

Fishing Regulations for American Samoa
Effective August 10, 1995
Department of Marine and Wildlife Resources
Prepared by Mike King DMWR 5-11-04
A RULE TO REGULATE FISHING BY ADDING CHAPTER 09 TO TITLE 24 OF THE
AMERICAN SAMOA ADMINISTRATIVE CODE.

Sec I. Authority.

- This rule is promulgated pursuant to the authority given to the Department of Marine and Wildlife Resources in 24.0304 ASCA.

24.0901 Definitions:

- 1. Department: means the Department of Marine and Wildlife Resources (ASCA 24.0302 (1)).
- 2. Director: means the director of DMWR (ASCA 24.0302 (2)).
- 3. Fish: means those species of the classes osteichthyes, condrichtyes and agnathes that shall not be fished for except as authorized by rule of the director. The term “fish” includes all stages of development and the body parts of fish species. (ASCA 24.0302(3)).
- 4. Shellfish: means those species of marine and freshwater invertebrates that shall not be taken except as authorized by rule of the director. The term shellfish includes all stages of development and the body parts of shellfish species (ASCA 24.0302 (5)).
- 5. Aquarium Fish: means any fish or shellfish collected alive and intended for home display or for the commercial aquarium fish industry.
- 6. Commercial fishing: means any fishing activity in which part or all of the catch is sold or marketed or for which the fisherman receives income as a result of the fishing activity, such as payment for fishing charter, a salary for fishing, or cash for their portion of the catch.
- 7. Coral: means any living aquatic organism of the subphylum cnidaria that are capable of secreting hard skeletal parts or can incorporate stony secretions within or around their tissues e.g. hermatypic corals, black coral, precious corals, blue coral, organpipe corals, fire corals, lace corals, etc.
- 8. Deep water bottom fish: means those species of fish that live on or near the bottom and are taken at depths greater than 200 feet.
- 9. Drift Gillnet: means any net that is deployed without being staked or otherwise attached to the shore or bottom so it is able to drift unattached.
- 10. Fish aggregation device (FAD): means any object moored in the offshore waters of American Samoa for the purpose of attracting fish.
- 11. Fish Habitat: means any organic or inorganic material so configured as to create an environment that attracts, retains or is significantly used by populations of fish and/or shellfish.
- 12. Fish / Shellfish Trap: means any portable baited or unbaited fish catching apparatus consisting of an enclosure with entrances designed to admit and retain the catch.

- 13. Fish Weir: means any baited or unbaited fish or shellfish catching apparatus consisting of a pocket or trap that is placed in a fixed position.
- 14. Fishing: means to take or attempt to take fish or shellfish by any means. This includes, but is not limited to, the use of gear such as hook and line, spears, nets, traps, weirs, and prohibited gears such as dynamite and fish poisons.
- 15. Ornamental shells: means any shellfish collected primarily for the value of their shell.
- 16. Recreational mooring buoy: means any buoy or mooring device deployed by the department of the United States Government for the purpose of preventing damage to coral or fish habitat by giving recreational vessels a safe option to anchoring.
- 17. Substance fishing: means any fishing activity where the catch is not sold or marketed but is shared within the family or village structure for the purpose of home consumption.
- 18. Take: means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct.
- 19. Traditional fish trap: means a large leaf sweep apparatus constructed of natural materials in the style of traditional Samoan fish traps (Enu, Faga, Sele, etc.).
- 20. Traditional surround net: means a large leaf sweep apparatus constructed of natural materials in the style of the traditional Samoan lau.
- 21 Vessel: means any sort of water craft or float used to transport persons or gear.
- 22. Waters of American Samoa: Means all fresh and brackish waters as well as marine areas within the U.S. Territorial seas surrounding the islands of American Samoa.

Fishing Regulations

II. Required Record Keeping

● 24.0902 Dealers Records

24.0902 Dealers Records

- (a) Every seafood dealer shall make a legible record in the form of a receipt in triplicate on forms to be furnished by the DMWR
- (b) The original signed copy of the receipt shall be delivered to the fisherman at the time of purchase or receiving of the fish or shellfish. The 2nd copy shall be kept by the dealer of person receiving the fish or shell fish for a period of 6 months and shall be available for inspection at any time within that time by the DMWR. The third copy shall be delivered to the department (DMWR) on or before the 16th day of each month.

24.0903 Other Required Records

- (a) Commercial Fishermen shall be required to keep all applicable records in accordance with 24.0306 ASCA
- (b) Fish processors shall be required to file written reports as required by 24.0307 ASCA
- (c) Fish wholesalers shall report all information to the department (DMWR) as required by 24.0308 ASCA

24.0904 Confidentiality of Records

- In accordance with 24.0309 ASCA, the receipts, reports, or other records filed with the department and the information contained therein, shall be confidential, and the records shall

not be public records, and the information contained in the records shall be compiled or published as summaries, so not to disclose the individual record or business of any person.

24.0905 Annual Proclamation

- (a) Each year, the director of the department shall issue a proclamation establishing the following for the taking of fish and shellfish.
 1. Seasons
 2. Area and gear restrictions
 3. License and permit fees
 4. Harvest limits
- (b) Annual proclamations shall be effective beginning on January 1st through December 31st of each year, or until superseded by further proclamation of the director.
- (c) Copies of the current proclamation will be made available at the department (DMWR) in Fagatogo.
- (d) The failure of the department to issue an annual proclamation does not invalidate any existing administrative rules.

Sec III. Fishing Areas

24.0906 Restricted Areas

- 24.0906 Engaging in prohibited activities in restricted fishing areas: It is unlawful to engage in prohibited fishing activities in restricted areas as defined in the annual proclamation.

24.0907 Fagatele Bay National Marine Sanctuary:

In conjunction with existing federal regulations, the following activities are prohibited in Fagatele Bay National Marine Sanctuary sub zones A and B, the boundaries of which incorporate all lands and waters of Fagatele Bay from the mean high water line seaward to a line extending from Fagatele point to Steps point.

- (a) No person shall gather, take, break, cut, damage, destroy or possess any invertebrate, shellfish, coral, bottom formation, or marine plant. Including but not limited to the taking of spiny lobster, slipper lobster, and tridacnid clams.
- (b) No person shall possess or use spear guns, including such devices known as Hawaiian slings, pole spears, arbalettes, pneumatic and spring loaded spear guns, bow and arrows, bang sticks, or any similar device.
- (c) No person shall possess or use seines, trammel nets, or any fixed net.
- (d) No vessel shall anchor in living coral or anchor in any manner that causes damage to living coral.
- (e) No vessel shall discharge, or visitor cause to be discharged, in the marine environment any substance that may damage fish habitat. This includes but is not limited to garbage, human waste and oily bilge.
- (f) There shall be a rebuttable presumption that any items listed in this section found in the possession of a person within the sanctuary have been used within the sanctuary.
- (g) There shall be a rebuttable presumption that any fish or shellfish found in the possession of a person within the sanctuary was taken within the sanctuary.

24.0908 Fagatele Bay Zone A

SUBZONE A

- The following activities are prohibited in Fagatele Bay sub-zone A, The boundaries of which incorporate all lands and waters of Fagatele Bay from the mean high water line seaward to a line extending from Fagatele point to Matautuloa Benchmark

Fagatele Bay Sub Zone A

- (a) No person shall possess or use fishing poles, hand lines or trawls
 - (b) Commercial fishing shall be prohibited
- 24.0909 Rose Atoll National Wildlife Refuge (RANWR):
- In conjunction with existing Federal regulations, the following activities are prohibited within the RANWR, the boundaries of which incorporate all lands within the extreme low water line of the outside perimeter reef except at the entrance channel where the boundary is a line extended between the extreme low waterlines on each side of the entrance channel.

- (a) No person shall gather, take, break, cut, damage, destroy or possess any invertebrate, shellfish, coral, bottom formation, or marine plant. Including but not limited to the taking of spiny lobster, slipper lobster, and tridacnid clams.
- (b) No persons shall take or attempt to take fish.
- (c) No person shall enter RANWR without a special use permit, obtainable at the DMWR.

Sec IV. Illegal and Restricted Fishing Methods and Gear

- 24.0910 Use of prohibited fishing gears: It is unlawful to use or possess in a fishing area any gear prohibited by the annual proclamation.
- 24.0911 Taking of fish with explosives: It is unlawful to take or attempt to take fish or shellfish with dynamite or any other explosive.

- 24.0912 Use of Explosives :

It is unlawful to place or explode dynamite or any explosive, or cause to be placed or explode dynamite or any explosive in the waters of American Samoa for any reason except as may be authorized by the American Samoa Government pursuant to all applicable regulations and permits.

- 24.0913 Use of Poisonous Substances:

It is unlawful to take or attempt to take fish or shellfish using any substance that has poisonous or intoxicating effect on fish or shellfish. These prohibited substances include but are not limited to laundry bleach, quinaldine, insecticides, herbicides, and traditional fish poisons derived from plant and animal materials such as Barringtonia (futu) and Derris (Ava ruu kini).

24.0914 Use of Electrical Devices:

It is unlawful to take or attempt to take any fish or shellfish with any electrical device that operates by shocking with an electrical current.

24.0915 Use of SCUBA:

It is unlawful to take, or attempt to take, or assist in the taking of fish and shellfish (or both) using SCUBA or any underwater breathing apparatus, except in accordance with a permit issued by the director under 24.0938

24.0916 Possession of SCUBA and spear:

It is unlawful to possess SCUBA or any underwater breathing apparatus and spear on any vehicle, vessel, or along the shoreline, unless the person in possession holds a permit issued by the director under 24.0938. If such person does not have on his person a permit issued under 24.038, the burden shifts to the person found in possession to establish by preponderance of evidence that he or she did not intend to use the item for illegal SCUBA fishing.

24.0917 Possession of explosives, poisonous substances, or electrical devices:

It is unlawful for any person when in or on the waters of American Samoa, or on land close to fishing locations, to possess any explosives, poisonous substances, or electrical devices designed to shock fish. Unless the person proves, by the preponderance of evidence, that he intended to use the item for a purpose other than illegal fishing.

24.0918 Hand Nets:

The frame opening for a scoop net shall not exceed three feet in diameter.

24.0919 Cast or Throw nets:

It is unlawful to possess, use or attempt to take fish or shellfish with a cast or throw net with a stretched mesh size of less than one and one half inches.

24.0920 Gill nets It is unlawful to:

- (a) Possess, use or attempt to take fish with a gill net with a stretched mesh size of less than one and one half inches.
- (b) Deploy a gill net or a series of continuous gill nets with a combined length in excess of 700feet.
- (c) Deploy a gill net within fifty feet of another gill net or weir.
- (d) Abandon or discard a gill net within the waters of American Samoa
- (e) Deploy a gill net in any location contrary to existing U.S. Coast Guard or Territorial regulations, or cause a hazard to navigation.
- (f) Deploy a drift gill net in the waters of American Samoa
- (g) Deploy a gill net in water greater than sixty (60) feet deep.
- (h) Gill nets must be checked at least every three hours and cleared of fish and debris.

24.0921 Seines, surround nets and Drag Nets:

- Seines, surround nets and drag nets must have a stretched mesh size of at least one and one half (1.5) inches. This restriction shall not apply to the construction or use of traditional surround nets (lau) made from natural material.

1.5 inches

24.0922 Fish Weirs:

- Any person placing or maintaining a fish weir in the waters of American Samoa must first obtain an official permit from the department. The permittee must comply with all requirements of the permit.

24.0923 Fish Traps

- (a) Fish and shell fish traps shall not exceed six (6) feet in any linear dimension i.e. length, width, height or diameter.
- (b) All fish and shellfish traps must be checked and emptied at least every twenty four (24) Hours.
- (c) It is unlawful to deploy a fish or shellfish trap in any location where the trap, line or marker float may pose a hazard to navigation.
- (d) It is unlawful to abandon or discard a fish or shellfish trap in the waters of American Samoa.

- (e) A permit is required from the Department for the use of any fish or shellfish trap(s) used commercially.

1.5 inches spread length

24.0924 Import and Sale of Illegal Fishing Gear:

- It is unlawful to import, possess, sell or offer for sale any fishing gear that is prohibited us by these laws.

24.0925 Illegally Taken Fish and Shellfish:

- It is unlawful to possess, receive, transport, buy, sell, or offer for sale any fish or shellfish that was taken in a manner contrary to these laws.

24.0926 Destruction of Coral:

- It is unlawful to willfully damage coral during fishing operations.

24.0927 Destruction of Fish Habitat:

- It is unlawful to willfully damage or destroy fish Habitat at any time unless authorized by the American Samoan Government pursuant to all applicable permits and regulations.

V. Specific Fisheries

24.0928 Unlawful Taking of Fish or Shellfish:

- It is unlawful to take any fish or shellfish in any manner, location, quantity, size or season contrary to the annual proclamation.

24.0926 Coral:

- (a) It is unlawful to collect any living coral less than 60 feet deep.
- (b) No commercial harvest of coral is permitted without a valid coral collection permit from the department. The permittee must comply with all requirements and conditions of the permit.

24.0930 Giant Clams (Tridacnidae)

- (a) It is unlawful to take, possess, sell, or import any tridacnid clam from the waters of American Samoa that measures less than seven (7.0) inches when measured across the longest part of its shell.
- (b) Tridacnid clams imported, sold or offered for sale must be in whole condition with meat still attached to the shell to facilitate the measuring of these clams.
- (c) Tridacnid clams taken for personal consumption must remain in whole condition until they reach the fisherman's home or the place of consumption so that they may be measured.
- (d) These restrictions shall not apply to clams raised in captivity providing the following:
 - (1) The clam farmer possesses a valid ☐ aquaculture permit from the department; and
 - (2) The possessor can demonstrate that the clam was raised in captivity.

24.0931 Ornamental Shells:

- The commercial harvest of ornamental shells from the waters of American Samoa requires a valid shell collection permit from the department. The permittee must comply with all requirements and conditions of the permit.

24.0930 Mangrove Crabs

(Scylla serrata):

- (a) It is unlawful to take, possess, sell, offer for sale, import or export any egg-bearing mangrove crab.

- (b) It is unlawful to take, possess, sell, offer for sale, import or export any mangrove crab that measures less than six (6.0) inches across the widest portion of the back.

24.0933 Coconut Crab
(*birgus latro*)

- (a) It is unlawful to take, possess, sell, offer for sale, import or export any egg-bearing coconut crab.
- (b) It is unlawful to interfere with a coconut crab engages in the activity of releasing larvae into the waters of American Samoa.
- (b) It is unlawful to take, possess, sell, offer for sale, import or export any mangrove crab that measures less than three (3.0) inches across the widest portion of the back.
- (d) These regulations will apply to coconut crabs found throughout the Territory including land areas.

24.0935 Slipper Lobster
(*Parribacus* sp.)

- (a) It is unlawful to take, possess, sell, offer for sale, import or export any egg-bearing slipper lobsters.
- (b) It is unlawful to use spears or snagging devices for the collection of slipper lobsters.

24.0936 Spiny Lobsters
(*Parribacus* sp.)

- (a) It is unlawful to take, possess, sell, offer for sale, import or export any egg-bearing spiny lobster.
- (b) It is unlawful to take, possess, import, export, sell or offer for sale spiny lobsters that measure less than three and one eighth (3.1/8) inches in carapace length, defined as the midline measurement taken from the leading edge of the carapace between the horns to the rear edge of the carapace.
- (c) Lobsters taken, imported, sold or offered for sale must be whole to facilitate the measuring of these lobsters

24.0936 Sea Turtles

- (a) The following activities relating to the green sea turtle (*Chelonia mydas*), the hawksbill sea turtle (*Eretmochelys imbricata*), and the Leatherback turtle (*dermoochelys coriacea*) are Prohibited:
- (1) Import, export, sell or offer for sale any such species or body parts of such species,
- (2) Take any such species in American Samoa, and

- (3) Possess, deliver, carry, transport or ship by any means whatsoever and such species or the body parts of any such species.

Import, export, sell or offer for sale any such species or body parts of such species.

24.0935 Marine Mammals

It Is Unlawful to:

- (1) Take an marine mammal in American Samoa
- (2) Import, export, sell, or offer for sale any marine mammal or body parts of any marine mammal, and
- (3) Possess, deliver, carry, transport or ship by any means whatsoever any marine mammal or the body parts of any marine mammal.

Sec VI.

PERMITS AND LICENSES

VI. 24.0938 Permits

- (a) The following permits are required when applicable:
 - (1) Aquarium fish collection permit
 - (2) Fish weir permit
 - (3) Commercial trapping permit
 - (4) Commercial coral harvesting permit
 - (5) Commercial shell harvesting permit
 - (6) Scientific collection permit
 - (7) Importation permit for living aquatic organisms
- (b) Request for permits shall be submitted to the director on forms provided by the department.
- (c) The director may disapprove the application, or condition any required permit, if in his opinion the issuance of the permit would be contrary to 24.0304 ASCA which mandates the department to manage, protect, preserve and perpetuate the marine and wildlife resources in the Territory.

24.0939 Licenses

- (a) A commercial fishing license is required for all fishermen engaging in commercial fishing in the waters of American Samoa. Persons who wish to apply for a commercial fishing license must:
 - (1) Continuously reside in American Samoa for at least one year.
 - (2) Show proof of legal residency or citizenship, and
 - (3) Show proof of previous fishing experience.
- (b) License applications shall be submitted to the director on forms supplied by the department
- (c) A recreational fishing license may be required for fishermen engaging in subsistence or recreational fishing activities. Requirements for the license shall be detailed in the annual proclamation.
- (d) A license shall be issued or renewed upon approval of the application form and payment of the required fee.
- (e) The director or his designees may suspend or revoke any license for violation of any regulation under this chapter pursuant to the Administrative Procedures Act.

- (f) The director may disapprove the application of any required license if in his opinion the issuance of the license would be contrary to 24.0304 (1) ASCA which mandates the department to manage, protect, preserve and perpetuate the marine and wildlife resources in the Territory.
- (g) Fees for the licenses shall be set in the annual proclamation.

Sec VII. SPECIAL REGULATIONS

● 24.0940 Scientific Collection Permit:

- Any person with a bona fide scientific or educational purpose may apply in writing to the director for a scientific collection permit that may allow the applicant to collect aquatic organisms using gear, in certain areas, or at certain times, otherwise prohibited by these regulations.

24.0941 Imported Fish Products:

- All imported fresh fish and shellfish products of the same species found in American Samoa waters must comply with all applicable laws in this document.

24.0942 Importation of Living Aquatic Organisms:

- Any person wishing to import living aquatic organisms to the Territory must first obtain a permit from the department after consultation and approval by the director.

24.0943 Fish Aggregating Devices

- a) Any person wishing to deploy a FAD in the waters of American Samoa must first obtain a permit to do so from the U.S Coast Guard. Preliminary planning shall be carried out in cooperation with the department and the U.S Coast Guard.
- b) It is unlawful to moor any vessel, line, float, net, etc. to any department FAD, unless approved by the director.
- c) It is unlawful to obstruct or intentionally hinder another vessel from fishing in the area of a department FAD.

24.0944 Recreational Mooring

Buoys

- a) It is unlawful to fish or conduct fish or shellfish harvesting activities while moored to a recreational mooring buoy.
- b) It is unlawful to tamper with, vandalize or remove any recreational mooring buoy.
- c) Recreational mooring buoys shall be clearly marked "No Fishing".

24.0945 Public Access Boat Ramps

- a) It is unlawful to intentionally hinder any vehicle or vessel from using a department constructed boat ramp
- b) It is unlawful to leave any vehicle, vessel or trailer on a department constructed boat ramp for any period exceeding one hour.
- c) It is unlawful to tie any vessel to a department constructed boat ramp or moor any vessel in a manner that prevents access to the boat ramp

24.0946 Enforcement

- (a) These laws are fully enforceable by ASG department of Public Safety Officers and other authorize persons, although the primary enforcement agents will be deputized DMWR staff.

- (b) Pursuant to 24.0310 (a) ASCA, the director and designated staff shall have full authority to issue citations, collect fines, impound vessels, vehicles and equipment, and make arrest for violations of these laws.

24.0947 Penalties

- (a) Pursuant to 24.0311 (a) ASCA, any person who violates any provision of these laws shall be guilty of a class B misdemeanor punishable by a fine not to exceed five hundred dollars or by a prison term in excess of fifteen days but not to exceed six months, or by both.
- (b) Pursuant to 24.0311 (b) ASCA, any business entity found in violation of these laws shall be fined not less than one thousand dollars per violation.
- (c) Pursuant to 24.0311 (b) ASCA, any property taken or possessed in violation of these laws may be subject to forfeiture to the government pursuant to a civil proceeding in the High Court of American Samoa.