

NOAA
FISHERIES
Pacific Islands
Regional Office

Compliance Guide

Bigeye Tuna Catch Limit in U.S. Longline Fisheries for 2013 and 2014

September 23, 2013

This guide provides information on how permit holders, owners, and operators of U.S. longline vessels, and other affected entities can comply with the regulations implementing the bigeye tuna (*Thunnus obesus*) catch limit for U.S. longline fisheries operating in the western and central Pacific Ocean (WCPO) for 2013 and 2014. Regulations are subject to change. Any discrepancy between the contents of this guide and regulations will be resolved in favor of regulations published in the *Federal Register* and the *Code of Federal Regulations*.

For more information or to obtain additional copies of this guide please contact:

Regional Administrator
NMFS Pacific Islands Regional Office
attn: International Fisheries Division
1601 Kapiolani Boulevard, Suite 1110
Honolulu, HI 96814

Tel: 808-944-2200
Fax: 808-973-2941
Email: pirohonolulu@noaa.gov
Website: <http://www.fpir.noaa.gov/>

Key Facts

- The National Marine Fisheries Service (NMFS) has established a calendar year catch limit of 3,763 metric tons (mt) for bigeye tuna caught in the Convention Area (see map of Convention Area on page 4) by U.S. longline vessels for each of the years 2013 and 2014 (see the final rule published in the *Federal Register* September 23, 2013; volume 78, page 58240).
- The catch limit is based on a conservation and management measure adopted by the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (WCPFC), the international organization that manages highly migratory fish stocks in the Convention Area, which comprises the majority of the WCPO.
- The regulations implementing the catch limit are effective from October 23, 2013 through December 31, 2014.
- Certain fishing prohibitions will go into effect if and when the catch limit is reached in 2013 or 2014.
- The catch limit and the majority of the associated fishing prohibitions do not apply to U.S. longline fishing vessels operating as part of the longline fisheries of American Samoa, the Commonwealth of the Northern Mariana Islands (CNMI), or Guam. The catch limit for 2013 and 2014 and associated prohibitions are similar, but not identical, to the bigeye tuna catch limit for the calendar years 2009-2012 and associated prohibitions. The final rule for 2013 and 2014 also includes a clarification for the attribution of catches to American Samoa, the CNMI, or Guam from vessels that fall under one or more categories.
- The bigeye tuna catch limit for 2013 and 2014 and associated prohibitions include specific provisions for vessels included in arrangements with American Samoa, the CNMI, or Guam under Section 113(a) of Pub. L. 112-55, 125 Stat. 552 *et seq.*, the Consolidated and Further Continuing Appropriations Act, 2012 (continued by Pub. L. 113-6, 125 Stat. 603, section 110, the Department of Commerce Appropriations Act, 2013).¹ Under certain circumstances, vessels included in Section 113(a) arrangements are treated as part of the longline fisheries of American Samoa, the CNMI, or Guam and therefore, are not subject to the catch limit or the majority of the associated prohibitions. Whether and specifically when such a vessel is treated as part of the longline fisheries of American Samoa, the CNMI, or Guam depends on the outcome of the process described in the next two pages. This is the same process that was used for Section 113(a) arrangements in 2012.
- **Please note: the Section 113 authorization is effective only through December 31, 2013, so the specific provisions for Section 113(a) arrangements only apply in 2013 and do not apply in 2014.**

Process for Section 113(a) Arrangements (for Calendar Year 2013 Only)

- The Section 113 authorization allows American Samoa, the CNMI, and Guam to enter into arrangements with U.S. vessels fishing for bigeye tuna in the Convention Area in 2013, where the WCPFC has established a catch limit for bigeye tuna.
- NMFS has established a specific process for attributing bigeye tuna catch to the longline fisheries of American Samoa, the CNMI, and Guam under Section 113(a) arrangements for the calendar year 2013. Bigeye tuna catch attributed to any of the three territories through this process will not be counted toward the 3,763 mt catch limit.
- The process for attributing bigeye tuna catch to the longline fisheries of American Samoa, the CNMI and Guam under the terms of Section 113(a) arrangements is as follows:

¹ Hereafter, this law is referred to as the “Section 113 authorization” and arrangements authorized under this law are referred to as “Section 113(a) arrangements.”

Step 1

During 2013, NMFS periodically will forecast the date the catch limit is likely to be reached. NMFS will make these forecasts publicly available throughout 2013 or until the limit is reached (see http://www.fpir.noaa.gov/SFD/SFD_regs_3.html).

Step 2

NMFS will identify one of the periodic forecast dates as the “**pre-Section 113(a) attribution forecast date.**” It will be the first forecast date that is less than 28 days after the date the forecast is prepared.

Step 3

NMFS will use the following criteria to evaluate any Section 113(a) arrangements it has received to determine whether it is eligible under the Section 113 authorization:

- a. Vessels included in the arrangement must be registered for use with valid permits under the Fishery Ecosystem Plan for Pacific Pelagic Fisheries of the Western Pacific Region (Pelagics FEP);
- b. The arrangement **must not** impose any requirements regarding where the vessels included in the arrangement must fish or land their catch;
- c. The owners(s) or their designated representative(s) of each of the vessels to be included **must** sign the arrangement;
- d. The arrangement **must** be signed by an authorized official of American Samoa, the CNMI, or Guam or his or her designated representative(s); and
- e. The arrangement **must** be funded by deposits to the Western Pacific Sustainable Fisheries Fund in support of fisheries development projects identified in the Marine Conservation Plan of American Samoa, the CNMI, or Guam.

Step 4

NMFS will determine the “**start date**” for attribution of bigeye tuna catches to the longline fisheries of American Samoa, the CNMI, or Guam for each eligible Section 113(a) arrangement using the formula below:

- a. If NMFS receives the arrangement on or before the date it has established the “pre-Section 113(a) attribution forecast date”, the “start date” will be seven days before the “pre-Section 113(a) attribution forecast date”; or
- b. If NMFS receives the arrangement after the date it determines the “pre-Section 113(a) attribution forecast date”, the “start date” will be 14 days after the date that NMFS receives the arrangement or seven days before the “pre-Section 113(a) attribution forecast date”, whichever date is later.

Step 5

NMFS will begin attributing the bigeye tuna catches of vessels included in each eligible Section 113(a) arrangement to the longline fishery of American Samoa, the CNMI, or Guam on the “start date”, as specified in Step 4 (above), so long as:

- a. NMFS has received the Section 113(a) arrangement from the vessel owner or a designated representative at least 14 days prior to the date the bigeye tuna was caught. An arrangement submitted to NMFS before October 23, 2013, does not need to be resubmitted to NMFS.
- b. The bigeye tuna was caught on or after the “**start date**”.
- c. The arrangement is eligible under the Section 113 authorization, as described in Step 3 (above). If NMFS determines that the arrangement is not eligible, NMFS will notify the parties to the arrangement or their representatives within 14 days of receiving the arrangement.

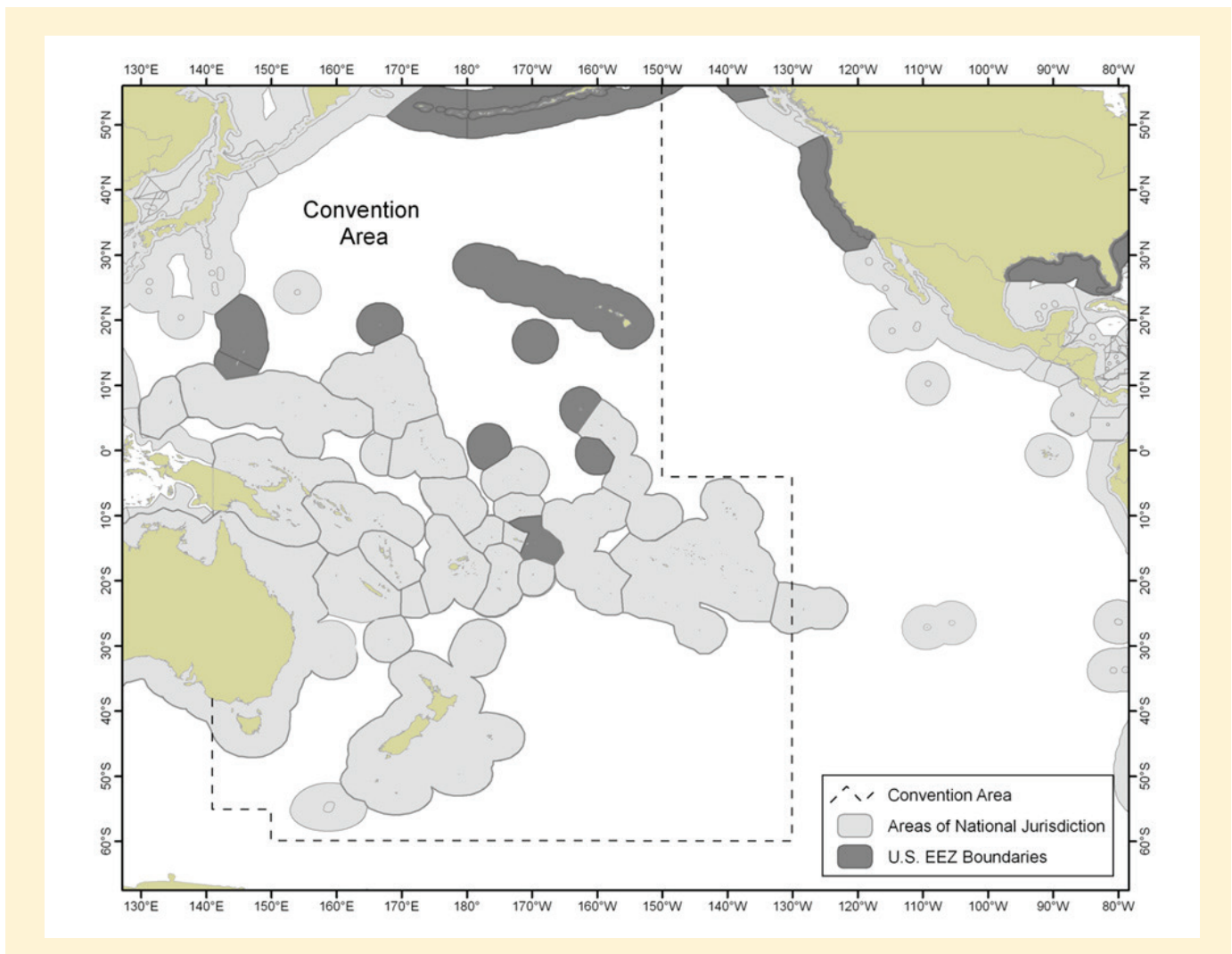
Step 6

Once NMFS starts attributing bigeye tuna catches to American Samoa, the CNMI, or Guam under any eligible Section 113(a) arrangements, NMFS will make publicly available a new forecast date – the “**post-Section 113(a) attribution forecast date**” – and will update that forecast date as appropriate throughout 2013 or until the limit is reached (see http://www.fpir.noaa.gov/SFD/SFD_regs_3.html).

Area of Effect

The bigeye tuna catch limit for each of the calendar years 2013 and 2014 applies to the area that the WCPFC manages under its Convention (see map below).

The Convention Area: high seas (white); U.S. Exclusive Economic Zone (dark gray); and foreign jurisdictions (“claimed maritime jurisdictions,” in light gray)



Counting Catches against the U.S. Bigeye Tuna Catch Limit for 2013 and 2014

The 3,763 mt bigeye tuna catch limit applies to each of the calendar years 2013 and 2014. The following bigeye tuna will count against the catch limit:

- 1) All bigeye tuna caught by U.S. fishing vessels using longline gear in the U.S. Exclusive Economic Zone (EEZ) surrounding the Hawaiian Archipelago (including the main and northwestern Hawaiian Islands, including Midway Atoll), except, in 2013, bigeye tuna attributed to the longline fishery of American Samoa, the CNMI or Guam under an eligible Section 113(a) arrangement, in accordance with the process described above.
- 2) All bigeye tuna caught by U.S. fishing vessels using longline gear in the Convention Area outside the U.S. EEZ surrounding the Hawaiian Archipelago, except that bigeye tuna meeting at least one of the following criteria will not count against the limit:
 - a. The bigeye tuna is landed in American Samoa, the CNMI, or Guam by a vessel with a valid permit under the Pelagics FEP or the Fishery Management Plan for U.S. West Coast Fisheries for Highly Migratory Species (West Coast HMS FMP); or
 - b. The bigeye tuna is caught by a vessel with a valid American Samoa Longline Limited Access permit and landed by a vessel with a permit under the Pelagics FEP or West Coast HMS FMP; or
 - c. For 2013 only, the bigeye tuna is attributed to the longline fishery of American Samoa, the CNMI or Guam under an eligible Section 113(a) arrangement, in accordance with the process described above.

Prohibitions

Once NMFS has determined that the catch limit has been reached for 2013 or 2014, and published a notice in the *Federal Register* announcing the effective date of the prohibitions, the following prohibitions will apply starting on that effective date:

Prohibition 1:

Starting on the effective date of the prohibitions and for the remainder of the calendar year, you may not retain on board, transship, or land bigeye tuna caught by longline gear in the U.S. EEZ surrounding the Hawaiian Archipelago. In 2013, this prohibition will not apply if your vessel is included in an eligible Section 113(a) arrangement and the bigeye tuna are to be attributed to the longline fishery of American Samoa, the CNMI, or Guam in accordance with the process described above.

Prohibition 2:

Starting 14 days after the effective date of the prohibitions, you may not retain on board, transship, or land bigeye tuna caught by longline gear in the Convention Area prior to the effective date of the prohibitions, **unless** at least one of the following conditions is met:

- 1) Your vessel is on a declared shallow-set trip (see 50 CFR 665.803(a)).
- 2) The bigeye tuna are landed in American Samoa, the CNMI, or Guam by a vessel with a valid permit under the Pelagics FEP or West Coast HMS FMP, and are not caught in the U.S. EEZ surrounding the Hawaiian Archipelago.

- 3) The bigeye tuna are caught by a vessel with a valid American Samoa Longline Limited Access permit and landed by a vessel with a valid permit under the Pelagics FEP or West Coast HMS FMP, and are not caught in the U.S. EEZ surrounding the Hawaiian Archipelago.
- 4) In calendar year 2013, the bigeye tuna are caught by a vessel included in an eligible Section 113(a) arrangement and are to be attributed to the longline fishery of American Samoa, the CNMI, or Guam in accordance with the process described above.

Prohibition 3:

Starting on the effective date of the prohibitions, you may not retain on board, transship, or land bigeye tuna caught by longline gear in the Convention Area outside the U.S. EEZ surrounding the Hawaiian Archipelago **unless** at least one of the following conditions is met:

- 1) The bigeye tuna are landed in American Samoa, the CNMI, or Guam by a vessel with a valid permit under the Pelagics FEP or West Coast HMS FMP.
- 2) The bigeye tuna are caught by a vessel with a valid American Samoa Longline Limited Access permit and are landed by a vessel with a valid permit under the Pelagics FEP or West Coast HMS FMP.
- 3) In calendar year 2013, the bigeye tuna are caught by a vessel included in an eligible Section 113(a) arrangement and are to be attributed to the longline fishery of American Samoa, the CNMI, or Guam in accordance with the process described above.

Prohibition 4:

You may not fish with longline gear both inside and outside the Convention Area on the same fishing trip. This prohibition will not apply if you meet at least one of the following conditions:

- 1) Your vessel is on a declared shallow-set trip (see 50 CFR 665.803(a)).
- 2) The vessel's catch of bigeye tuna is landed in American Samoa, the CNMI, or Guam by a vessel with a valid permit under the Pelagics FEP or West Coast HMS FMP, and the bigeye tuna were not caught in the U.S. EEZ surrounding the Hawaiian Archipelago.
- 3) The vessel has a valid American Samoa Longline Limited Access permit, its catch of bigeye tuna is not made in the U.S. EEZ surrounding the Hawaiian Archipelago, and the bigeye tuna catch is landed by a vessel with a valid permit under the Pelagics FEP or West Coast HMS FMP.
- 4) In calendar year 2013, the vessel is included in an eligible Section 113(a) arrangement and its catch of bigeye tuna is to be attributed to the longline fishery of American Samoa, the CNMI, or Guam in accordance with the process described above.
- 5) The prohibitions go into effect during the trip in question. In this case, you must land the bigeye tuna within 14 days of the date the prohibitions go into effect.

Prohibition 5:

If you fish outside the Convention Area using longline gear, you may not have your gear readily available for fishing at any time while you are in the Convention Area on that same trip. That is, you must stow the gear while in the Convention Area so that the hooks, branch lines, and floats are not available for immediate use, and any mainline hauler on deck is covered so that it is not readily available for use. This prohibition will not apply if you meet one of the following conditions:

- 1) Your vessel is on a declared shallow-setting trip (see 50 CFR 665.803(a)).
- 2) The vessel's catch of bigeye tuna is landed in American Samoa, the CNMI, or Guam by a vessel with a valid permit under the Pelagics FEP or West Coast HMS FMP, and the bigeye tuna were not caught in the U.S. EEZ surrounding the Hawaiian Archipelago.
- 3) The vessel has a valid American Samoa Longline Limited Access permit and its catch of bigeye tuna is not made in the U.S. EEZ surrounding the Hawaiian Archipelago and is landed by a vessel with a valid permit under the Pelagics FEP or West Coast HMS FMP.
- 4) In calendar year 2013, the vessel is included in an eligible Section 113(a) arrangement and its catch of bigeye tuna is to be attributed to the longline fishery of American Samoa, the CNMI, or Guam in accordance with the process described above.

Prohibition 6:

You may not transship bigeye tuna caught by longline fishing gear in the Convention Area to another fishing vessel unless that vessel has a valid permit under the Pelagics FEP or West Coast HMS FMP.

Key Questions and Answers

Question 1: How can I find out when the limit is reached?

Answer: Once NMFS determines that the limit is expected to be reached by a specific future date in 2013 or 2014, NMFS will publish a notice in the *Federal Register* announcing the prohibitions that will be effective on that specific future date until the end of the calendar year. The notice will be published at least seven calendar days before the effective date of the prohibitions. NMFS' website at http://www.fpir.noaa.gov/SFD/SFD_regs_3.html provides information regarding forecasts of the date the limit is expected to be reached.

Question 2: What are the prohibitions?

Answer: Generally, you may not keep on board, transship, or land any bigeye tuna caught by longline gear in the Convention Area, unless the prohibitions do not apply to you.

Question 2: What are the prohibitions?

Answer: Generally, you may not keep on board, transship, or land any bigeye tuna caught by longline gear in the Convention Area, unless the prohibitions do not apply to you.

Question 3: If the prohibitions apply to me and I have bigeye tuna on board my vessel when the limit is reached, may I keep them?

Answer: Yes, but only for a limited amount of time. Any bigeye tuna caught by longline gear in the Convention Area already on board a fishing vessel upon the effective date of the prohibitions may be retained on board, transshipped, and/or landed, **provided they are landed within 14 days after the prohibitions become effective.** However, this 14-day landing limitation does not apply to you if your vessel is on a declared shallow-set trip when the limit is reached (see 50 CFR 665.803(a)).

Question 4: May I land bigeye tuna caught in the Convention Area in American Samoa, the CNMI, and Guam once the catch limit is reached?

Answer: Yes. As described above, after the catch limit is reached and the prohibitions go into effect, bigeye tuna caught

in the Convention Area outside the U.S. EEZ surrounding the Hawaiian Archipelago may be landed in American Samoa, the CNMI, or Guam. However, the bigeye tuna must be landed by a U.S. fishing vessel with a valid permit under the Pelagics FEP or West Coast HMS FMP.

Question 5: May bigeye tuna caught by U.S. longline vessels be landed in Hawaii after the catch limit is reached?

Answer: Yes, in certain situations. First, bigeye tuna caught by vessels operating under eligible Section 113(a) arrangements in calendar year 2013 may be landed in Hawaii after the catch limit is reached in 2013, provided that the bigeye tuna are to be attributed to the longline fishery of American Samoa, the CNMI, or Guam in accordance with the process described above. Second, bigeye tuna caught outside the Convention Area by U.S. longline fishing vessels, such as bigeye tuna caught in the eastern Pacific Ocean (i.e., the area of competence of the Inter-American Tropical Tuna Commission), may be landed in Hawaii after the catch limit is reached. Third, bigeye tuna caught by vessels that are “dual-permitted” with both a valid Hawaii Longline Limited Access permit and a valid American Samoa Longline Limited Access permit may be landed in Hawaii after the prohibitions go into effect, provided that the fish were not caught in the portion of the U.S. EEZ surrounding the Hawaiian Archipelago.

Question 6: Once the catch limit is reached, may U.S. longline fishing vessels fish with longline gear in the eastern Pacific Ocean and then fish for species other than bigeye tuna, such as yellowfin tuna, in the Convention Area on the same trip?

Answer: As described above, once the prohibitions go into effect, a vessel must meet at least one of the following conditions to continue fishing with longline gear both inside and outside the Convention Area on the same trip. The vessel must:

- 1) Have declared to NMFS that the current trip type is shallow-setting;
- 2) Land its catch of bigeye tuna in American Samoa, the CNMI, or Guam;
- 3) Have a valid American Samoa Longline Limited Access permit;
- 4) In calendar year 2013, be operating under an eligible Section 113(a) arrangement, provided that the bigeye tuna are to be attributed to the longline fishery of American Samoa, the CNMI, or Guam in accordance with the process described above; or
- 5) Be on a fishing trip at the time the prohibitions go into effect (this applies only during the trip when the prohibitions go into effect, and in this case, the catch of bigeye tuna must be landed within 14 days after the prohibitions go into effect).

All other vessels will not be able to fish with longline gear both inside and outside the Convention Area during the same fishing trip.

Question 7: If the prohibitions go into effect fewer than 14 days before the end of the year, do I still need to land my catch of bigeye tuna from the Convention Area within 14 days?

Answer: No. The prohibitions and requirements specified in the rule will be effective from the date specified in the Federal Register notice until the end of calendar year 2013 or 2014. At the beginning of 2014 or 2015, the prior year’s prohibitions and requirements will no longer be in effect.

Question 8: When the prohibitions go into effect, do I have to stop fishing and remove all my gear from the water at the very start of the date the prohibitions go into effect (i.e., at midnight), or may I finish hauling even after midnight?

Answer: You do not have to stop fishing or remove gear from the water, but you may not keep any bigeye tuna caught on

or after the very start of the date the prohibitions go into effect (i.e., midnight). You may continue to use longline gear in the Convention Area and may continue to retain, transship, and land all fish, except bigeye tuna, in the Convention Area during the effective period of the prohibitions.

Question 9: After the prohibitions go into effect, may I catch bigeye tuna on the high seas in the eastern Pacific Ocean and land those fish in Hawaii?

Answer: Yes, you may land bigeye tuna caught outside the Convention Area on the high seas in Hawaii at any time.

Question 10: If my vessel falls under more than one category for attribution of bigeye tuna catch to the three territories, to which territory will the catch be attributed?

Answer: Consistent with the statutory language of the Section 113 authorization, any catch of bigeye tuna that is landed by a vessel operating under an eligible Section 113(a) arrangement is attributed to the longline fishery of the territory that is a party to the arrangement. Where there is no section 113(a) arrangement, the final rule provides that catch is attributed to the longline fishery either where the catch is landed or, in the case of vessels with an American Samoa Longline Limited Access Permit, to American Samoa provided that the fish are not harvested in the U.S. EEZ surrounding Hawaii. The final rule clarifies that, notwithstanding the other landing or permit attributions, bigeye tuna that is caught by a vessel included in an eligible Section 113(a) arrangement will always be attributed to the territory that is a party to the arrangement on or after the attribution start date. For example, fish harvested on the high seas by a vessel operating under both a Hawaii Longline Limited Access Permit and an American Samoa Longline Limited Access Permit ordinarily will be attributed to American Samoa regardless of where it is landed. However, if the vessel enters into a valid section 113(a) arrangement with a territory, the catch will be attributed to the territory that is a party to the arrangement, on or after the attribution start date, regardless of where the catch is landed or whether the vessel has an American Samoa Longline Limited Access Permit.

For additional information, please contact:

Regional Administrator
(attn: International Fisheries Division)
NMFS Pacific Islands Regional Office
1601 Kapiolani Boulevard, Suite 1110
Honolulu, HI 96814

Tel: 808-944-2200

Fax: 808-973-2941

Email: pirohonolulu@noaa.gov

