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FISHING AND HUNTING REGULATIONS FOR AMERICAN SAMOA

Effective August 10, 1995

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A RULE TO REGULATE FISHING BY ADDING CHAPTER 09 TO TITLE 24 OF THE
AMERICAN SAMOA ADMINISTRATIVE CODE.

Section 1. Authority.

This rule is promulgated pursuant to the authority given to the Department of Marine and Wildlife Resources in 24,0304 ASCA.

Section 2. Rule

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. ermatypic 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 that 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: Any buoy or mooring device deployed by the department or 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. Subsistence 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 any fish or shellfish trap 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.

II. REQUIRED RECORD KEEPING

24.0902 Dealers Records

- (a) In accordance with 24.0305 ASCA, every seafood dealer shall make a legible record in the form of a receipt in triplicate on forms to be furnished by the department.
- (b) The original signed copy of the receipt shall be delivered to the fisherman at the time of the purchase or receipt of the fish or shellfish. The duplicate copy shall be kept by the dealer or person receiving the fish or shellfish for a period of six months and shall be available for inspection at any time within that period by the department. The triplicate copy shall be delivered to the department on or before the sixteenth day of each month.

24.0903 Other Required Records - Fishermen, Fish Processors, and Fish Wholesalers.

- (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 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 as 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, and
 - (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 office in Fagatogo.
- (d) The failure of the department to issue an annual proclamation does not invalidate any existing administrative rules.

III. FISHING 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 subzones 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 spearguns, including such devices known as Hawaiian slings, pole spears, arbalettes, pneumatic and spring loaded spearguns, bow and arrows, bang sticks, or any similar taking 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 subzone A:** The following activities are prohibited in Fagatele Bay subzone 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.

- (a) No person shall possess or use fishing poles, handlines, 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 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. This includes but is not limited to the taking of spiny lobster, slipper lobster, and tridacrid clams.
- (b) No person shall take or attempt to take fish.
- (c) No person shall enter RANWR without a special use permit, obtainable at DMWR.

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 a 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 niu kini).
- 24.0914 Use of electrical devices:** It is unlawful to take or attempt to take fish or shellfish with any electrical device that operates by shocking with an electrical current.
- 24.0915 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 the 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.
- 24.0916 Hand nets:** The frame opening for hand or scoop nets shall not exceed three feet in diameter.

24.0917 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 less than three quarters of an inch.

24.0918 Gillnets: It is unlawful to:

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

24.0919 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 materials.

24.0920 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.

24.0921 Fish Traps:

- (a) Fish and shellfish traps shall not exceed six (6.0) 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.

- 24.0922 **Import and sale of illegal fishing gear:** It is unlawful to import, possess, sell or offer for sale any fishing gear that is prohibited from use by these laws
- 24.0923 **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.
- 24.0924 **Destruction of coral:** It is unlawful to willfully damage coral during fishing operations.
- 24.0925 **Destruction of fish habitat:** It is unlawful to willfully damage or destroy fish habitat at any time unless authorized by the American Samoa Government pursuant to all applicable permits and regulations.

V.

SPECIFIC FISHERIES

- 24.0926 **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.
- 24.0927 **Coral**
- (a) It is unlawful to collect any living coral in water 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.
- 24.0928 **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 the 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 whole condition until they reach the fishermans 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.
- 24.0929 **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.

24.0931 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 engaged in the activity of releasing larvae into the waters of American Samoa.
- (c) It is unlawful to take possess, sell, offer for sale, import or export any coconut 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.

24.0932 Slipper Lobster (*Parribacus sp.*)

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

24.0933 Spiny Lobster (*Parribacus sp.*)

- (a) It is unlawful to take possess, import, export, sell or offer for sale egg bearing spiny lobsters.
- (b) It is unlawful to take, possess, sell or offer for sale spiny lobsters that measure less than three and one eighth 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.

24.0934 Sea Turtles.

- (a) The following activities relating to the green sea turtle (*Chelonia mydas*) the hawksbill turtle (*Eretmochelys imbricata*) and the leatherback turtle (*Dermochelys 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 any such species or the body parts of any such species.

24.0935 Marine Mammals

- (a) It is unlawful to:
- (1) Take a marine mammal in American Samoa,
 - (2) import, export sell or offer for sale any marine mammal or the body parts of any marine mammal, and
 - (3) possess, deliver, carry, transport or ship by any means whatsoever any marine mammal the body parts of any marine mammal.

VI. PERMITS AND LICENSES

24.0936 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) Requests 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.

24.0937 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 licenses shall be set in the annual proclamation.

VII. SPECIAL REGULATIONS

- 24.0938 **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.
- 24.0939 **Imported Fish Products:** All imported fresh fish and shellfish products of the same species found in American Samoan waters must comply with all applicable laws in this document.
- 24.0940 **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.

24.0941 Fish Aggregation Devices (FADs)

- (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.
- (d) It is unlawful to tamper with any portion of a department FAD.

24.0942 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".

24.0943 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.

VIII ENFORCEMENT AND PENALTIES

24.0944 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 arrests for violations of these laws.

24.0945 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.