

the number of eligible firms and the number of set-aside contracts. On the other hand, restricting further the amount of subcontracting or leasing permitted would result in fewer set-asides than if the 40 percent requirement were still in place. Thus, while more contracts would be set-aside with a \$13.5 million size standard, a higher proportional requirement for firm controlled dredging equipment would lessen somewhat the number of set-asides and mostly affect the firms presently in the \$5.0 to \$9.5 million size range. Over time, there would probably be a net increase in leasing from firms in the \$5.0 to \$13.5 million range to firms with \$5.0 million or less in gross receipts since they would be constrained from leasing with large firms.

SBA has put forward this notice in the form of an advance notice of proposed rulemaking to downplay its importance relative to our proposed rulemaking in which the size standard would be raised to \$13.5 million. An advance notice is designed to solicit information only and is not associated with imminent action to the same extent as a proposed rule. At this preliminary point, SBA is interested in reaction to the two proposals. SBA is also interested in views of the correctness of the possible outcomes and welcomes any additional suggestions on this issue.

Dated: November 26, 1984.

James C. Sanders,
Administrator.

[FR Doc. 84-31592 Filed 12-3-84; 8:45 am]
BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 83-AWP-6]

VOR Federal Airway V-460, CA

AGENCY: Federal Aviation Administration (FAA), DOT.
ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This action withdraws Airspace Docket No. 83-AWP-6 published in the Federal Register on February 10, 1984 (49 FR 5136), proposing an alteration of VOR Federal Airway V-460 between San Diego, CA, and Julian, CA. The proposed alteration was designed to complement planned air traffic control procedures in that area. The circumstances prompting the proposal have changed and the FAA has determined that the proposal is no longer appropriate.

EFFECTIVE DATE: December 3, 1984.

FOR FURTHER INFORMATION CONTACT: William C. Davis, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: (202) 426-8783.

Withdrawal of the Proposal

Pursuant to the authority delegated to me, Airspace Docket No. 83-AWP-6 published in the Federal Register on February 10, 1984 (49 FR 5136), is hereby withdrawn.

Issued in Washington, D.C., on November 26, 1984.

John W. Baier,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 84-31571 Filed 12-3-84; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 941

[Docket No. 40564-4064]

Fagatele Bay National Marine Sanctuary Regulations

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule.

SUMMARY: These proposed regulations define which activities are allowed and which are prohibited within the proposed Fagatele Bay National Marine Sanctuary; the procedures by which persons may obtain permits for conducting activities normally prohibited; and the penalties for committing prohibited acts without a permit. The purpose of designating the Fagatele Bay National Marine Sanctuary is to protect and preserve an example of a pristine tropical marine habitat and coral reef terrace ecosystem of exceptional biological productivity; to expand public awareness and understanding of tropical marine environments; to expand scientific knowledge of marine ecosystems; to improve resource management techniques; and to regulate uses within the Sanctuary to ensure the health and well-being of the ecosystem and its associated flora and fauna.

EFFECTIVE DATE: Comments will be accepted until February 4, 1984.

ADDRESS: Send comments to Dr. Nancy Foster, Chief, Sanctuary Programs Division, Office of Ocean Resource Management, National Ocean Service, NOAA, 3300 Whitehaven Street, NW., Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Kelvin Char, 202/634-4236.

SUPPLEMENTARY INFORMATION: Title III of the Marine Protection, Research and Sanctuaries Act of 1972, 16 U.S.C. 1431-1434, (the Act) authorizes the Secretary of Commerce, with Presidential approval, to designate ocean waters as far seaward as the outer edge of the continental shelf as marine sanctuaries to preserve or restore distinctive conservation, recreational, ecological, or aesthetic values. Section 302(f)(2) of the Act directs the Secretary to issue necessary and reasonable regulations to control any activities permitted within a designated marine sanctuary. The responsibility for administering the provisions of the Act and its authority has been delegated to the Assistant Administrator for Ocean Services and Coastal Zone Management within the National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce (the Assistant Administrator).

In March 1982, a proposal nominating Fagatele Bay, American Samoa, as a candidate for marine sanctuary designation, was submitted to the National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce. The recommendation submitted by Governor Peter T. Coleman cited, among other benefits of marine sanctuary designation, the development and implementation of a comprehensive Management Plan that would serve to: (1) Protect the bay's natural resources and pristine character; (2) create and enhance public awareness and understanding of the need to protect marine resources; (3) expand scientific examination of marine ecosystems associated with the high islands found in the Pacific, especially coral reefs that have been infested by the crown-of-thorns starfish, and apply scientific knowledge to the development of improved resource management techniques; and (4) allow uses of the sanctuary that are compatible with the sanctuary designation, giving highest priority to nondestructive traditional and public recreational uses.

In April 1982, NOAA placed the nominated area on the List of Recommended Areas (LRA) and, after preliminary public and agency

consultation, further declared the area an Active Candidate. After preparation and distribution of an Issue Paper by OAA's Office of Coastal Zone Management in May 1982, a public workshop was held in American Samoa to solicit additional comments on the feasibility of further considering the site as a national marine sanctuary.

Based on the workshop results and in consultation with other Federal agencies and the American Samoa Government, a decision was made to proceed to the next step toward designation—development of a draft management plan and draft environmental impact statement (DEIS) for the proposed sanctuary. The draft management plan and DEIS, which contained an analysis of these draft regulations, was distributed on October 27, 1983. A public hearing was held in American Samoa on January 18, 1984 to receive testimony on the DEIS. Comments on the draft management plan/DEIS were accepted until January 20, 1984.

Comments received by NOAA on the DEIS were reviewed and, where appropriate, were incorporated into the final environmental impact statement and management plan (FEIS/MP). To meet the requirements of the Act, the proposed designation will be sent to the Congress and the Governor of American Samoa and will not go into effect until the expiration of 60 legislative days. The Governor of American Samoa will have 60 days to disapprove the designation or any of its terms. Thereafter, to the extent not disapproved by an act of Congress or the Governor of American Samoa, the Secretary may formally designate the area as a national marine sanctuary and final regulations will take effect.

Other Matters

(A) Classification Under Executive Order 12291

Executive Order 12291 (E.O. 12291) defines a "major rule" as "any regulation that is likely to result in: (1) An annual effect on the economy of \$100,000,000 or more; (2) a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete in domestic or export markets." The major activities supported by the area within the proposed sanctuary consist of small-scale recreational and subsistence activities.

Most of the activities in the proposed sanctuary are not affected by sanctuary regulations; the economic impacts on affected activities are minor and the regulations do not restrict recreational activities. Because the impact of the regulations on economic interests is minor or because the activities are not regulated at all, the Assistant Administrator has determined that this is not a "major rule" under E.O. 12291.

(B) Regulatory Flexibility Act Analysis

A Regulatory Flexibility Analysis is not required for this notice of rulemaking. These regulations set forth which activities are allowed and which are prohibited in the proposed Fagatele Bay National Marine Sanctuary; the procedures by which persons may obtain permits for activities otherwise prohibited; and the penalties for committing prohibited acts without a permit. These rules do not directly affect "small government jurisdictions" as defined by Pub. L. 96-354, the Regulatory Flexibility Act, and the rules will have no effect on small business. For the same reasons, the General Counsel has certified to the Small Business Administration that the proposed rules will not have a significant economic impact on a substantial number of small entities within the area of the proposed sanctuary under the Regulatory Flexibility Act.

(C) Paperwork Reduction Act of 1980 (Pub. L. 96-511)

These regulations will impose no information collection requirements of the type covered by Pub. L. 96-511 other than those already approved by the Office of Management and Budget (approval number 0648-0141). Comments on the information collection requirements in § 941.11 of these proposed regulations shall be directed to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer, Department of Commerce, NOAA.

List of Subjects in 15 CFR Part 941

Administrative practice and procedure, Environmental protection, Marine resources, Natural resources.

(Federal Domestic Assistance Catalog Number 11.419, Coastal Zone Management Program Administration)

Dated: May 9, 1984.

Paul M. Wolff,

Assistant Administrator for Ocean Services and Coastal Zone Management.

Accordingly, 15 CFR Part 941 is proposed to be added as follows:

PART 941—FAGATELE BAY NATIONAL MARINE SANCTUARY PROPOSED REGULATIONS

Sec.	
941.1	Authority.
941.2	Purpose.
941.3	Scope of regulations.
941.4	Boundaries.
941.5	Definitions.
941.6	Management and enforcement.
941.7	Allowed activities.
941.8	Activities prohibited or controlled.
941.9	Other authorities.
941.10	Penalties for commission of prohibited acts.
941.11	Permit procedures and criteria.
941.12	Appeal of permit action.

Authority: Title III of Pub. L. 92-532, 86 Stat. 1061, 1062 (16 U.S.C. 1431-1434).

§ 941.1 Authority.

The Sanctuary has been designated by the Secretary of Commerce pursuant to the authority of section 302(a) of the Marine Protection, Research and Sanctuaries Act of 1972 as amended (the Act). The following regulations are issued pursuant to Title III of the Act.

§ 941.2 Purpose.

The purpose of designating the Fagatele Bay National Marine Sanctuary is to protect a unique deepwater terrace formation and a coral reef ecosystem representative of the warm water tropical Pacific Islands in its natural state and to regulate uses within the Sanctuary to ensure the health and integrity of the ecosystem and its associated flora and fauna.

§ 941.3 Scope of regulations.

The provisions of this Part apply only to the area defined by regulation as the Fagatele Bay National Marine Sanctuary (the Sanctuary). Neither these provisions nor any permit issued under its authority shall be construed to relieve a person from any other requirements imposed by statute or regulation of the Territory of American Samoa or of the United States. In addition, no statute or regulation of the Territory of American Samoa shall be construed to relieve a person from the restrictions, conditions, and requirements contained in this Part.

§ 941.4 Boundaries.

The Sanctuary is a 163-acre (.25 sq. mi.) coastal embayment formed by a collapsed volcanic crater on the island of Tutuila, American Samoa. The site is divided into two Subzones, A and B, and includes Fagatele Bay in its entirety up to mean high high water (MHHW). The seaward boundaries are defined by straight lines between the following points:

Point	Pt. No.	Sub-zone	Latitude	Longitude
Tagalele Point	1-1	A	14°22'15"S	170°46'5"W
Atafu Benchmark	1-2	A	14°22'18"S	170°45'35"W
Agatele Point	2-1	B	14°22'15"S	170°46'5"W
Steep Point	2-2	B	14°22'44"S	170°45'5"W

§ 941.5 Definitions.

(a) "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration (NOAA).

(b) "Assistant Administrator" means the Assistant Administrator for Ocean Services and Coastal Zone Management, National Ocean Service, National Oceanic and Atmospheric Administration, or his or her successor, or designee.

§ 941.6 Management and enforcement.

The National Oceanic and Atmospheric Administration (NOAA) has primary responsibility for the management of the Sanctuary pursuant to the Act. The American Samoa Development Planning Office (DPO) will assist NOAA in the administration of the Sanctuary, and act as the lead agency, in conformance with the Designation Document, these regulations, and the terms and provisions of any grant or cooperative agreement. The American Samoa Department of Parks and Recreation (DPR) shall conduct surveillance within the Sanctuary and shall enforce these regulations pursuant to 14 U.S.C. 89, 16 U.S.C. 1432(f)(4), 16 U.S.C. 7421(b), 16 U.S.C. 3375(a), or other appropriate legal authority.

§ 941.7 Allowed activities.

All activities except those specifically prohibited by Section 941.8 may be carried out within the Sanctuary subject to all prohibitions, restrictions, and conditions imposed by other authorities.

§ 941.8 Activities prohibited or controlled.

(a) Unless permitted by the Assistant Administrator in accordance with Section 941.11, or as may be necessary for national defense, or to respond to an emergency threatening life, property or the environment, the following activities are prohibited or controlled in *Subzones A and B* of the Sanctuary. All prohibitions and controls will be applied consistently with international law. Refer to § 941.10 for penalties for commission of prohibited acts.

(i) *Taking and Damaging Natural Resources.* (i) No person shall gather, break, cut, or similarly damage or destroy any invertebrate, coral, bottom formation, or marine plant.

(ii) No person shall gather, cut, damage, or similarly destroy any crown-of-thorns starfish (*Acanthaster planci*).

(iii) No person shall possess or use poisons, electrical charges, explosives, or similar environmentally destructive methods.

(iv) No person shall possess or use spearguns, including such devices known as Hawaiian slings, pole spears, arbalettes, pneumatic and spring-loaded spearguns, bows and arrows, and bang sticks.

(v) No person shall possess or use seines, trammel nets, or any fixed net.

(vi) There shall be a rebuttable presumption that any items listed in these paragraphs found in the possession of a person within the Sanctuary have been used, collected, or removed from within the Sanctuary.

(2) *Operation of vessels.* (i) No vessel shall approach closer than 200 feet to a vessel displaying a dive flag except at a maximum speed of three knots.

(ii) All vessels from which diving operations are being conducted shall fly in a conspicuous manner the international code flag alpha "A."

(iii) All vessels shall be operated to avoid striking or otherwise causing damage to the natural features of the Sanctuary.

(3) *Discharges.* No person shall litter, deposit, or discharge any materials or substances of any kind into the waters of the Sanctuary.

(4) *Disturbance of the Benthic Community.* Disturbance of the benthic community by dredging, filling, dynamiting, and bottom trawling shall be prohibited.

(5) *Removing or Damaging Cultural Resources.* No person shall remove, damage, or tamper with any historical or cultural resource within the boundaries of the Sanctuary.

(6) *Taking of sea turtles.* No person shall ensnare, entrap, or fish any sea turtle while it is listed as a threatened or endangered species as defined by the Endangered Species Act of 1973.

(7) *Use of dangerous weapons.* Except for law enforcement purposes, no person shall use or discharge explosives or weapons of any description within the Sanctuary boundaries. Distress signaling devices, necessary and proper for safe vessel operation, and knives generally used by fishermen and swimmers are

not considered weapons for purposes of this subsection.

(8) *Other prohibitions.* No person shall mark, deface, or damage in any way, or displace or remove or tamper with any signs, notices, or placards, whether temporary or permanent, or with any monuments, stakes, posts, or other boundary markers related to the Sanctuary.

(b) In addition to those activities prohibited or controlled in accordance with § 941.8(a), the following activities are prohibited or controlled in *Subzone A*:

(1) *Taking and damaging natural resources.* (i) No person shall possess or use fishing poles, handlines, or trawls.

(ii) Commercial fishing shall be prohibited.

(c) The prohibitions in this section are not based on any claim of territoriality and will be applied to foreign persons and vessels only in accordance with recognized principles of international law, including treaties, conventions, and other international agreements to which the United States is signatory.

§ 941.9 Other authorities.

No license, permit or other authorization issued pursuant to any other authority may validly authorize any activity prohibited by § 941.8 unless such activity meets the criteria stated in § 941.11(a), (c) and (d), and is specifically authorized by the Assistant Administrator.

§ 941.10 Penalties for commission of prohibited acts.

Section 303 of the Act authorizes the assessment of a civil penalty of not more than \$50,000 for each violation of any regulation issued pursuant to the Act, and further authorizes a proceeding *in rem* against any vessel used in violation of any such regulation. NOAA will apply to all enforcement matters under the Act, the consolidated civil procedure regulations set forth at 15 CFR 904.110 through 904.243, and the seizure, forfeiture, and disposal procedure regulations set forth at 50 CFR Part 219.

§ 941.11 Permit procedures and criteria.

Under special circumstances where an activity otherwise prohibited by § 941.8 of these regulations is required for research or educational purposes designed to enhance understanding of the Sanctuary environment or to improve resource management decisionmaking, and the activity is judged not to cause long-term or irreparable harm to the resources, a

permit may be granted by NOAA in cooperation with DPO.

(a) Any person in possession of a permit issued by the Assistant Administrator after consultation with the Director in accordance with this Section may conduct the specified activity in the Sanctuary if such activity is: (1) Related to research involving Sanctuary resources; (2) to further the educational value of the Sanctuary; or (3) for salvage or recovery operations.

(b) Permit applications shall be addressed to the Assistant Administrator for Ocean Services and Coastal Zone Management, ATTN: Sanctuary Programs Division, National Ocean Service, National Oceanic and Atmospheric Administration, 3500 Whitehaven Street, N.W., Washington, D.C. 20235. An application shall include a description of all proposed activities, the equipment, methods, and personnel involved, and a timetable for completion of the proposed activity. Copies of all other required licenses or permits shall be attached. This information collection has been approved by the Office of Management and Budget (approval number 0648-0141).

(c) In considering whether to grant a permit, the Assistant Administrator shall evaluate such matters as: (1) The general professional and financial responsibility of the applicant; (2) the appropriateness of the methods being proposed for the purpose(s) of the activity; (3) the extent to which the conduct of any permitted activity may diminish or enhance the value of the Sanctuary as a source of recreation, education, or scientific information; and (4) the end value of the activity.

(d) Permits may be issued by the Assistant Administrator for activities otherwise prohibited under § 941.8. In addition to meeting the criteria in § 941.11(a) and (c), the applicant must also satisfactorily demonstrate to the Assistant Administrator that: (1) The activity shall be conducted with adequate safeguards for the environment; and (2) the environment shall be returned to the condition which existed before the activity occurred. A permit issued according to these provisions shall be appropriately conditioned and the activity monitored to ensure compliance.

(e) In considering an application submitted pursuant to this Section, the Assistant Administrator shall seek and consider the view of the Sanctuary manager and Director. The Assistant Administrator may also seek and consider the views of any other person or entity, within or outside of the Territorial Government, and may hold a

public hearing, as he or she deems appropriate.

(f) The Assistant Administrator may, at his or her discretion, grant a permit which has been applied for pursuant to this Section, in whole or in part, and subject the permit to such condition(s) as the Assistant Administrator deems necessary. A permit granted for research related to the Sanctuary may include, but is not limited to, the following conditions: (1) The Assistant Administrator, Director, or their designated representatives may observe any activity permitted by this Section; (2) any information obtained in the research site shall be made available to the public; and (3) the submission of one or more reports of the status of progress of such activity may be required.

(g) A permit granted pursuant to this Section is non-transferrable.

(h) The Assistant Administrator may amend, suspend, or revoke a permit granted pursuant to this Section, in whole or in part, temporarily or indefinitely if, in his/her view, the permittee has acted in violation of the terms of the permit or regulations, or for other good cause shown. Any such action shall be communicated in writing to the applicant or permit holder and shall set forth reason(s) for the action taken. The permittee in relation to whom such action has been taken may appeal the action as provided for in § 941.12.

§ 941.12 Appeal of permit action.

(a) Except for permit actions which are imposed for enforcement reasons and covered by the procedures at Subpart D of 15 CFR Part 904, an applicant for a permit, the permittee, or any other interested person (hereafter Appellant) may appeal the granting, denial, conditioning or suspension of any permit under § 941.11 to the Administrator of NOAA. In order to be considered by the Administrator, such appeal must be in writing, must state the action(s) appealed and the reasons(s) therefor, and must be submitted within 30 days of the action(s) by the Assistant Administrator. The Appellant may request an informal hearing on the appeal.

(b) Upon receipt of an appeal authorized by this Section, the Administrator may request the Appellant to submit such additional information and in such form as will allow action upon the appeal. The Administrator shall decide the appeal using the criteria set out in § 941.11(a), (c) and (d) and any information relative to the application on file, any information provided by the Appellant,

and such other consideration as is deemed appropriate. The Administrator shall notify the Appellant of the final decision and the reason(s) therefor, in writing normally within 30 days of the date of the receipt of adequate information required to make the decision.

(c) If a hearing is requested, or if the Administrator determines that one is appropriate, the Administrator may grant an informal hearing before a Hearing Officer appointed for that purpose. The Appellant and other interested persons may appear personally or by counsel at the hearing and submit material and present arguments as determined appropriate by the Hearing Officer. Within 30 days of the last day of the hearing, the Hearing Officer shall recommend a decision in writing to the Administrator.

(d) The Administrator may adopt the Hearing Officer's recommended decision, in whole or in part, or may reject or modify it. In any event, the Administrator shall notify the interested persons of his or her decision, and the reason(s) therefor in writing within 30 days of receipt of the recommended decision of the Hearing Officer. The Administrator's decision shall constitute final action for the Agency for the purposes of the Administrative Procedure Act.

(e) Any time limit prescribed in this Section may be extended by the Administrator for good cause for a period not to exceed 30 days, either upon his or her own motion or upon written request from the Appellant, permit applicant or Holder, stating the reason(s) therefor.

[FR Doc. 84-31576 Filed 12-3-84; 8:45 am]
BILLING CODE 3510-08-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 166

[Docket No. 82P-0186]

Margarine; Proposal To Amend the Standard of Identity

Correction

In FR Doc. 84-28518 beginning on page 43560 in the issue of Tuesday, October 30, 1984, make the following correction:

On page 43561, third column, second complete paragraph (beginning with Therefore), tenth line, "§ 166.10" should read "§ 166.110".

BILLING CODE 1505-01-M