muliāva Unit (§922.101(e)) state that the last point is identical to the first point. However, in the tables of coordinates the longitude for the last points referenced in the textual descriptions - Point 6 in Table 2 and Point 9 in Table 4 - are incorrect. As a result, the points in the

tables of coordinates in the appendix do not match the textual descriptions in §922.101(c)(2) and (e). To correct these errors in the tables, NOAA is inserting the correct coordinates. Specifically, NOAA is replacing the figure "170.551 W" with "-170.496" for Point 6 in Table 2, and replacing the figure "169.12" with "-169.012" for Point 9 in Table 4. These are technical corrections and do not make substantive changes to the regulations.

3. NOAA found that the textual description of the boundary for the Swains Island Unit (15 CFR 922.101(d)) was unclear in describing the two discrete excluded areas in the Swains Island Unit. Therefore, NOAA is correcting that description to ensure that the sanctuary boundary is clearly described. In doing so, NOAA is using a different method of laying out the coordinates, which resulted in a larger number of boundary coordinates in Table 3 in the appendix for subpart J, and a need for a new textual description of the boundaries. The new textual description and new coordinates do not change the location or size of the unit or of the two discrete excluded areas. This is a technical correction, as the area included in the sanctuary remains the same as the one promulgated in the 2012 final rule.
4. Lastly, NOAA is also revising the format of all of the tables of coordinates in the appendix to subpart J in order

to update and conform them to the latest standards for presenting boundary coordinates for national marine sanctuaries. Previously, latitude coordinates were listed followed by "S" for "south", and longitude coordinates were listed followed by "W" for "west". Under the new standard, latitude coordinates are preceded by "-" for "south", and longitude coordinates are preceded by "-" for "west". These revisions to the format of the tables are consistent with NOAA's current efforts to standardize the format for coordinates across the National Marine Sanctuary System. The revisions would lessen confusion arising from the current use of different standards across the various sites and make the geographic coordinates easier for navigators to write, plot, and read. This is a technical correction, as the shape, size, and location of each of the units of NMSAS described in the tables are not changed by these revisions and remain the same as when they were promulgated in the 2012 final rule.

Accordingly, NOAA is publishing this correcting amendment without notice and comment. This rule amends: appendix A to subpart R for TBNMS; Tables 1, 2, 3, 4 and 5 in the appendix to subpart J for NMSAS; and 15 CFR 922.101.

Classification

A. Executive Order 12866: Regulatory Impact

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

B. Administrative Procedure Act

The Assistant Administrator of NOS finds good cause pursuant to 5 U.S.C. 553(b) (B) to waive the notice and comment requirements of the Administrative Procedure Act because this amendment is technical in nature, having no substantive impact. This rule corrects errors in the description of sanctuary boundaries for two national marine sanctuaries in rules previously submitted to notice and comment review. The substance of the underlying regulations remains unchanged. Therefore, providing notice and opportunity for public comment under the Administrative Procedure Act would serve no useful purpose. The clarification provided by this correction will also enable NOAA to fully implement its statutory responsibilities under the NMSA to protect resources of a national marine sanctuary. It would be contrary to the public interest to delay implementation of the technical corrections because they will reduce any confusion that may exist regarding the exact coordinates. For the reasons above, the Assistant Administrator also finds good cause under 5

U.S.C. 553(d) to waive the 30-day delay in effectiveness and make this rule effective immediately upon publication.

C. National Environmental Policy Act

This correcting amendment contains only non-substantive, technical corrections to national marine sanctuary regulations. NOAA previously conducted environmental analyses under NEPA as part of the rulemaking process leading to the regulations being corrected by this action. Since this correcting amendment is technical in nature, and will not have a significant effect on the human environment, NOAA has determined that the requirements for an environmental analysis under NEPA do not apply to this action.

Dated: December 17, 2015.

W. Russell Callender,
Acting Assistant Administrator
for Ocean Services and Coastal Zone Management.

List of Subjects in 15 CFR Part 922

Administrative practice and procedure, Coastal zone, Education, Environmental protection, Fishing gear, Marine resources,

Natural resources, Penalties, Recreation and recreation areas, Reporting and recordkeeping requirements, Research, Wildlife.

Accordingly, for the reasons set out in the preamble, 15 CFR part 922 is corrected by making the following correcting amendments:

PART 922--NATIONAL MARINE SANCTUARY PROGRAM REGULATIONS

1. The authority citation for part 922 continues to read as follows:

Authority: 16 U.S.C. 1431 *et seq.*

2. In §922.101:

a. Amend paragraphs (a), (b), (c) (1) and (2), and (f) by removing the words "mean high high water line" and adding in their place "mean higher high water line" wherever they appear; and

b. Revise paragraph (d).

The revision reads as follows:

§ 922.101 Boundary.

(d) Swains Island Unit. The Swains Island Unit boundary is defined by the coordinates in Table 3 and the following textual description. The seaward boundary of the Swains Island Unit

approximates the three nautical mile territorial sea boundary from the mean higher high water line (shoreline) of the island. The seaward boundary begins south of the island at Point 1 and continues initially to the west in sequential order clockwise around the island to Point 33. The landward boundary of the Swains Island Unit is the mean higher high water line and begins on the northern shoreline of the island and follows the shoreline counterclockwise initially to the west until it intersects the line segment between Point 34 and 35. From this intersection the boundary continues offshore to the northwest to Point 35 and then to Point 36 and Point 37. From Point 37 the boundary continues east-northeast towards Point 38 until it intersects the shoreline. From this intersection the boundary follows the shoreline southeast around the southernmost part of the island and then to the northeast until it intersects the line segment between Point 39 and Point 40. From this intersection the boundary continues offshore to the southeast to Point 40 and then to the northeast to Point 41. From Point 41 the boundary continues to the northwest towards Point 42 until it intersects the shoreline. From this intersection the boundary follows the shoreline initially to the northeast around the island counterclockwise and then to the northwest back to where it began on the northern shoreline.

3. Revise appendix to subpart J of part 922 to read as follows:

**Appendix to Subpart J of Part 922 - American Samoa National
Marine Sanctuary Boundary Coordinates**

[Coordinates listed in this appendix are unprojected
(Geographic) and based on the North American Datum of 1983.]

(a) Fagatele Bay

No coordinates are needed in addition to those described in
§ 922.101 (a).

(b) Fagalua/Fogama'a

No coordinates are needed in addition to those described in
§ 922.101 (b).

(c) Aunu'u (Zones A, B)

The Aunu'u Unit is comprised of two adjacent zones,
described in § 922.101(c), for which the point coordinates are
provided in following tables 1 and 2.

TABLE 1—COORDINATES FOR THE AUNU'U UNIT, ZONE A

Point ID	Latitude (south)	Longitude (west)
1	-14.286	-170.577
2	-14.304	-170.577
3	-14.302	-170.566
4	-14.286	-170.533
5	-14.286	-170.546

6	-14.286	-170.562
7	-14.286	-170.577

TABLE 2—COORDINATES FOR THE AUNU'U UNIT, ZONE B

Point ID	Latitude (south)	Longitude (west)
1	-14.270	-170.496
2	-14.286	-170.496
3	-14.286	-170.546
4	-14.280	-170.550
5	-14.270	-170.550
6	-14.270	-170.496

(d) Swains Island

The Swains Island Unit boundary is defined by the coordinates provided in Table 3 and the textual description in § 922.101 (d).

TABLE 3—COORDINATES FOR THE SWAINS ISLAND UNIT

Point ID	Latitude (south)	Longitude (west)
1	-11.11457	-171.06870
2	-11.11565	-171.07980
3	-11.11422	-171.09248
4	-11.11005	-171.10445
5	-11.10388	-171.11445

6	-11.09533	-171.12392
7	-11.08375	-171.13272
8	-11.07268	-171.13775
9	-11.06112	-171.14042
10	-11.04880	-171.14067
11	-11.03618	-171.13800
12	-11.02673	-171.13367
13	-11.01853	-171.12773
14	-11.01010	-171.11828
15	-11.00402	-171.10710
16	-11.00083	-171.09728
17	-10.99817	-171.08305
18	-10.99783	-171.06825
19	-10.99983	-171.05732
20	-11.00373	-171.04790
21	-11.00955	-171.03862
22	-11.01752	-171.02985
23	-11.02703	-171.02290
24	-11.03763	-171.01805
25	-11.04812	-171.01558
26	-11.05860	-171.01527
27	-11.06860	-171.01695
28	-11.07957	-171.02133

29	-11.08850	-171.02727
30	-11.09637	-171.03502
31	-11.10637	-171.04840
32	-11.11122	-171.05753
33	-11.11457	-171.06870
34	-11.05188	-171.08921
35	-11.04856	-171.09269
36	-11.05487	-171.09445
37	-11.06024	-171.09283
38	-11.05848	-171.08824
39	-11.06369	-171.07618
40	-11.06741	-171.07364
41	-11.06217	-171.06622
42	-11.05836	-171.06879

(e) Muliāva

The Muliāva Unit boundary is defined by the coordinates provided in Table 4 and the textual description in § 922.101(e).

TABLE 4—COORDINATES FOR THE MULIĀVA UNIT

Point ID	Latitude (south)	Longitude (west)
1	-15.387	-169.012
2	-14.271	-169.012
3	-14.271	-169.121

4	-14.150	-169.121
5	-14.150	-169.012
6	-13.698	-169.012
7	-13.698	-167.283
8	-15.387	-167.283
9	-15.387	-169.012

(f) Ta'u Unit

The Ta'u Unit boundary is defined by the coordinates provided in Table 5 and the textual description in § 922.101(f).

TABLE 5—COORDINATES FOR THE TA'U UNIT

Point ID	Latitude (south)	Longitude (west)
1	-14.24889	-169.503056
2	-14.273056	-169.488056
3	-14.277222	-169.488056
4	-14.261111	-169.429167
5	-14.293889	-169.429167
6	-14.293889	-169.519722
7	-14.24889	-169.519722
8	-14.24889	-169.503056

4. In appendix A to subpart R of part 922, amend the table by removing the figure "-83.584432" for the longitude of Point 7 and adding in its place "-83.586892".

[FR Doc. 2015-32265 Filed: 12/22/2015 8:45 am; Publication Date: 12/23/2015]