

Fishery Conservation and Management

§ 665.121

~~Regional Administrator may revoke, suspend, or modify the plan.~~

[75 FR 54046, Sept. 3, 2010]

Subpart B—American Samoa Fisheries

§ 665.98 Management area.

The American Samoa fishery management area is the EEZ seaward of the Territory of American Samoa with the inner boundary coterminous with the seaward boundaries of the Territory of American Samoa and the outer boundary designated as a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured, or is coterminous with adjacent international maritime boundaries.

§ 665.99 Area restrictions.

Fishing is prohibited in all no-take MPAs. The following U.S. EEZ waters around American Samoa are no-take MPAs: Landward of the 50 fm (91.5 m) curve around Rose Atoll, as depicted on National Ocean Survey Chart Number 83484.

§ 665.100 American Samoa bottomfish fisheries. [Reserved]

§ 665.101 Definitions.

As used in §§ 665.100 through 665.119:

American Samoa bottomfish management unit species (American Samoa bottomfish MUS) means the following fish:

Samoa name	English common name	Scientific name
palu-gutusaliva	red snapper, silvermouth	<i>Aphareus rutilans</i> .
asoama	gray snapper, jobfish	<i>Aprion virescens</i> .
sapoanae	giant trevally, jack	<i>Caranx ignobilis</i> .
tafauli	black trevally, jack	<i>Caranx lugubris</i> .
fausi	blacktip grouper	<i>Epinephelus fasciatus</i> .
papa, velo	lunartail grouper	<i>Variola louti</i> .
palu malau	red snapper	<i>Etelis carbunculus</i> .
palu-loa	red snapper	<i>Etelis coruscans</i> .
filoa-gutumumu	Ambon emperor	<i>Lethrinus amboinensis</i> .
filoa-paumumu	redgill emperor	<i>Lethrinus rubrioperculatus</i> .
savane	blueline snapper	<i>Lutjanus kasmira</i> .
palu-i-usama	yellowtail snapper	<i>Pristipomoides auricilla</i> .
palu-'ena'ena	pink snapper	<i>Pristipomoides filamentosus</i> .
palu-sina	yelloweye snapper	<i>Pristipomoides flavipinnis</i> .
palu	pink snapper	<i>Pristipomoides seiboldii</i> .
palu-ula, palu-sega	snapper	<i>Pristipomoides zonatus</i> .
malauli	amberjack	<i>Seriola dumeril</i> .

§ 665.102 [Reserved]

§ 665.103 Prohibitions.

In addition to the general prohibitions specified in § 600.725 of this chapter and § 665.15, it is unlawful for any person to fish for American Samoa bottomfish MUS using gear prohibited under § 665.104.

§ 665.104 Gear restrictions.

(a) *Bottom trawls and bottom set gillnets*. Fishing for American Samoa bottomfish MUS with bottom trawls and bottom set gillnets is prohibited.

(b) *Possession of gear*. The possession of a bottom trawl or bottom set gillnet within the American Samoa fishery management area is prohibited.

(c) *Poisons and explosives*. The possession or use of any poisons, explosives, or intoxicating substances for the purpose of harvesting bottomfish is prohibited.

§ 665.105 At-sea observer coverage.

All fishing vessels subject to §§ 665.100 through 665.105 must carry an observer when directed to do so by the Regional Administrator.

§§ 665.106–665.119 [Reserved]

§ 665.120 American Samoa coral reef ecosystem fisheries. [Reserved]

§ 665.121 Definitions.

As used in §§ 665.120 through 665.139:

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American Samoa coral reef ecosystem management unit species (American Samoa coral reef ecosystem MUS) means all of the Currently Harvested Coral Reef Taxa and Potentially Harvested Coral Reef Taxa listed in this section

and which spend the majority of their non-pelagic (post-settlement) life stages within waters less than or equal to 50 fathoms in total depth.

American Samoa Currently Harvested Coral Reef Taxa:

Family name	Samoan name	English common name	Scientific name
Acanthuridae (Surgeonfishes)	afinamea	orange-spot surgeonfish	<i>Acanthurus olivaceus</i> .
	Aanini	yellowfin surgeonfish	<i>Acanthurus xanthopterus</i> .
	.....	convict tang	<i>Acanthurus triostegus</i> .
	.....	eye-striped surgeonfish	<i>Acanthurus dussumieri</i> .
	ponepone, gaitolama	blue-lined surgeon	<i>Acanthurus nigroris</i> .
	Alogo	blue-banded surgeonfish	<i>Acanthurus lineatus</i> .
	pone-i'usama	blackstreak surgeonfish	<i>Acanthurus nigricauda</i> .
	laulama,	whitecheek surgeonfish	<i>Acanthurus nigricans</i> .
	Maogo	white-spotted surgeonfish	<i>Acanthurus guttatus</i> .
	.....	ringtail surgeonfish	<i>Acanthurus blochii</i> .
	ponepone	brown surgeonfish	<i>Acanthurus nigrofuscus</i> .
	.....	elongate surgeonfish	<i>Acanthurus mata</i> .
	Pone	mimic surgeonfish	<i>Acanthurus pyroferus</i> .
	pone, pala'ia, logoulia	yellow-eyed surgeonfish	<i>Ctenochaetus strigosus</i> .
	.....	striped bristletooth	<i>Ctenochaetus striatus</i> .
	.....	two-spot bristletooth	<i>Ctenochaetus binotatus</i> .
	ume-isu	bluespine unicornfish	<i>Naso unicornus</i> .
	ili'ilia, umelei	orangespine unicornfish	<i>Naso lituratus</i> .
	.....	black tongue unicornfish	<i>Naso hexacanthus</i> .
	ume-masimasi	bignose unicornfish	<i>Naso vlamingii</i> .
Balistidae (Triggerfishes) .....	.....	whitemargin unicornfish	<i>Naso annulatus</i> .
	ume-ulutao	spotted unicornfish	<i>Naso brevirostris</i> .
	.....	barred unicornfish	<i>Naso thynnoides</i> .
	sumu, sumu-laulau	titan triggerfish	<i>Balistoides viridescens</i> .
	.....	orangestriped triggerfish	<i>Balistapus undulatus</i> .
	sumu-'apa'apasina, sumu-si'umumu.	pinktail triggerfish	<i>Melichthys vidua</i> .
	sumu-uli	black triggerfish	<i>Melichthys niger</i> .
	sumu-laulau	blue triggerfish	<i>Pseudobalistes fuscus</i> .
	sumu-u'o'uo, sumu-alalo	picassofish	<i>Rhinecanthus aculeatus</i> .
	sumu-gase'ele'ele	bridled triggerfish	<i>Sufflamen fraenum</i> .
Carcharinidae (Sharks)	Atule	bigeye scad	<i>Selar crumenophthalmus</i> .
	atuleau, namuauili	mackerel scad	<i>Decapterus macarellus</i> .
	malie-alalo	grey reef shark	<i>Carcharhinus amblyrhynchus</i> .
	Aso	silvertip shark	<i>Carcharhinus albimarginatus</i> .
	Malie	Galapagos shark	<i>Carcharhinus galapagensis</i> .
	apeape, malie-alamata	blacktip reef shark	<i>Carcharhinus melanopterus</i> .
	Malu	whitetip reef shark	<i>Triaenodon obesus</i> .
Holocentridae (Soldierfish, squirrelfish.	malau-ugatele, malau-va'ava'a.	bigscale soldierfish	<i>Myripristis bembli</i> .
	malau-tui	bronze soldierfish	<i>Myripristis adusta</i> .
	.....	blotcheye soldierfish	<i>Myripristis murdjan</i> .
	.....	brick soldierfish	<i>Myripristis amaena</i> .
	malau-mamo, malau-va'ava'a	scarlet soldierfish	<i>Myripristis pralinia</i> .
	malau-tuauili	violet soldierfish	<i>Myripristis violacea</i> .
	.....	whitetip soldierfish	<i>Myripristis vittata</i> .
	.....	yellowfin soldierfish	<i>Myripristis chryseres</i> .
	malau-pu'u	pearly soldierfish	<i>Myripristis kuntee</i> .
	.....	double tooth squirrelfish	<i>Myripristis hexagona</i> .
	.....	blackspot squirrelfish	<i>Sargocentron melanospilos</i> .
	malau-tianiu	file-lined squirrelfish	<i>Sargocentron microstoma</i> .
	.....	pink squirrelfish	<i>Sargocentron tieeoides</i> .
	malau-tui, malau-talapu'u, malau-tusitusi, malau-pauli.	crown squirrelfish	<i>Sargocentron diadema</i> .
	.....	peppered squirrelfish	<i>Sargocentron punctatissimum</i> .
	.....	blue-lined squirrelfish	<i>Sargocentron tiee</i> .
	.....	saber or long jaw squirrelfish	<i>Sargocentron spiniferum</i> .
	.....	spotfin squirrelfish	<i>Neoniphon spp</i> .
	malu, mu-malau, malau-toa	barred flag-tail	<i>Kuhlia mugil</i> .
	.....	rudderfish	<i>Kyphosus cinerascens</i> .
Kuhliidae (Flagtails)	Safole, inato .....	.....	<i>Kyphosus biggibus</i> .
Kyphosidae (Rudderfish)	nanue, mata-mutu, mutumutu .....	.....	<i>Kyphosus vaigiensis</i> .
	.....	.....	<i>Cheilinus undulatus</i> .
Labridae (Wrasses)	Nanue	rudderfish	<i>Cheilinus trilobatus</i> .
	lala'fi, tagafa malakea	napoleon wrasse	<i>Cheilinus chlorourus</i> .
	Lalafi-matamumu	triple-tail wrasse	<i>Cheilinus fasciatus</i> .
	Lalafi-matapua'a	floral wrasse
.....	lala'fi-pulepule	harlequin tuskfish

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Family name	Samoa name	English common name	Scientific name
	sugale	bandcheek wrasse	<i>Oxycheilinus diagrammus</i> .
	sugale	arenatus wrasse	<i>Oxycheilinus arenatus</i> .
	sugale-tatanu	whitepatch wrasse	<i>Xyrichtys aneitensis</i> .
	sugale-mo'o	cigar wrasse	<i>Cheilio inermis</i> .
	sugale-laugutu, sugale-uli, sugale-aloa, sugale-lupe.	blackeye thicklip	<i>Hemigymnus melapterus</i>
	sugale-gutumafia	barred thicklip	<i>Hemigymnus fasciatus</i> .
	lape, sugale-pagota	three-spot wrasse	<i>Halichoeres trimaculatus</i> .
	sugale-a'au, sugale-pagota, ifigi.	checkerboard wrasse	<i>Halichoeres hortulanus</i> .
	sugale-uluvela	weedy surge wrasse	<i>Halichoeres margaritaceus</i> .
	uloulo-gatala, patagalao	surge wrasse	<i>Thalassoma purpureum</i> .
	lape-moana	red ribbon wrasse	<i>Thalassoma quinquevittatum</i> .
	sugale-samasama	sunset wrasse	<i>Thalassoma lutescens</i> .
	sugale-la'o, sugale-taili, sugale-gasufi.	rockmover wrasse	<i>Novaculichthys taeniourus</i> .
Mullidae (Goatfishes)	i'asina, vete, afulu	yellow goatfish	<i>Mulloidichthys</i> spp.
	Vete	yellowfin goatfish	<i>Mulloidichthys vanicolensis</i> .
	afolu, afulu	yellowstripe goatfish	<i>Mulloidichthys flavolineatus</i> .
	afoul, afulu	banded goatfish	<i>Parupeneus</i> spp.
	tusia, tulausaena, ta'uleia	dash-dot goatfish	<i>Parupeneus barberinus</i> .
	matulau-moana	doublebar goatfish	<i>Parupeneus bifasciatus</i> .
	moana-ula	redspot goatfish	<i>Parupeneus heptacanthus</i> .
	i'asina, vete, afulu, moana	yellowsaddle goatfish	<i>Parupeneus cyclostomas</i> .
	matulau-ilamutu	side-spot goatfish	<i>Parupeneus pleurostigma</i> .
	i'asina, vete, afulu	multi-barred goatfish	<i>Parupeneus multifasciatus</i> .
Mugilidae (Mulletts)	anae, aua. fuafua	fringlip mullet	<i>Crenimugil crenilabis</i> .
	moi, poi	false mullet	<i>Neomyxus leuciscus</i> .
Muraenidae (Moray eels)	Pusi	yellowmargin moray eel	<i>Gymnothorax flavimarginatus</i> .
	maoa'e	giant moray eel	<i>Gymnothorax javanicus</i> .
	pusi-pulepule	undulated moray eel	<i>Gymnothorax undulatus</i> .
Octopodidae (Octopus)	fe'e fe'e	octopus octopus	<i>Octopus cyanea</i> , <i>Octopus ornatus</i> .
Polynemidae	umiumia, i'ausi	threadfin	<i>Polydactylus sexfilis</i> .
Priacanthidae (Bigeye)	matapula	glasseye	<i>Heteropriacanthus cruentatus</i> .
	matapula	bigeye	<i>Priacanthus hamrur</i> .
Scaridae (Parrotfishes)	Fuga	stareye parrotfish	<i>Calotomus carolinus</i> .
	fuga, galo-uluto'i, fuga-valea, laea-mamanu.	parrotfish	<i>Scarus</i> spp.
	ulapokea, laea-ulapokea	Pacific longnose parrotfish	<i>Hippocampus longiceps</i> .
Scombridae	Tagi	dogtooth tuna	<i>Gymnosarda unicolor</i> .
Siganidae (Rabbitfish)	loloa, lo	forktail rabbitfish	<i>Siganus aregenseus</i> .
Sphyrnidae (Barracuda)	Sapatu	heller's barracuda	<i>Sphyrna helleri</i> .
	Saosao	great barracuda	<i>Sphyrna barracuda</i> .
Turbinidae (turban shells, green snails.	Alili	green snails	<i>Turbo</i> spp.

American Samoa Potentially Harvested Coral Reef Taxa:

Samoa name	English common name	Scientific name
sugale, sugale-vaolo, sugale-a'a, lalafi, lape-a'au, la'ofia.	wrasses (Those species not listed as CHCRT).	Labrida.
malie, apoapo, moemoeao	sharks (Those species not listed as CHCRT).	Carcharhinidae, Sphyrnidae.
Fai	rays and skates	Dasyatidae, Myliobatidae.
pe'ape'a	batfishes	Ephippidae.
mutumutu, misimisi, ava'ava-moana	sweetlips	Haemulidae.
talitaliuli	remoras	Echeneidae.
mo'o, mo'otai	tilefishes	Malacanthidae.
Tiva	dottybacks	Pseudochromidae.
aneanea, tafuti	prettyfins	Plesiopidae.
Tapua	coral crouchers	Caracanthidae.
	flashlightfishes	Anomalopidae.
gatala, ataata, vaolo, gatala-uli, gatala- sega, gatala-aleva, ateate, apoua, susami, gatala-sina, gatala-mumu.	groupers	Serranidae.
	(Those species not listed as CHCRT or BMUS).	
lupo, lupota, mamalusi, ulua, sapoanae, taupapa, nato, filu, atuleau, malauli- apamoana, malauli-sinasama, malauli- matalapo'a, lai.	jacks and scads (Those species not list- ed as CHCRT or BMUS).	Carangidae.
Malau	soldierfishes and squirrelfishes (Those species not listed as CHCRT).	Holocentridae.

Samoan name	English common name	Scientific name
i'asina, vete, afulu, afoul, ulula'oa	goatfishes (Those species not listed as CHCRT).	Mullidae.
pone, palagi	surgeonfishes (Those species not listed as CHCRT).	Acanthuridae.
pelupelu, nefu	herrings	Clupeidae.
nefu, file	anchovies	Engraulidae.
mano'o, mano'o-popo, mano'o-fugafuga, mano'o-apofusami, mano'o-a'au.	gobies	Gobiidae.
mu, mu-taiva, tamala, malai, feloitega, mu-mafalaugutu, savane-ulusama, matala'oa.	snappers (Those species not listed as CHCRT or BMUS).	Lutjanidae.
sumu, sumu-papa, sumu-taulau	trigger fishes (Those species not listed as CHCRT).	Balistidae.
Lo	rabbitfishes (Those species not listed as CHCRT).	Siganidae.
nanue, matamutu, mutumutu	rudderfishes (Those species not listed as CHCRT).	Kyphosidae.
ulisea, atule-toto	fusiliers	Caesionidae.
filoa, mata'ele'ele, ulamalosi	emperors (Those species not listed as CHCRT or BMUS).	Lethrinidae.
pusi, maoa'e, atapanoa, u'aulu, apeape, fafa, gatamea, pusi-solasulu.	eels (Those species not listed as CHCRT).	Muraenidae, Chlopsidae, Congridae, Moringuidae, Ophichthidae.
fo, fo-tusiloloa, fo-si'umu, fo-loloa, fo-tala, fo-manifi, fo-aialo, fo-tuauli.	cardinalfishes	Apogonidae.
pe'ape'a, laulafau	moorish idols	Zanclidae.
tifitifi, si'u, i'usamasama, tifitifi-segaula, laulafau-laumea, alosina.	butterfly fishes	Chaetodontidae.
tu'u'u, tu'u'u-sama, tu'u'u-lega, tu'u'u-ulavapua, tu'u'u-matamalu, tu'u'u-alomu, tu'u'u-uluvela, tu'u'u-atugauli, tu'u'u-tusiuli, tu'u'u-manini.	angelfishes	Pomacanthidae.
tu'u'u, mutu, mamo, tu'u'u-lumane	damsel-fishes	Pomacentridae.
i'atala, la'otele, nofu	scorpionfishes	Scorpaenidae.
mano'o, mano'o-mo'o, mano'o-palea, mano'o-la'o.	blennies	Blenniidae.
sapatu	barracudas (Those species not listed as CHCRT).	Sphyraenidae.
la'o, ulutu'i, lausiva	hawkfishes (Those species not listed as CHCRT).	Cirritidae.
la'otale, nofu	frogfishes	Antennariidae.
ta'oto	pipefishes and seahorses	Syngnathidae.
tagi	sandperches	Pinguipedidae.
taoto-ena, taoto-sama, 'au'aulauti, taotito	dog tooth tuna	<i>Gymnosarda unicolor</i> .
taotao, taoto-ama	trumpetfish	<i>Aulostomus chinensis</i> .
sue, sue-vaolo, sue-va'a, sue-lega, sue-mu, sue-uli, sue-lape, sue-afa, sue-sugale.	coronetfish	<i>Fistularia commersoni</i> .
ali	puffer fishes and porcupine fishes	Tetradontidae.
moamoa	flounders and soles	Bothidae, Soleidae.
fugafuga, tuitui, sava'e	trunkfishes	Ostraciidae.
amu	sea cucumbers and sea urchins	Echinoderms.
amu	blue corals	Heliopora.
amu	organpipe corals	Tubipora.
amu	ahermatypic corals	Azooxanthellates.
amu	mushroom corals	Fungiidae.
amu	small and large coral polyps	
amu	fire corals	Millepora.
lumane, matalalei	soft corals and gorgonians.	
	anemones	Actinaria.
	soft zoanthid corals (Those species not listed as CHCRT).	Zoanthinaria.
sisi-sami	sea snails	Mollusca.
aliao, alili		Gastropoda.
sea	sea slugs	<i>Trochus</i> spp.
	black lipped pearl oyster	Opisthobranchs.
faisua	giant clam	<i>Pinctada margaritifera</i> .
pipi, asi, fatua'ua, tio, pae, fole	other clams	Tridacnidae.
ula, pa'a, kuku, papata	lobsters, shrimps, mantis shrimps, true crabs and hermit crabs (Those species not listed as Crustacean MUS).	Other Bivalves.
	sea squirts	Crustaceans.
amu	sponges	Tunicates.
amu	lace corals	Porifera.
amu	hydroid corals	Stylasteridae.
		Solanderidae.

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Samoa name	English common name	Scientific name
	segmented worms (Those species not listed as CHCRT).	Annelids.
limu	seaweed	Algae.
	Live rock.	

All other American Samoa coral reef ecosystem MUS that are marine plants, invertebrates, and fishes that are not listed in the American Samoa CHCRT table or are not American Samoa bottomfish, crustacean, precious coral, or western Pacific pelagic MUS.

§ 665.122 [Reserved]

§ 665.123 Relation to other laws.

To ensure consistency between the management regimes of different Federal agencies with shared management responsibilities of fishery resources within the American Samoa fishery management area, fishing for American Samoa coral reef ecosystem MUS is not allowed within the boundary of a National Wildlife Refuge unless specifically authorized by the USFWS, regardless of whether that refuge was established by action of the President or the Secretary of the Interior.

§ 665.124 Permits and fees.

(a) *Applicability.* Unless otherwise specified in this subpart, § 665.13 applies to coral reef ecosystem permits.

(1) *Special permit.* Any person of the United States fishing for, taking or retaining American Samoa coral reef ecosystem MUS must have a special permit if they, or a vessel which they operate, is used to fish for any:

(i) American Samoa coral reef ecosystem MUS in low-use MPAs as defined in § 665.99;

(ii) American Samoa Potentially Harvested Coral Reef Taxa in the coral reef ecosystem management area; or

(iii) American Samoa coral reef ecosystem MUS in the coral reef ecosystem management area with any gear not specifically allowed in this subpart.

(2) *Transshipment permit.* A receiving vessel must be registered for use with a transshipment permit if that vessel is used in the American Samoa coral reef ecosystem management area to land or transship PHCRT, or any American Samoa coral reef ecosystem MUS harvested within low-use MPAs.

(3) *Exceptions.* The following persons are not required to have a permit under this section:

(i) Any person issued a permit to fish under any FEP who incidentally catches American Samoa coral reef ecosystem MUS while fishing for bottomfish MUS, crustacean MUS, western Pacific pelagic MUS, precious coral, or seamount groundfish.

(ii) Any person fishing for American Samoa CHCRT outside of an MPA, who does not retain any incidentally caught American Samoa PHCRT; and

(iii) Any person collecting marine organisms for scientific research as described in § 665.17, or § 600.745 of this chapter.

(b) *Validity.* Each permit will be valid for fishing only in the fishery management area specified on the permit.

(c) *General requirements.* General requirements governing application information, issuance, fees, expiration, replacement, transfer, alteration, display, sanctions, and appeals for permits are contained in § 665.13.

(d) *Special permit.* The Regional Administrator shall issue a special permit in accordance with the criteria and procedures specified in this section.

(1) *Application.* An applicant for a special or transshipment permit issued under this section must complete and submit to the Regional Administrator, a Special Coral Reef Ecosystem Fishing Permit Application Form issued by NMFS. Information in the application form must include, but is not limited to, a statement describing the objectives of the fishing activity for which a special permit is needed, including a general description of the expected disposition of the resources harvested under the permit (*i.e.*, stored live, fresh, frozen, preserved; sold for food, ornamental, research, or other use; and a description of the planned fishing operation, including location of fishing and gear operation, amount and species (directed and incidental) expected to be

harvested and estimated habitat and protected species impacts).

(2) *Incomplete applications.* The Regional Administrator may request from an applicant additional information necessary to make the determinations required under this section. An applicant will be notified of an incomplete application within 10 working days of receipt of the application. An incomplete application will not be considered until corrected and completed in writing.

(3) *Issuance.* (i) If an application contains all of the required information, the Regional Administrator will forward copies of the application within 30 days to the Council, the USCG, the fishery management agency of the affected state, and other interested parties who have identified themselves to the Council, and the USFWS.

(ii) Within 60 days following receipt of a complete application, the Regional Administrator will consult with the Council through its Executive Director, USFWS, and the Director of the affected state fishery management agency concerning the permit application and will receive their recommendations for approval or disapproval of the application based on:

(A) Information provided by the applicant;

(B) The current domestic annual harvesting and processing capacity of the directed and incidental species for which a special permit is being requested;

(C) The current status of resources to be harvested in relation to the overfishing definition in the FEP;

(D) Estimated ecosystem, habitat, and protected species impacts of the proposed activity; and

(E) Other biological and ecological information relevant to the proposal. The applicant will be provided with an opportunity to appear in support of the application.

(iii) Following a review of the Council's recommendation and supporting rationale, the Regional Administrator may:

(A) Concur with the Council's recommendation and, after finding that it is consistent with the goals and objectives of the FEP, the national standards, the Endangered Species Act, and

other applicable laws, approve or deny a special permit; or

(B) Reject the Council's recommendation, in which case, written reasons will be provided by the Regional Administrator to the Council for the rejection.

(iv) If the Regional Administrator does not receive a recommendation from the Council within 60 days of Council receipt of the permit application, the Regional Administrator can make a determination of approval or denial independently.

(v) Within 30 working days after the consultation in paragraph (d)(3)(ii) of this section, or as soon as practicable thereafter, NMFS will notify the applicant in writing of the decision to grant or deny the special permit and, if denied, the reasons for the denial. Grounds for denial of a special permit include the following:

(A) The applicant has failed to disclose material information required, or has made false statements as to any material fact, in connection with his or her application.

(B) According to the best scientific information available, the directed or incidental catch in the season or location specified under the permit would detrimentally affect any coral reef resource or coral reef ecosystem in a significant way, including, but not limited to issues related to, spawning grounds or seasons, protected species interactions, EFH, and habitat areas of particular concern (HAPC).

(C) Issuance of the special permit would inequitably allocate fishing privileges among domestic fishermen or would have economic allocation as its sole purpose.

(D) The method or amount of harvest in the season and/or location stated on the permit is considered inappropriate based on previous human or natural impacts in the given area.

(E) NMFS has determined that the maximum number of permits for a given area in a given season has been reached and allocating additional permits in the same area would be detrimental to the resource.

(F) The activity proposed under the special permit would create a significant enforcement problem.

(vi) The Regional Administrator may attach conditions to the special permit, if it is granted, consistent with the management objectives of the FEP, including, but not limited to: (A) The maximum amount of each resource that can be harvested and landed during the term of the special permit, including trip limits, where appropriate.

(B) The times and places where fishing may be conducted.

(C) The type, size, and amount of gear which may be used by each vessel operated under the special permit.

(D) Data reporting requirements.

(E) Such other conditions as may be necessary to ensure compliance with the purposes of the special permit consistent with the objectives of the FEP.

(4) *Appeals of permit actions.* (i) Except as provided in subpart D of 15 CFR part 904, any applicant for a permit or a permit holder may appeal the granting, denial, conditioning, or suspension of their permit or a permit affecting their interests to the Regional Administrator. In order to be considered by the Regional Administrator, such appeal must be in writing, must state the action(s) appealed, and the reasons therefore, and must be submitted within 30 days of the original action(s) by the Regional Administrator. The appellant may request an informal hearing on the appeal.

(ii) Upon receipt of an appeal authorized by this section, the Regional Administrator will notify the permit applicant, or permit holder, as appropriate, and will request such additional information and in such form as will allow action upon the appeal. Upon receipt of sufficient information, the Regional Administrator will rule on the appeal in accordance with the permit eligibility criteria set forth in this section and the FEP, as appropriate, based upon information relative to the application on file at NMFS and the Council and any additional information, the summary record kept of any hearing and the hearing officer's recommended decision, if any, and such other considerations as deemed appropriate. The Regional Administrator will notify all interested persons of the decision, and the reasons therefore, in writing, normally within 30 days of the receipt of

sufficient information, unless additional time is needed for a hearing.

(iii) If a hearing is requested, or if the Regional Administrator determines that one is appropriate, the Regional Administrator may grant an informal hearing before a hearing officer designated for that purpose after first giving notice of the time, place, and subject matter of the hearing in the FEDERAL REGISTER. Such a hearing shall normally be held no later than 30 days following publication of the notice in the FEDERAL REGISTER, unless the hearing officer extends the time for reasons deemed equitable. The appellant, the applicant (if different), and, at the discretion of the hearing officer, other interested parties, may appear personally and/or be represented by counsel at the hearing and may submit information 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 in writing a decision to the Regional Administrator.

(iv) The Regional Administrator may adopt the hearing officer's recommended decision, in whole or in part, or may reject or modify it. In any event, the Regional Administrator will notify interested persons of the decision, and the reason(s) therefore, in writing, within 30 days of receipt of the hearing officer's recommended decision. The Regional Administrator's action constitutes final action for the agency for the purposes of the Administrative Procedure Act.

(5) The Regional Administrator may, for good cause, extend any time limit prescribed in this section for a period not to exceed 30 days either upon his or her own motion or upon written request from the Council, appellant or applicant stating the reason(s) therefore.

§ 665.125 Prohibitions.

In addition to the general prohibitions specified in § 600.725 of this chapter and § 665.15 of this part, it is unlawful for any person to do any of the following:

(a) Fish for, take, retain, possess or land any American Samoa coral reef ecosystem MUS in any low-use MPA as defined in § 665.99 unless:

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(1) A valid permit has been issued for the hand harvester or the fishing vessel operator that specifies the applicable area of harvest;

(2) A permit is not required, as outlined in § 665.124; or

(3) The American Samoa coral reef ecosystem MUS possessed on board the vessel originated outside the management area and this can be demonstrated through receipts of purchase, invoices, fishing logbooks or other documentation.

(b) Fish for, take, or retain any American Samoa coral reef ecosystem MUS species:

(1) That is determined overfished with subsequent rulemaking by the Regional Administrator;

(2) By means of gear or methods prohibited under § 665.127;

(3) In a low-use MPA without a valid special permit; or

(4) In violation of any permit issued under §§ 665.13, 665.123, or 665.124.

(c) Fish for, take, or retain any wild live rock or live hard coral except under a valid special permit for scientific research, aquaculture seed stock collection or traditional and ceremonial purposes by indigenous people.

§ 665.126 Notifications.

Any special permit holder subject to the requirements of this subpart must contact the appropriate NMFS enforcement agent in American Samoa, Guam, or Hawaii at least 24 hours before landing any coral reef ecosystem MUS unit species harvested under a special permit, and report the port and the approximate date and time at which the catch will be landed.

§ 665.127 Allowable gear and gear restrictions.

(a) American Samoa coral reef ecosystem MUS may be taken only with the following allowable gear and methods:

- (1) Hand harvest;
- (2) Spear;
- (3) Slurp gun;
- (4) Hand net/dip net;
- (5) Hoop net for Kona crab;
- (6) Throw net;
- (7) Barrier net;
- (8) Surround/purse net that is attended at all times;

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(9) Hook-and-line (includes handline (powered or not), rod-and-reel, and trolling);

(10) Crab and fish traps with vessel ID number affixed; and (11) Remote-operating vehicles/submersibles.

(b) American Samoa coral reef ecosystem MUS may not be taken by means of poisons, explosives, or intoxicating substances. Possession or use of these materials by any permit holder under this subpart who is established to be fishing for coral reef ecosystem MUS in the management area is prohibited.

(c) Existing FEP fisheries shall follow the allowable gear and methods outlined in their respective plans.

(d) Any person who intends to fish with new gear not included in this section must describe the new gear and its method of deployment in the special permit application. A decision on the permissibility of this gear type will be made by the Regional Administrator after consultation with the Council and the director of the affected state fishery management agency.

§ 665.128 Gear identification.

(a) The vessel number must be affixed to all fish and crab traps on board the vessel or deployed in the water by any vessel or person holding a permit under §§ 665.13 or 665.124 or that is otherwise established to be fishing for American Samoa coral reef ecosystem MUS in the management area.

(b) *Enforcement action.* (1) Traps not marked in compliance with paragraph (a) of this section and found deployed in the coral reef ecosystem management area will be considered unclaimed or abandoned property, and may be disposed of in any manner considered appropriate by NMFS or an authorized officer.

(2) Unattended surround nets or bait seine nets found deployed in the coral reef ecosystem management area will be considered unclaimed or abandoned property, and may be disposed of in any manner considered appropriate by NMFS or an authorized officer.

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§§ 665.129–665.139 [Reserved]

§ 665.140 American Samoa Crustacean Fisheries. [Reserved]

§ 665.141 Definitions.

As used in §§ 665.140 through 665.159:

American Samoa crustacean management unit species means the following crustaceans:

Samoa name	English common name	Scientific name
Ula	spiny lobster	<i>Panulirus marginatus</i> , <i>Panulirus penicillatus</i> .
Papata	slipper lobster	Scyllaridae.
pa'a	Kona crab	<i>Ranina ranina</i> .
	deepwater shrimp ...	<i>Heterocarpus</i> spp.

Crustacean Permit Area 3 (Permit Area 3) includes the EEZ around American Samoa.

§ 665.142 Permits.

(a) *Applicability.* (1) The owner of any vessel used to fish for lobster in Permit Area 3 must have a permit issued for that vessel.

(2) The owner of any vessel used to fish for deepwater shrimp in Crustacean Permit Area 3 must have a permit issued for that vessel.

(b) *General requirements.* General requirements governing application information, issuance, fees, expiration, replacement, transfer, alteration, display, sanctions, and appeals for permits issued under this section, as applicable, are contained in § 665.13.

(c) *Application.* An application for a permit required under this section will be submitted to PIRO as described in § 665.13. If the application for a limited access permit is submitted on behalf of a partnership or corporation, the application must be accompanied by a supplementary information sheet obtained from PIRO and contain the names and mailing addresses of all partners or shareholders and their respective percentage of ownership in the partnership or corporation.

§ 665.143 Prohibitions.

In addition to the general prohibitions specified in § 600.725 of this chapter and § 665.15, in Crustacean Permit Area 3, it is unlawful for any person to fish for, take, or retain deepwater

shrimp without a permit issued under § 665.142.

§ 665.144 Notifications.

(a) The operator of any vessel fishing subject to the requirements of this subpart must:

(1) Report, not less than 24 hours, but not more than 36 hours, before landing, the port, the approximate date and the approximate time at which spiny and slipper lobsters will be landed.

(2) Report, not less than 6 hours and not more than 12 hours before offloading, the location and time that offloading of spiny and slipper lobsters will begin.

(b) The Regional Administrator will notify permit holders of any change in the reporting method and schedule required in paragraphs (a)(1) and (a)(2) of this section at least 30 days prior to the opening of the fishing season.

§ 665.145 At-sea observer coverage.

All fishing vessels subject to §§ 665.140 through 665.145 and subpart A of this part must carry an observer when requested to do so by the Regional Administrator.

§§ 665.146–665.159 [Reserved]

§ 665.160 American Samoa precious coral fisheries. [Reserved]

§ 665.161 Definitions.

As used in §§ 665.160 through 665.169:

American Samoa precious coral management unit species (American Samoa precious coral MUS) means any coral of the genus *Corallium* in addition to the following species of corals:

Local name	English common name	Scientific name
Amu piniki-mumu.	Pink coral (also known as red coral).	<i>Corallium secundum</i> , <i>Corallium regale</i> , <i>Corallium laauense</i> .
Amu auro ...	Gold coral	<i>Gerardia</i> spp., <i>Callogorgia gilberti</i> , <i>Narella</i> spp., <i>Calyptrophora</i> spp.
Amu ofe	Bamboo coral	<i>Lepidisis olapa</i> , <i>Acanella</i> spp.
Amu ofe	Black coral	<i>Antipathes dichotoma</i> , <i>Antipathes grandis</i> , <i>Antipathes ulex</i> .

American Samoa precious coral permit area means the area encompassing the precious coral beds within the U.S. EEZ around American Samoa. Each bed is designated by a permit area code

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and assigned to one of the following four categories:

- (1) Established beds. [*Reserved*]
- (2) Conditional beds. [*Reserved*]
- (3) Refugia. [*Reserved*]
- (4) Exploratory Area. Permit Area X-P-AS includes all coral beds, other than established beds, conditional beds, or refugia, in the EEZ seaward of American Samoa.

§ 665.162 Permits.

(a) Any vessel of the United States fishing for, taking, or retaining American Samoa precious coral MUS in any American Samoa precious coral permit area must have a permit issued under § 665.13.

(b) Each permit will be valid for fishing only in the permit area specified on the permit. Precious Coral Permit Areas are defined in § 665.161.

(c) No more than one permit will be valid for any one vessel at any one time.

(d) No more than one permit will be valid for any one person at any one time.

(e) The holder of a valid permit to fish one permit area may obtain a permit to fish another permit area only upon surrendering to the Regional Administrator any current permit for the precious coral fishery issued under § 665.13.

(f) General requirements governing application information, issuance, fees, expiration, replacement, transfer, alteration, display, sanctions, and appeals for permits for the precious coral fishery are contained in § 665.13.

§ 665.163 Prohibitions.

In addition to the general prohibitions specified in § 600.725 of this chapter and in § 665.15, it is unlawful for any person to:

(a) Use any vessel to fish for, take, retain, possess or land precious coral in any precious coral permit area, unless a permit has been issued for that vessel and area as specified in § 665.13 and that permit is on board the vessel.

(b) Fish for, take, or retain any species of American Samoa precious coral MUS in any precious coral permit area:

(1) By means of gear or methods prohibited by § 665.164.

(2) In refugia specified in § 665.161.

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(3) In a bed for which the quota specified in § 665.167 has been attained.

(4) In violation of any permit issued under § 665.13 or § 665.17.

(5) In a bed that has been closed pursuant to §§ 665.166 or 665.169.

(c) Take and retain, possess, or land any live pink coral or live black coral from any precious coral permit area that is less than the minimum height specified in § 665.165 unless:

(1) A valid EFP was issued under § 665.17 for the vessel and the vessel was operating under the terms of the permit; or

(2) The coral originated outside coral beds listed in this paragraph, and this can be demonstrated through receipts of purchase, invoices, or other documentation.

§ 665.164 Gear restrictions.

Only selective gear may be used to harvest coral from any precious coral permit area.

§ 665.165 Size restrictions.

The height of a live coral specimen shall be determined by a straight line measurement taken from its base to its most distal extremity. The stem diameter of a living coral specimen shall be determined by measuring the greatest diameter of the stem at a point no less than 1 inch (2.54 cm) from the top surface of the living holdfast.

(a) Live pink coral harvested from any precious coral permit area must have attained a minimum height of 10 inches (25.4 cm).

(b) *Black coral.* Live black coral harvested from any precious coral permit area must have attained either a minimum stem diameter of 1 inch (2.54 cm), or a minimum height of 48 inches (122 cm).

§ 665.166 Closures.

(a) If the Regional Administrator determines that the harvest quota for any coral bed will be reached prior to the end of the fishing year, NMFS shall publish a notice to that effect in the FEDERAL REGISTER and shall use other means to notify permit holders. Any such notice must indicate the reason for the closure, the bed being closed, and the effective date of the closure.

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(b) A closure is also effective for a permit holder upon the permit holder's actual harvest of the applicable quota.

§ 665.167 Quotas.

(a) General. The quotas limiting the amount of precious coral that may be taken in any precious coral permit area during the fishing year are listed in § 665.167(d). Only live coral is counted toward the quota. The accounting period for all quotas begins July 1, 1983.

(b) *Conditional bed closure.* A conditional bed will be closed to all non-selective coral harvesting after the quota for one species of coral has been taken.

(c) *Reserves and reserve release.* The quotas for exploratory area X-P-AS will be held in reserve for harvest by vessels of the United States in the following manner:

(1) At the start of the fishing year, the reserve for the American Samoa exploratory area will equal the quota minus the estimated domestic annual harvest for that year.

(2) As soon as practicable after December 31 each year, the Regional Administrator will determine the amount harvested by vessels of the United States between July 1 and December 31 of the year that just ended on December 31.

(3) NMFS will release to TALFF an amount of precious coral for each exploratory area equal to the quota minus two times the amount harvested by vessels of the United States in that July 1-December 31 period.

(4) NMFS will publish in the FEDERAL REGISTER a notification of the Regional Administrator's determination and a summary of the information on which it is based as soon as practicable after the determination is made.

(d) The American Samoa exploratory permit area X-P-AS has an annual quota of 1,000 kg for all American Samoa precious coral MUS combined with the exception of black corals.

§ 665.168 Seasons.

The fishing year for precious coral begins on July 1 and ends on June 30 the following year.

§ 665.169 Gold coral harvest moratorium.

Fishing for, taking, or retaining any gold coral in any precious coral permit area is prohibited through June 30, 2018.

[78 FR 32182, May 29, 2013]

~~Subpart C — Hawaii Fisheries~~

~~§ 665.198 Management area.~~

~~The Hawaii fishery management area is the EEZ seaward of the State of Hawaii, including the Main Hawaiian Islands (MHI) and Northwestern Hawaiian Islands (NWHI), with the inner boundary a line coterminous with the seaward boundaries of the State of Hawaii and the outer boundary a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured.~~

~~§ 665.199 Area restrictions [Reserved]~~

~~§ 665.200 Hawaii bottomfish and seamount groundfish fisheries: [Reserved]~~

~~§ 665.201 Definitions.~~

~~As used in §§ 665.200 through 665.219: *Hawaii bottomfish management unit species (Hawaii bottomfish MUS)* means the following species:~~

Local name	English common name	Scientific name
Lehi	silver jaw jobfish	<i>Aphareus rutilans</i> .
Uku white papio, ulua au	gray jobfish	<i>Aprius virescens</i> .
koa	giant trevally	<i>Caranx ignobilis</i> .
ulua la'uli	black jack	<i>Caranx lugubris</i> .
hpu'upu'u	sea bass	<i>Epinephalus quernus</i> .
Ehuonaga, 'ula'ula	red snapper	<i>Etelis carbunculus</i> .
koa'e	longtail snapper	<i>Etelis coruscans</i> .
ta'ape	blue stripe snapper	<i>Lutjanus kasmira</i> .
kalokale	yellowtail snapper	<i>Pristipomoides auricilla</i> .
'apakapa	pink snapper	<i>Pristipomoides filamentosus</i> .
kalokale	pink snapper	<i>Pristipomoides seiboldii</i> .
gindai	snapper	<i>Pristipomoides zonatus</i> .
pig ulua, butaguichi	thicklip trevally	<i>Pseudocaranx dentex</i> .