

Testimony of William Gibbons-Fly
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Subcommittee on Water, Wildlife and Fisheries

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Chair Hageman, Ranking Member Hoyle, distinguished members of the Committee:

Thank you for the opportunity to testify before you this afternoon. I am William Gibbons-Fly, Executive Director of the American Tunaboat Association (ATA). ATA represents the owners and operators of the U.S. flag tuna purse seine vessels operating in the Pacific Ocean, the last true “distant water fishing fleet” operating under U.S. flag. As the sole witness from the Pacific Ocean fishing industries and fleets, my testimony also reflects the views of the Hawaii Longline Association, and my understanding of the views of other Pacific fisheries interests including those based in both Hawaii and American Samoa.

I am here today to testify in strong support of H.R. 8904, introduced by Congresswoman Radewagen from American Samoa. This common-sense piece of legislation will ensure that the authority for fisheries management in waters under U.S. jurisdiction, even within the boundaries of declared “Marine National Monuments,” remains where it belongs: under the rigorous, science-based, and participatory fisheries management system established by Congress over several decades pursuant to the Magnuson-Stevens Fishery Conservation and Management Act and other related statutes.

Madame Chair, the United States has the most robust and comprehensive fisheries management system anywhere in the world. Through the legislative framework established by Congress under the Magnuson-Stevens Act, the eight Regional Fisheries Management Councils oversee an inclusive and science-based process with participation of officials from the Federal government, State and Territorial governments, scientists and academics, economists, industry stakeholders, local communities, environmental advocacy groups and individuals, among others. These efforts are to ensure that U.S. fisheries are conducted in a responsible and sustainable manner, while mitigating impacts on non-target species, marine mammals, sea turtles, sea birds and other marine life. To this end, our fisheries are governed not only by the Magnuson-Stevens Act, but by a series of strict regulatory mandates promulgated under the Marine Mammal Protection Act, the Endangered Species Act, the National Environmental Policy Act, among other pieces of legislation.

And yet, what we have seen in recent years, is a disturbing trend to toss this entire, congressionally mandated system aside and close vast waters under the jurisdiction of the United States to commercial fishing with no scientific justification or rationale and without adequate consideration of the impacts on the fishing industry and local communities whose livelihoods are

negatively affected through these actions. In these cases, the “Antiquities Act” has been used to circumvent and override the rigorous process established under Magnuson-Stevens, with little thought to the economic consequences to an important sector of the U.S. economy, the economies of our U.S. territories, domestic and regional food security, and yes, even U.S. national security.

According to information provided by the Western Pacific Regional Fishery Management Council (see attached fact sheet), marine monuments currently cover 53 percent of the U.S. exclusive economic zone (EEZ) in the Pacific Islands Region; and further, 61 percent of the EEZ around the Hawaiian archipelago is currently closed to commercial fishing due to monument designation; all of this independent of the extensive infrastructure, science, and economic considerations established by Congress that have proved so successful in managing our nation’s commercial fisheries.

This is important, Madame Chair, because our industry is struggling to survive, and with it, so is the tuna dependent economy of American Samoa. The loss of fishing grounds and the strict regulatory environment has seen the U.S. Pacific purse seine fleet reduced from 34 vessels just a few years ago, to just 15 vessels operating today. The remaining vessels supply the vast majority of the tuna being processed in American Samoa and otherwise support the local economy there by utilizing a range of goods and services provided by local businesses. The economy of American Samoa is overwhelmingly dependent on the tuna industry and the related service industries that support both the tuna processing facility and the vessels that are based there.

PACIFIC MARINE NATIONAL MONUMENTS

There are currently four Marine National Monuments within the Pacific Islands Region: The Papahānaumokuākea Marine National Monument in the Northwest Hawaiian Islands (NWHI), established in 2006 and expanded in August 2016; and the Marianas Trench, Pacific Remote Islands, and Rose Atoll Marine National Monuments, established in January 2009; with the Pacific Remote Islands being expanded in September 2014. In this testimony, I will focus on the monuments in the Northwest Hawaiian Islands and the Pacific Remote Islands.

The Northwest Hawaiian Islands Marine National Monument (Papahānaumokuākea) was established in 2006 by President George W. Bush. The original boundaries of the monument extended approximately 50 miles from the chain of islands comprising the NWHI archipelago from Nihoa Island to Kure Atoll. In 2016, President Obama significantly expanded the monument to include all waters within the U.S. EEZ surrounding the NWHI from 163 degrees West Longitude to the westernmost extent of the archipelago. With this expansion, the Northwest Hawaiian Islands Marine National Monument covers an area of 600,000 square miles; larger than Alaska and twice the size of Texas!

The expanded monument resulted in a loss to the Hawaii-based longline fleet of fishing grounds that historically produced approximately 10 percent of the fleet’s annual catch. To compensate for this loss of fishing grounds, the fleet has been forced to fish farther from home, on the high seas competing with highly subsidized foreign fleets, resulting in lower catch rates, greater costs,

increasing safety risks for vessel crew, and higher fuel consumption, thus increasing its carbon footprint.

The Pacific Remote Islands Marine National Monument was established in 2009, also by President Bush. The initial designation of the monument included waters surrounding each of the Pacific Remote Islands out to 50 nautical miles, leaving open areas between 50 nautical miles out to the 200 nautical mile boundary of the U.S. EEZ.

However, in September 2014, President Obama expanded the area of the monument to include the entire U.S. EEZ around Wake Island, Johnson Atoll, and Jarvis Island; leaving only the areas around Howland and Baker Islands, and Kingman Reef and Palmyra Atoll from 50 to 200 nautical miles available to the U.S. fleet. The loss of fishing access in Jarvis Island, in particular, was a significant economic loss to the American Samoa-based purse seine fleet, as this has been the single richest fishing ground for the fleet within all of the U.S. Pacific EEZs.

Within two years of the expansion of the Pacific Remote Islands Marine National Monument, including the entire EEZ around Jarvis Island, one of the two tuna canneries operating in American Samoa at the time closed its doors for good, resulting in the loss of 800 jobs. A GAO Report published in 2020 (GAO 20-467) found that following the closure of the cannery in 2016, American Samoa's gross domestic product fell 5.8 percent in 2017, citing lower tuna exports as a principal cause.

During the two years prior to the closing of the cannery, the cannery operators made numerous petitions to the Federal government regarding the consequences of the fisheries closures for the economy of American Samoa, and engaged in multiple efforts to attain some relief for American Samoa from the increasingly restrictive environment in which the U.S. fleet was compelled to operate, all to no avail.

Moreover, Jarvis Island shares an extensive maritime boundary with the Republic of Kiribati. Excluded from the U.S. EEZ around Jarvis Island, U.S. vessels must pay \$12,000 per vessel per day for access to the EEZ of Kiribati, just across an imaginary line in the ocean from where they are prohibited from operating. Kiribati also licenses and charters approximately fifteen large Chinese purse seine vessels that fish freely just across the same line from the U.S. EEZ around Jarvis Island.

In addition, the expansion of the Pacific Remote Islands monument fully closed the U.S. EEZ around Johnson Atoll, an area within which the Hawaii-based longline fleet historically averaged approximately 12 percent of its catch. When added to the 10 percent loss from the Northwest Hawaiian Islands, the cumulative loss to the Hawaii longline fleet was an area accounting for approximately 22 percent of its historical catch.

Because these monuments are established under the Antiquities Act, the process is exempt not only from the requirements of U.S. fishery management legislation, but also from the requirement to use the best available scientific evidence, as well as the requirements of the Administrative Procedures Act, the National Environmental Policy Act, and other legislation, all of which are established by Congress to ensure fair, transparent, and science-based decision

making for the management of the nation’s fisheries and the effective conservation of living marine resources.

THE SCIENCE DOES NOT SUPPORT LARGE SCALE OPEN OCEAN MPAS

Proponents of these marine national monuments make the case for the protection of resources in the nearshore environment, including coral reefs, reef fish populations, sea bird nesting colonies, as well as deep-sea corals, and the important spawning grounds and biodiversity hotspots provided by many seamounts in the U.S. EEZ.

However, the existing commercial fisheries in the region occur offshore in the open ocean (at least 50 NM from land) and have *no interaction* with or impact on the resources in the nearshore environment, coral reefs, oceanic seamounts, or other ecosystems and habitats the monuments are intended to protect. These fisheries are highly regulated and monitored to ensure strict adherence to requirements and procedures to minimize interactions with marine mammals, sharks, rays, sea turtles, sea birds, and other marine fauna.

Moreover, notwithstanding the arguments for protecting nearshore habitats and ecosystems, the case for highly migratory species in the open ocean does not hold up. At least two recent papers by highly respected scientific authorities (Hilborn, et al., 2022, and Hampton, et al., 2023) conclude that large, open ocean marine protected areas (MPAs) have little tangible benefit for the resources being managed.

A supplementary paper, from the school of fisheries at the University of Washington, cites the clear benefits from inshore and nearshore MPAs, but goes on to say,

“Large, open ocean MPAs are designed to protect huge swaths of open ocean, but are a poor choice for efficiently and effectively managing fisheries. ... From a fishery management perspective, [such MPAs] are unnecessary: already, most tuna and billfish stocks are sustainably managed by international organizations called regional fishery management organizations (RFMOs) and a large majority of tuna and billfish stocks are already biologically sustainable.”

Among the highly migratory fish stocks known to be healthy and fished on a sustainable basis are all of the stocks of tuna fished by the American Samoa-based tuna purse seine fleet.

Similarly, Hampton, et al, 2023 found, contrary to other studies using flawed methodology, that the establishment of the Phoenix Islands Protected Area (PIPA) in Kiribati, touted as the world’s largest MPA at the time it was established, had no measurable benefit for the tuna stocks in the region. (Kiribati has since abolished the PIPA and has allowed commercial fishing to again take place in much of this area, subject to specific limits and conditions.)

One analysis of the paper notes:

“The study ... is the first quantitative assessment of a no-take marine protected area (MPA) on tropical tuna and has implications for many of the world’s largest MPAs.”

And further, that:

“The authors of Hampton et al. 2023 are a veritable Who’s Who of the Pacific tuna research community. Several of the researchers work for the Pacific Community (SPC), an intergovernmental organization of 27 Pacific countries and territories tasked with managing collective resources. They are responsible for performing stock assessments on each Pacific tuna species – no other organization has a better grasp of the state of Pacific tuna than they do.”

COUNTERBALANCE TO CHINA

The activities of the American Samoa-based fleet provide a critical counterbalance to China’s growing influence across the region. China has focused strategically on developing direct commercial ties with several Pacific Island States through investments in the fisheries sector, both through the activities of its vessels as well as shoreside investments. China understands that building commercial and industry ties is the single most important vector for political and economic engagement with these States. As a result, maintaining a viable American Samoa-based purse seine fleet operating in the Pacific Ocean contributes not only to the United States and American Samoa economy, but to regional food security, national security, and other vital national interests. The fleet also operates as several additional sets of “eyes and ears” across vast reaches of the Western and Central Pacific Ocean.

The U.S. tuna purse seine fleet operates across large areas of the Pacific Ocean under a treaty between the United States and the Pacific Island States of the region. The treaty is not only an access agreement but has become an increasingly important vector for U.S. strategic engagement with the Pacific Island States on a range of issues of common interest, including to combat illegal fishing, support enhanced fisheries management, and others. Further reduction in the U.S. purse seine fleet will continue to erode U.S. influence in the region and leave the door open for China’s influence to continue to grow, to the detriment of regional stability, responsible governance, and strategic engagement with the Pacific Island States.

SUMMARY

In summary, Madame Chair, the use of the Antiquities Act to override our rigorous fisheries management regime established by Congress, and to close vast areas of waters under U.S. jurisdiction to commercial fishing without scientific justification or rationale, erodes the economic viability of our commercial fishing industry, jeopardizes domestic and regional food security, and in the Pacific Ocean, opens the door for China to continue to increase its influence and presence across the region, to the detriment of U.S. interests. And more fundamentally, it just doesn’t make any sense!

H.R. 8904 will address this by ensuring that fisheries management in waters under U.S. jurisdiction will be governed exclusively as Congress has intended, under the authority of the Magnuson-Stevens Fishery Conservation and Management Act, and related statutes.

Thank you once again for the opportunity to testify and for your consideration of these comments.

Attachments:

Fact Sheet on the “Impacts of Marine National Monument Fishing Prohibitions on US Fisheries Managed under the Western Pacific Regional Fishery Management Council”



Impacts of Marine National Monument Fishing Prohibitions on US fisheries managed under the Western Pacific Regional Fishery Management Council

PACIFIC MARINE MONUMENTS COMPRISE 26% (892,241 square nautical miles) OF FEDERAL U.S. EXCLUSIVE ECONOMIC ZONE¹ AND 90% OF THE AMERICA THE BEAUTIFUL '30 by 30' GOAL²

MARINE MONUMENTS COMPRISE 53% OF THE US EEZ IN THE US PACIFIC ISLANDS REGION³

61% OF THE US EEZ AROUND THE HAWAII ARCHIPELAGO IS CLOSED TO COMMERCIAL FISHING DUE TO MONUMENT DESIGNATION

IMPACTS

- Monument regulations prohibit commercial fishing for key US tuna fisheries (US purse seine fleet, Hawaii longline, American Samoa longline)
 - NWHI monument expansion area produced on average around 10% of the catch harvested by the Hawaii longline fishery
 - PRIA monument eliminated fishing grounds for the Hawaii longline fishery that comprised over 12% of the fishery's landings
 - PRIA monument closed fishing grounds to US purse seine that historically delivered tuna local canneries in American Samoa
 - One of American Samoa's two canneries ceased operations in December 2016 as a result of reduced supply of US caught tuna
 - 5,500 jobs in American Samoa supported by fishing, of a workforce of 18,000
 - Rose Atoll monument reduced fishing grounds in US waters around American Samoa, resulting in annual loss of \$237,000 of fish to the American Samoa longline fleet
- Displaced fishing increases trip costs and poses greater safety at sea risks
- Disproportionate burden of a '30 by 30' goal carried by underserved Pacific Island communities

MONUMENT FISHING PROHIBITIONS WEAKEN U.S. FISHERIES, INCREASE IMPORTS AND JEOPARDIZE U.S. FOOD AND NATIONAL SECURITY

- Monuments displace U.S. fishing fleets to international waters where they must fish alongside and compete with foreign fishing fleets
 - Longline vessels from China, Taiwan, Korea, and Japan are regularly observed fishing the border of the US EEZ around the Hawaii Archipelago and the US Pacific Remote Islands.
- China continues to build up its longline fleet in the WCPO, which was at around 100 vessels in 2007 to now over 480 longline vessels, catching approximately 45,000 mt of tuna annually
 - In comparison, the Hawaii longline fishery consists of 145 vessels catching nearly 8,000 mt of tuna
- Deterrence of foreign fishing fleet encroachment in the U.S. EEZ is compromised when U.S. commercial fishing vessels are removed from a quarter of the U.S. EEZ now designated as monuments
- Monuments weaken key US tuna fisheries which in turn impacts national food security

¹ All Marine National Monuments have been designated by Presidential Proclamations issued under the Antiquities Act of 1906. The United States has the second largest EEZ at more than 4.3 million square miles.

² U.S. Department of Interior Report. Conserving and Restoring America The Beautiful, 2021

³ The US Pacific Islands region includes: Hawaii, American Samoa, Guam, Northern Mariana Islands, Pacific Remote Island Areas (Wake, Johnston, Palmyra, Howland, Baker, Jarvis Islands, Kingman Reef)

- 90% of seafood consumed in the US is imported from foreign sources, of which 30% is estimated to be from Illegal, Unregulated, and Unreported fisheries.
- Displaced U.S. commercial fishing vessels could also concentrate effort and increase potential gear conflicts in the reduced areas of fishable U.S. waters that are also fished by recreational and small boat fishermen
- The United States is losing influence in the international fisheries management organizations such as the Western and Central Pacific Commission due weakened US fisheries and impacts exacerbated with the loss of US fishing grounds as result of monument designations.

MONUMENT FISHING REGULATIONS CAUSE REGULATORY DUPLICATION AND LACK CONSERVATION BENEFITS

- NWHI monument was an overlay of the Protected Species Zone established under the MSA
- PRI monument overlay the 0 to 300-foot depth no-take and low-take zones established under the MSA and 0 to 3 mile refuges established by the U.S. Fish & Wildlife Service in many of the islands
- Rose Atoll monument overlay the Large Vessel Prohibited Area established under the MSA
- Marianas Trench monument's Islands Unit overlay the Commonwealth of the Northern Mariana Islands' conservation zone
- All coral reef, deep-reef slope, and pelagic ecosystems in federal waters were subject to comprehensive fishery ecosystem management regulations established under the MSA prior to monument designation
- Monuments and other large-scale static marine protected areas DO NOT provide more effective conservation benefits to marine resources, especially for highly mobile species^{4,5} such as tunas, billfish and sharks versus other fishery management tools⁶

UNITED NATIONS CONVENTION ON PROTECTING HIGH SEAS BIOLOGICAL DIVERSITY

- Legally binding framework, *Intergovernmental Conference on Marine Biodiversity of Areas Beyond National Jurisdiction* established in 2023
 - UN Convention on Biological Diversity goal to conserve 30% of lands and waters by 2030
- Proponents are calling for Marine Protected Areas in 30% of the high seas, which if implemented in high seas areas fished by US fleets in the Pacific Ocean, in combination with Marine National Monument prohibitions, these hugely important fleets would be decimated and left with nowhere to fish

NO PUBLIC PROCESS, TRANSPARENCY OR ADAPTIVE MANAGEMENT OPPORTUNITIES

- Monuments are established under the Antiquities Act of 1906, with Presidential Proclamations and directives to various agencies to implement regulations under their respective authorities. The National Environmental Protection Act and the Administrative Procedures Act are not













⁴ Hampton J., Lehodey P., Senina I., Nicol S., Scutt Phillips J., and K. Tiamere. 2023. Limited conservation efficacy of large-scale marine protected areas for Pacific skipjack and bigeye tunas. *Front. Mar. Sci.* 9:1060943. doi: 10.3389/fmars.2022.1060943

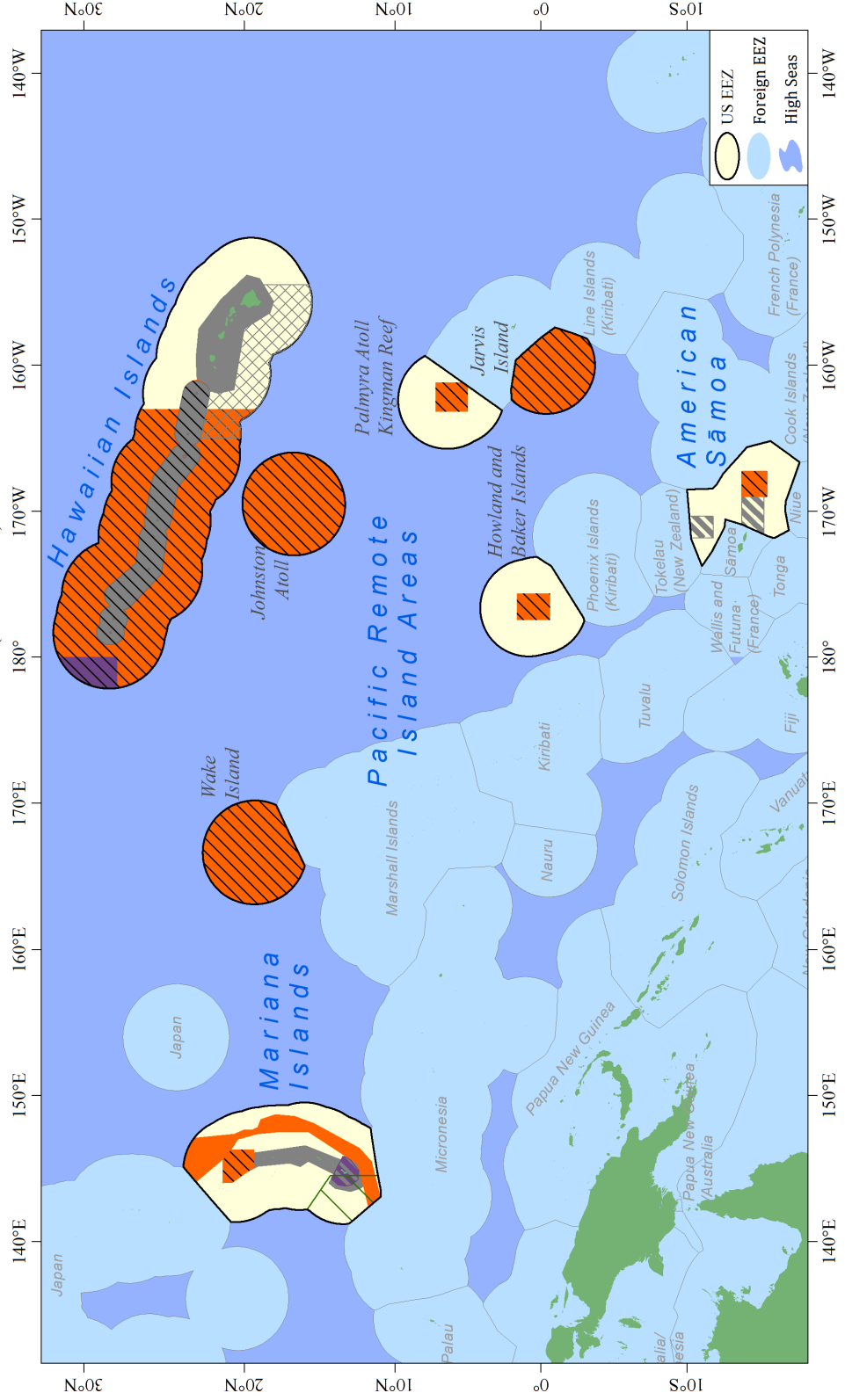
⁵ Gilman, E., Chaloupka, M., Fitchett, M.D., Cantrell, D., and M. Merrifield, M. 2020. Ecological responses to blue water MPAs. *PLoS ONE*. 15. e0235129. 10.1371/journal.pone.0235129.

⁶ Pons, M., *et al.* 2022. Trade-offs between bycatch and target catches in static versus dynamic fishery closures. *Proceedings of the National Academy of Sciences*, 119 (4).










required in the designation of monuments nor is the requirement is to utilize the best scientific information available

US EEZ Regulated Fishing Areas, Western Pacific Region

- | | | | |
|---|---|---|---|
|  | Magnuson-Stevens Act |  | Bottomfish/Groundfish fishing prohibited (1986) |
|  | Longline fishing prohibited (1991 - 92, 2011) |  | Bottomfish Vessels ≥ 50 ft prohibited (2006) |
|  | Large Vessel Prohibited Area (2002) |  | US EEZ: trawling, drift gillnets, poisons and explosives prohibited (1986 - 2004) |
|  | False Killer Whale Southern Exclusion Zone (2012) |  | |
|  | Guam No Anchor Zone (2004) | | |
-
- | | | |
|---|--|--|
|  | Antiquities Act | |
|  | Marine National Monument (2006 - 2016) | |
|  | Closed to all commercial fishing | |



Western Pacific Council Spatial Measures

- | Bottomfish Restrictions | Pelagic Restrictions | Other Restrictions |
|---|--|---|
| <ul style="list-style-type: none">  Bottomfish/Groundfish fishing prohibited (1986)  Vessels ≥ 50 ft Prohibited (2006)  US EEZ: trawling, drift gillnets, poisons and explosives prohibited (1986 - 2004) | <ul style="list-style-type: none">  Longline Fishing Prohibited Area (1992, 2011)  Large Vessel Prohibited Area (2002)  NWHI Protected Species Zone (1991) | <ul style="list-style-type: none">  Guam No Anchor Zone (2004)  No-take MPAs (2004)  Lobster No-Take MPA (1986) |

