

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 665**

[Docket No. 180202118–8753–01]

RIN 0648–BH63

Pacific Island Fisheries; Reclassifying Management Unit Species to Ecosystem Component Species

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to reclassify certain management unit species in the Pacific Islands as ecosystem component species. The proposed rule would also update the scientific and local names of certain species. The intent of this proposed rule is to prioritize conservation and management efforts and to improve efficiency of fishery management in the region.

DATES: NMFS must receive comments by October 29, 2018.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2018–0021, by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2018-0021>, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

- *Mail:* Send written comments to Michael D. Tosatto, Regional Administrator, NMFS Pacific Islands Region (PIR), 1845 Wasp Blvd., Bldg. 176, Honolulu, HI 96818.

Instructions: NMFS may not consider comments sent by any other method, to any other address or individual, or received after the end of the comment period. All comments received are a part of the public record and will generally be posted for public viewing on <https://www.regulations.gov> without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

The Western Pacific Fishery Management Council (Council)

prepared Amendment 4 to the Fishery Ecosystem Plan (FEP) for American Samoa, Amendment 5 to the FEP for the Marianas Archipelago, and Amendment 5 to the FEP for Hawaii. Those amendments, available as a single document, include an environmental assessment (EA) that describes the potential impacts on the human environment that would result from the proposed rule. Copies of the EA and other supporting documents are available at <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Sarah Ellgen, NMFS PIR Sustainable Fisheries, 808–725–5173.

SUPPLEMENTARY INFORMATION: The Council and NMFS manage fishing in the U.S. Exclusive Economic Zone (EEZ) around the U.S. Pacific Islands. The management of bottomfish, coral reef ecosystem species, precious corals, and crustaceans in the EEZ (Federal waters) around Hawaii, the Mariana Islands (Guam and the Commonwealth of the Northern Mariana Islands (CNMI)), and American Samoa is achieved under the FEPs for American Samoa, the Mariana Archipelago, and Hawaii, pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The Magnuson-Stevens Act authorizes management of fisheries in the EEZ, while American Samoa, Guam, the CNMI, and Hawaii each manage the fisheries shoreward of the EEZ around their respective island areas.

Section 301(a) of the Magnuson-Stevens Act sets ten National Standards for fishery conservation and management. National Standard 1 (NS1) requires NMFS to use conservation and management measures to prevent overfishing, while achieving optimum yield on a continuing basis. The NS1 guidelines provide guidance to councils on the stocks under their jurisdiction that require conservation and management, and on how to address ecosystem component species (ECS). Specifically, not every fishery requires Federal management, but stocks that are caught predominately in Federal waters, and are also overfished or subject to overfishing, or likely to become overfished or subject to overfishing, do require conservation and management. Under NS1, Councils should consider the following ten non-exhaustive factors when deciding whether stocks require conservation and management:

1. The stock is an important component of the marine environment.
2. The stock is caught by the fishery.
3. Whether a fishery management plan (FMP) can improve or maintain the

condition of the stock. (Note that the Council reorganized their FMPs and calls them fishery ecosystem plans (FEPs)).

4. The stock is a target of a fishery.

5. The stock is important to commercial, recreational, or subsistence users.

6. The fishery is important to the Nation or to the regional economy.

7. The need to resolve competing interests and conflicts among user groups, and whether an FMP can further that resolution.

8. The economic condition of a fishery, and whether an FMP can produce more efficient utilization.

9. The needs of a developing fishery, and whether an FMP can foster orderly growth.

10. The extent to which the fishery is managed adequately by states, by state/Federal programs, or by Federal regulations pursuant to other FMPs or international commissions, or by industry self-regulation, consistent with the requirements of the Magnuson-Stevens Act and other applicable law.

Councils may also consider other factors beyond the ten listed factors.

NS1 also describes ECS as fish stocks that a council or the Secretary has determined do not require conservation and management, but desire to list in an FMP or FEP to achieve ecosystem management objectives. However, because ECS do not need conservation and management, ECS are not managed using annual catch limits (see 50 CFR 600.305(d)(13)). Management measures for ECS may include requirements to, for example, collect data, minimize bycatch or bycatch mortality, protect the associated role of ECS in the ecosystem, and/or address other ecosystem issues. Data collection also allows for monitoring the species in case a fishery develops or monitoring for other indications that suggest a need to consider possible changes in Federal management.

The Council reassessed existing bottomfish, coral reef ecosystem, precious coral, and crustacean, management unit species (MUS) in the three FEPs to determine which ones require conservation and management and which ones may be better suited as ECS, that is, stocks that do not require Federal conservation and management. Many of the MUS are caught predominately in state or territorial waters, generally 0–3 nm from shore, areas that are not in the EEZ. The Council and NMFS have limited authority to manage fishing activity for species predominately caught in state or territorial waters.

This proposed rule is intended to create a more effective Federal management system for Pacific Island fisheries that focuses resources on those species or stocks caught in Federal waters that are in need of conservation and management. The Council and NMFS would still be allowed to monitor and manage ECS and identify whether Federal management is needed. In addition, the Council may also recommend continued application of other management measures for ECS that meet its ecosystem objectives in the FEP.

This proposed rule would not change any fishery operations in terms of location, target and non-target species, catch, effort, fishermen participation, gear composition, seasonality, intensity, or bycatch. For newly designated ECS, the Council and NMFS would no longer establish annual catch limits or associated accountability measures. The states and territories would continue to monitor fisheries that catch ECS, in cooperation with the Council and NMFS, and if an ECS stock becomes newly identified as a target of a Federal fishery in the future, NMFS and the Council could consider reclassifying the

ECS as MUS, and place that stock under active management measures.

Stock reclassified as ECS would no longer have associated designations of essential fish habitat (EFH), because Councils may only designate EFH for stocks that are in need of conservation and management. The effects of this change would be minor, however, because the habitats that are essential to the MUS that require conservation and management overlap with most of the stocks that would be designated as ECS. As a result, the total area designated as EFH would change only for the deep (400–700 m) benthic substrates near Guam, the Commonwealth of the Northern Marianas (CNMI), and American Samoa. In those areas, the laying of communication cables and military activities that could potentially result in expended military materials falling to the seafloor would be the only activities with potential benthic effects. Without an EFH designation for fish stocks in those areas, Federal agencies would need to continue to rely on other applicable laws (e.g., the Clean Water Act) to evaluate and mitigate potential large effects of their proposed actions.

This proposed rule would reduce the number of MUS from 205 species or

families to 11 in the American Samoa FEP, from 227 species or families to 13 in the Marianas FEP, and from 173 species or families to 20 in the Hawaii FEP. See the EA Appendix B for the complete list of ECS (see **ADDRESSES**).

This proposed rule would remove the definitions of “Currently Harvested Coral Reef Taxa (CHCRT)” and “Potentially Harvested Coral Reef Taxa (PHCRT)” and revise the definitions of “Ecosystem Component Species” and “Special Permit” throughout. In the current regulations, coral reef MUS are divided into two categories: CHCRT and PHCRT. CHCRT are those species that are harvested commercially in the EEZ, and PHCRT are those species that may be potentially harvested in the future. The proposed rule would reclassify all coral reef MUS as ECS, so the terms CHCRT and PHCRT would be unnecessary. The proposed definition of ecosystem component species aligns with the definition at § 600.305. All definitions referencing “MUS” in this subpart would be revised to also include ECS, where applicable.

For American Samoa, this proposed rule would reclassify the following species groups:

Current classification	Change applies to	Proposed classification
American Samoa bottomfish MUS	Some species	American Samoa bottomfish ECS.
American Samoa coral reef ecosystem MUS	All	American Samoa coral reef ECS.
American Samoa crustacean MUS	All	American Samoa crustacean ECS.
American Samoa precious coral MUS	All	American Samoa precious coral ECS.

For Hawaii, this proposed rule would reclassify the following species groups:

Current classification	Change applies to	Proposed classification
Hawaii bottomfish MUS	Some species	Hawaii bottomfish ECS.
Hawaii coral reef ecosystem MUS	All	Hawaii coral reef ECS.
Hawaii crustacean MUS	Some species	Hawaii crustacean ECS.
Hawaii precious coral MUS	Some species	Hawaii precious coral ECS.

For the Marianas Archipelago, this proposed rule would reclassify the following species groups:

Current classification	Change applies to	Proposed classification
Mariana bottomfish MUS	Some species	Mariana bottomfish ECS.
Mariana coral reef ecosystem MUS	All	Mariana coral reef ECS.
Mariana crustacean MUS	All	Mariana crustacean ECS.
Mariana precious coral MUS	All	Mariana precious coral ECS.

For a detailed description of the methods that the Council and NMFS used to identify the species to reclassify from MUS to ECS, please refer to Section 2 of the EA (see **ADDRESSES**).

The proposed rule would also update several scientific and common names according to current scientific classifications. All existing management measures, including reporting and

record keeping, prohibitions, and experimental fishing regulations would apply to the associated ECS, unless otherwise specified.

NMFS must receive any comments by the date provided in the DATES heading. In addition, NMFS is soliciting comments on proposed Amendment 4 to the Fishery Ecosystem Plan (FEP) for American Samoa, Amendment 5 to the FEP for the Marianas Archipelago, and Amendment 5 to the FEP for Hawaii, as stated in the Notice of Availability published on August 8, 2018 (83 FR 39039). NMFS must receive comments on the amendments by October 9, 2018. NMFS will consider public comments received in response to the request for comments in the NOA and in response to the request for comments in this proposed rule in the decision to approve, disapprove, or partially approve the amendments.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the three FEPs, other provisions of the Magnuson-Stevens Act, and other applicable laws, subject to further consideration after public comment.

Certification of Finding of No Significant Impact on Substantial Number of Small Entities

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed specification, if adopted, would not have a significant economic impact on a substantial number of small entities. A description of the proposed action, why it is being considered, and the legal basis for it are contained in the preamble to this proposed rule.

The proposed rule would reclassify some of the management unit species as ecosystem component species in the FEPs for American Samoa, the Mariana Archipelago, and Hawaii. The proposed action would reduce the number of management unit species in the American Samoa FEP from 205 species or families to 11; from 227 species or families to 13 in the Marianas FEP; and from 173 species or families to 20 in the Hawaii FEP. The proposed action would not modify any fishery activities, and there would be no direct economic impact to fisheries.

The proposed rule does not duplicate, overlap, or conflict with other Federal rules and is not expected to have a significant impact on small entities (as discussed above), organizations or government jurisdictions. There does not appear to be disproportionate economic impacts from the proposed rule based on home port, gear type, or relative vessel size. The proposed rule

will not place a substantial number of small entities, or any segment of small entities, at a significant competitive disadvantage to large entities. As a result, an initial regulatory flexibility analysis is not required, and none has been prepared.

Executive Order 12866

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

List of Subjects in 50 CFR Part 665

Administrative practice and procedure, American Samoa, Ecosystem, Fisheries, Fishing, Guam, Hawaii, Northern Mariana Islands, Permits, Reporting and recordkeeping requirements.

Dated: August 31, 2018.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 665 as follows:

PART 665—FISHERIES IN THE WESTERN PACIFIC

1. The authority citation for 50 CFR part 665 continues to read as follows:

Authority: 16 U.S.C. 1801 et seq.

2. In § 665.1, revise paragraph (a) to read as follows:

§ 665.1 Purpose and scope.

(a) The regulations in this part govern fishing for Pacific Island management unit species (MUS) and ecosystem component species (ECS) by vessels of the United States that operate or are based inside the outer boundary of the U.S. EEZ around American Samoa, Hawaii, Guam, the Northern Mariana Islands, Palmyra Atoll, Kingman Reef, Jarvis Island, Baker Island, Howland Island, Johnston Atoll, and Wake Island.

3. In § 665.4, revise paragraph (c) to read as follows:

§ 665.4 Annual catch limits.

(c) Exceptions. The Regional Administrator is not required to specify an annual catch limit for an ECS, or for an MUS that is statutorily excepted from the requirement pursuant to 50 CFR 600.310(h)(2).

4. In § 665.12, revise the definition of "American Samoa FEP," remove the definition of "Currently harvested coral reef taxa," revise the definitions of "Ecosystem component species," "First

level buyer," "Hawaii FEP," "Mariana FEP," "No-take MPA," "Offload," and "Pelagics FEP," remove the definition of "Potentially harvested coral reef taxa," and revise the definitions of "PRIA FEP," "Special permit," and "Transship" to read as follows:

§ 665.12 Definitions.

American Samoa FEP means the Fishery Ecosystem Plan for American Samoa, available from the Western Pacific Fishery Management Council or PIRO.

Ecosystem component species (ECS) means a stock that a Council or the Secretary has determined does not require conservation and management, but is identified in an FEP to achieve ecosystem management objectives.

First level buyer means:

(1) The first person who purchases, with the intention to resell, management unit species (MUS) or ECS, or portions thereof, that were harvested by a vessel that holds a permit or is otherwise regulated under crustacean fisheries in subparts B through E of this part; or

(2) A person who provides recordkeeping, purchase, or sales assistance in the first transaction involving MUS or ECS (such as the services provided by a wholesale auction facility).

Hawaii FEP means the Fishery Ecosystem Plan for the Hawaiian Archipelago, available from the Western Pacific Fishery Management Council or PIRO.

Mariana FEP means the Fishery Ecosystem Plan for the Mariana Archipelago, available from the Western Pacific Fishery Management Council or PIRO.

No-take MPA means an area of the U.S. EEZ that is closed to fishing for or harvesting of any MUS or ECS, as defined in subparts B through F of this part.

Offload means to remove MUS or ECS from a vessel.

Pelagics FEP means the Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific, available from the Western Pacific Fishery Management Council or PIRO.

PRIA FEP means the Fishery Ecosystem Plan for the Pacific Remote Island Areas of Palmyra Atoll, Kingman

Reef, Jarvis Island, Baker Island, Howland Island, Johnston Atoll, and Wake Island, available from the Western Pacific Fishery Management Council or PIRO.

* * * * *

Special permit means a permit issued to allow fishing for coral reef ECS in low-use MPAs or with any gear not specifically allowed under § 665.127, § 665.227, or § 665.427.

* * * * *

Transship means to offload or otherwise transfer MUS or ECS or products thereof to a receiving vessel.

* * * * *

■ 5. In § 665.13, revise paragraph (k) to read as follows:

§ 665.13 Permits and fees.

* * * * *

(k) *Display*. Any permit issued under this subpart, or a facsimile of such permit, must be on board the vessel at all times while the vessel is fishing for, taking, retaining, possessing, or landing MUS or ECS shoreward of the outer boundary of the fishery management area. Any permit issued under this section must be displayed for inspection upon request of an authorized officer.

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■ 6. In § 665.14, revise paragraphs (a), (c), (d), (g)(2) introductory text, (g)(2)(ii), and (g)(3) and (4) to read as follows:

§ 665.14 Reporting and recordkeeping.

(a) *State reporting*. Except for precious coral and crustacean fisheries, any person who is required to do so by applicable state law or regulation must make and/or file all reports of MUS or ECS landings containing all data and in the exact manner required by applicable state law or regulation.

* * * * *

(c) *Transshipment logbooks*. Any person subject to the requirements of § 665.124(a)(2), § 665.224(a)(2), § 665.424(a)(2), § 665.624(a)(2), or § 665.801(e) must maintain on board the vessel an accurate and complete NMFS transshipment logbook containing report forms provided by the Regional Administrator. All information specified on the forms must be recorded on the forms within 24 hours after the day of transshipment. Each form must be signed and dated by the receiving vessel operator. The original logbook for each day of transshipment activity must be submitted to the Regional Administrator within 72 hours of each landing of western Pacific pelagic MUS. The original logbook for each day of

transshipment activity must be submitted to the Regional Administrator within 7 days of each landing of coral reef ECS.

(d) *Sales report*. The operator of any fishing vessel subject to the requirements of § 665.142, § 665.242, § 665.442, or § 665.642, or the owner of a medium or large fishing vessel subject to the requirements of § 665.404(a)(2) must submit to the Regional Administrator, within 72 hours of offloading of crustacean MUS or ECS, an accurate and complete sales report on a form provided by the Regional Administrator. The form must be signed and dated by the fishing vessel operator.

* * * * *

(g) * * *

(2) *Crustaceans*. Upon request, any first-level buyer must immediately allow an authorized officer and any employee of NMFS designated by the Regional Administrator, to access, inspect, and copy all records relating to the harvest, sale, or transfer of crustacean MUS or ECS taken by vessels that have permits issued under this subpart or §§ 665.140 through 665.145, §§ 665.240 through 665.252, §§ 665.440 through 665.445, or §§ 665.640 through 665.645. This requirement may be met by furnishing the information on a worksheet provided by the Regional Administrator. The information must include, but is not limited to:

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(ii) The amount, number, and size of each MUS or ECS involved in each transaction.

* * * * *

(3) *Bottomfish and seamount groundfish*. Any person who is required by state laws and regulations to maintain records of landings and sales for vessels regulated by this subpart and by §§ 665.100 through 665.105, 665.200 through 665.212, 665.400 through 665.407, and 665.600 through 665.606 must make those records immediately available for Federal inspection and copying upon request by an authorized officer.

(4) *Coral reefs*. Any person who has a special permit and who is required by state laws and regulations to maintain and submit records of catch and effort, landings and sales for coral reef ECS by this subpart and §§ 665.120 through 665.128, §§ 665.220 through 665.228, §§ 665.420 through 665.428, or §§ 665.620 through 665.628 must make those records immediately available for Federal inspection and copying upon

request by an authorized officer as defined in § 600.10 of this chapter.

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■ 7. In § 665.15, revise paragraphs (l), (n), and (o) to read as follows:

§ 665.15 Prohibitions.

* * * * *

(l) Fish for, take or retain within a no-take MPA, defined in § 665.99, § 665.199, § 665.399, or § 665.599, any bottomfish MUS or ECS, crustacean MUS or ECS, western Pacific pelagic MUS, precious coral MUS or ECS, seamount groundfish MUS, or coral reef ecosystem ECS.

* * * * *

(n) Fish for, catch, or harvest MUS or ECS without an operational VMS unit on board the vessel after installation of the VMS unit by NMFS, in violation of § 665.19(e)(2).

(o) Possess MUS or ECS, that were harvested after NMFS has installed the VMS unit on the vessel, on board that vessel without an operational VMS unit, in violation of § 665.19(e)(2).

* * * * *

■ 8. In § 665.17, revise paragraphs (a) and (b) to read as follows:

§ 665.17 Experimental fishing.

(a) *General*. The Regional Administrator may authorize, for limited purposes, the direct or incidental harvest of MUS or ECS that would otherwise be prohibited by this part. No experimental fishing may be conducted unless authorized by an EFP issued by the Regional Administrator in accordance with the criteria and procedures specified in this section. EFPs will be issued without charge.

(b) *Observers*. No experimental fishing for crustacean MUS or ECS may be conducted unless a NMFS observer is aboard the vessel.

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■ 9. Revise § 665.101 to read as follows:

§ 665.101 Definitions.

As used in §§ 665.100 through 665.119:

American Samoa bottomfish ecosystem component species (American Samoa bottomfish ECS) means those species identified as ECS in the American Samoa FEP and not defined as American Samoa bottomfish MUS.

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

Local name	Common name	Scientific name
palu-gutusaliva	red snapper, silvermouth	<i>Aphareus rutilans</i> .
asoama	gray snapper, jobfish	<i>Aprion virescens</i> .
tafauli	black trevally, jack	<i>Caranx lugubris</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-paomumu	redgill emperor	<i>Lethrinus rubrioperculatus</i> .
savane	blue-line snapper	<i>Lutjanus kasmira</i> .
palu-'ena'ena	pink snapper	<i>Pristipomoides filamentosus</i> .
palu-sina	yelloweye snapper	<i>Pristipomoides flavipinnis</i> .
palu-ula, palu-sega	Snapper	<i>Pristipomoides zonatus</i> .

■ 10. Revise § 665.103 to read as follows:

§ 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 or ECS using gear prohibited under § 665.104.

■ 11. In § 665.104, revise paragraph (a) to read as follows:

§ 665.104 Gear restrictions.

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

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■ 12. Revise § 665.121 to read as follows:

§ 665.121 Definitions.

As used in §§ 665.120 through 665.139, *American Samoa coral reef ecosystem component species* (*American Samoa coral reef ECS*) means those species identified as ECS in the American Samoa FEP and not defined as MUS or another ECS in this subpart.

■ 13. Revise § 665.123 to read as follows:

§ 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 ECS 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.

■ 14. In § 665.124, revise paragraphs (a)(1) and (2) and (a)(3)(i) and (ii) to read as follows:

§ 665.124 Permits and fees.

(a) * * *

(1) *Special permit.* Any person of the United States fishing for, taking or

retaining American Samoa coral reef ECS must have a special permit if they fish, or if a vessel which they operate is used to fish, for any:

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

(ii) American Samoa coral reef ECS in the coral reef ecosystem management area; or

(iii) American Samoa coral reef ECS 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 American Samoa coral reef ECS harvested within low-use MPAs.

(3) * * *

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

(ii) Any person fishing for American Samoa coral reef ECS outside of an MPA, who does not retain any American Samoa coral reef ECS; and

* * * * *

■ 15. In § 665.125, revise paragraphs (a) introductory text, (a)(3), and (b) introductory text to read as follows:

§ 665.125 Prohibitions.

* * * * *

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

* * * * *

(3) The American Samoa coral reef ECS 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 ECS:

* * * * *

■ 16. Revise § 665.126 to read as follows:

§ 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 American Samoa coral reef ECS harvested under a special permit and report the port and the approximate date and time at which the catch will be landed.

■ 17. In § 665.127, revise paragraphs (a) introductory text and (b) to read as follows:

§ 665.127 Allowable gear and gear restrictions.

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

* * * * *

(b) American Samoa coral reef ECS 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 ECS in the management area is prohibited.

* * * * *

■ 18. In § 665.128, revise paragraph (a) to read as follows:

§ 665.128 Gear identification.

(a) *Gear marking.* 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 ECS in the management area.

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■ 19. In § 665.141, add the definition of “American Samoa crustacean ecosystem component species” in alphabetical order and remove the definition of “American Samoa crustacean management unit species” to read as follows:

§ 665.141 Definitions.

* * * * *

American Samoa crustacean ecosystem component species

(*American Samoa crustacean ECS*) means those species identified as ECS in the American Samoa FEP.

* * * * *

■ 20. In § 665.161, add the definition of “American Samoa precious coral ecosystem component species” in alphabetical order and remove the definition of “American Samoa precious coral management unit species” to read as follows:

§ 665.161 Definitions.

* * * * *

American Samoa precious coral ecosystem component species (American Samoa precious coral ECS) means those species identified as ECS in the American Samoa FEP.

* * * * *

■ 21. In § 665.162, revise paragraph (a) to read as follows:

§ 665.162 Permits.

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

* * * * *

■ 22. In § 665.163, revise the introductory text of paragraphs (b) and (c) to read as follows:

§ 665.163 Prohibitions.

* * * * *

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

* * * * *

(c) Take and retain, possess, or land any live *Hemicorallium laauense*, *Pleurocorallium secundum*, *Corallium* sp., or live black coral from any precious coral permit area that is less than the minimum height specified in § 665.165 unless:

* * * * *

■ 23. In § 665.165, revise paragraphs (a) and (b) to read as follows:

§ 665.165 Size restrictions.

* * * * *

(a) Live *Hemicorallium laauense*, *Pleurocorallium secundum*, or *Corallium* sp. harvested from any precious coral permit area must have attained a minimum height of 10 inches (25.4 cm).

(b) 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).

■ 24. In § 665.167, revise paragraph (d) to read as follows:

§ 665.167 Quotas.

* * * * *

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

■ 25. In § 665.201, add the definition of “Hawaii bottomfish ecosystem component species” in alphabetical order, revise the definitions of “Hawaii bottomfish management unit species” and “Main Hawaiian Islands non-commercial bottomfish permit,” and in the definition of “Seamount Groundfish,” revise the entry for “Armorhead” to read as follows:

§ 665.201 Definitions.

* * * * *

Hawaii bottomfish ecosystem component species (Hawaii bottomfish ECS) means those species that are not listed as Hawaii bottomfish MUS and that are identified as ECS in Table 4 of the Hawaii FEP.

Hawaii bottomfish management unit species (Hawaii bottomfish MUS) means the following species:

Local name	Common name	Scientific name
lehi	silver jaw jobfish	<i>Aphareus rutilans.</i>
uku	gray jobfish	<i>Aprion virescens.</i>
hapu'upu'u	sea bass	<i>Hyporthodus quernus.</i>
ehu	squirrelfish snapper	<i>Etelis carbunculus.</i>
onaga	longtail snapper	<i>Etelis coruscans.</i>
'opakapaka	pink snapper	<i>Pristipomoides filamentosus.</i>
kalekale	pink snapper	<i>Pristipomoides seiboldii.</i>
gindai	snapper	<i>Pristipomoides zonatus.</i>

* * * * *

Main Hawaiian Islands non-commercial bottomfish permit means the permit required by § 665.203(a)(2) to own or fish from a vessel that is used in any non-commercial vessel-based fishing, landing, or transshipment of any Hawaii bottomfish MUS or ECS in the MHI Management Subarea.

* * * * *

Seamount Groundfish * * *

Common name	Scientific name
Armorhead	<i>Pentaceros wheeleri.</i>
* * * * *	

■ 26. In § 665.203, revise paragraphs (a)(1) and (2), (e)(1), and (j)(1) to read as follows:

§ 665.203 Permits.

(a) * * *

(1) *Northwestern Hawaiian Islands.* The owner of any vessel used to fish for, land, or transship Hawaii bottomfish MUS or ECS shoreward of the outer boundary of the NWHI subarea must have a permit issued under this section, and the permit must be registered for use with that vessel. PIRO will not register a single vessel for use with a Ho'omalulu Zone permit and a Mau Zone permit at the same time. Mau Zone permits issued before June 14, 1999, became invalid June 14, 1999, except that a permit issued to a person who submitted a timely application under paragraph (b)(3) of this section is valid until the permit holder either receives a Mau Zone limited entry permit or until final agency action is taken on the permit holder's application. The

Ho'omalulu Zone and the Mau Zone limited entry systems described in this section are subject to abolition, modification, or additional effort limitation programs.

(2) *MHI non-commercial.* The owner of a vessel that is used for and any person who participates in non-commercial, vessel-based fishing, landing, or transshipment of Hawaii bottomfish MUS or ECS in the MHI management subarea is required to obtain an MHI non-commercial bottomfish permit or a State of Hawaii Commercial Marine License. If one or more persons on a vessel-based bottomfish fishing trip holds an MHI non-commercial permit, then the entire trip is considered non-commercial, and not commercial. However, if any commercial fishing occurs during or as a result of a vessel-based fishing trip,

then the fishing trip is considered commercial, and not non-commercial. Charter boat customers are not subject to the requirements of the section.

* * * * *

(e) * * *

(1) A qualifying landing for Ho'omalau Zone permit renewal is a landing of at least 2,500 lb (1,134 kg) of Hawaii bottomfish MUS or ECS from the Ho'omalau Zone or a landing of at least 2,500 lb (1,134 kg) of fish from the Ho'omalau Zone, of which at least 50 percent by weight was Hawaii bottomfish MUS or ECS. A permit is eligible for renewal for the next calendar year if the vessel covered by the permit made three or more qualifying landings during the current calendar year.

* * * * *

(j) * * *

(1) A Mau Zone permit will be eligible for renewal if the vessel for which the permit is registered for use made at least five separate fishing trips with landings of at least 500 lb (227 kg) of Hawaii bottomfish MUS or ECS per trip during the calendar year. Only one landing of bottomfish MUS or ECS per fishing trip to the Mau Zone will be counted toward the landing requirement.

* * * * *

■ 27. In § 665.204, revise paragraphs (a), (b), (g), and (k) to read as follows:

§ 665.204 Prohibitions.

* * * * *

(a) Fish for Hawaii bottomfish MUS or ECS, or seamount groundfish MUS using gear prohibited under § 665.206.

(b) Fish for, or retain on board a vessel, Hawaii bottomfish MUS or ECS in the Ho'omalau Zone or the Mau Zone without the appropriate permit registered for use with that vessel issued under § 665.13.

* * * * *

(g) Own a vessel or fish from a vessel that is used to fish non-commercially for any Hawaii bottomfish MUS or ECS in the MHI management subarea without either a MHI non-commercial bottomfish permit or a State of Hawaii Commercial Marine License, in violation of § 665.2 or § 665.203(a)(2).

* * * * *

(k) Fish for or possess any Hawaii bottomfish MUS or ECS, or seamount groundfish MUS in the Hancock Seamounts Ecosystem Management Area, in violation of § 665.209.

■ 28. In § 665.205, revise paragraph (b) to read as follows:

§ 665.205 Notification.

* * * * *

(b) The operator of a fishing vessel that has taken Hawaii bottomfish MUS or ECS in the Ho'omalau Zone must contact the USCG, by radio or otherwise, at the 14th District, Honolulu, HI; Pacific Area, San Francisco, CA; or 17th District, Juneau, AK, at least 24 hours before landing, and report the port and the approximate date and time at which the bottomfish will be landed.

■ 29. Revise § 665.206 to read as follows:

§ 665.206 Gear restrictions.

(a) *Bottom trawls and bottom set gillnets.* Fishing for Hawaii bottomfish MUS or ECS, or seamount groundfish MUS with bottom trawls and bottom set gillnets is prohibited.

(b) *Possession of gear.* Possession of a bottom trawl and bottom set gillnet by any vessel having a permit under § 665.203 or otherwise established to be fishing for Hawaii bottomfish MUS or ECS, or seamount groundfish MUS in the management subareas is prohibited.

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

■ 30. Revise § 665.209 to read as follows:

§ 665.209 Fishing moratorium at Hancock Seamounts.

Fishing for, and possession of, Hawaii bottomfish MUS or ECS, or seamount groundfish MUS in the Hancock Seamounts Ecosystem Management Area is prohibited until the Regional Administrator determines that the armorhead stock is rebuilt.

■ 31. Revise § 665.210 to read as follows:

§ 665.210 Hawaii restricted bottomfish species.

Hawaii restricted bottomfish species means the following species:

Local name	Common name	Scientific name
lehi	silver jaw jobfish	<i>Aphareus rutilans.</i>
ehu	squirrelfish snapper	<i>Etelis carbunculus.</i>
onaga	longtail snapper	<i>Etelis coruscans.</i>
'opakapaka	pink snapper	<i>Pristipomoides filamentosus.</i>
kalekale	pink snapper	<i>Pristipomoides sieboldii.</i>
gindai	snapper	<i>Pristipomoides zonatus.</i>
hapu'upu'u	sea bass	<i>Hyporthodus quernus.</i>

■ 32. Revise § 665.221 to read as follows:

§ 665.221 Definitions.

As used in §§ 665.220 through 665.239, *Hawaii coral reef ecosystem component species (Hawaii coral reef ECS)* means those species identified as ECS in the Hawaii FEP and are not defined as MUS or another ECS in this subpart.

■ 33. Revise § 665.223 to read as follows:

§ 665.223 Relation to other laws.

To ensure consistency between the management regimes of different Federal agencies with shared

management responsibilities of fishery resources within the Hawaii coral reef ecosystem management area, fishing for Hawaii coral reef ECS 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.

■ 34. In § 665.224, revise paragraphs (a)(1) and (2) and (a)(3)(i) and (ii) to read as follows:

§ 665.224 Permits and fees.

(a) * * *

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

(i) Hawaii coral reef ECS in low-use MPAs as defined in § 665.199;

(ii) Hawaii coral reef ECS in the coral reef ecosystem management area; or

(iii) Hawaii coral reef ECS 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 Hawaii coral reef ecosystem management area to land or transship Hawaii coral reef ECS harvested within low-use MPAs.

(3) * * *

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

(ii) Any person fishing for Hawaii coral reef ECS outside of an MPA, who does not retain any Hawaii coral reef ECS; and

* * * * *

■ 35. In § 665.225, revise paragraphs (a) introductory text, (a)(3), and (b) introductory text to read as follows:

§ 665.225 Prohibitions.

* * * * *

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

* * * * *

(3) The Hawaii coral reef ECS 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 Hawaii coral reef ECS:

* * * * *

■ 36. Revise § 665.226 to read as follows:

§ 665.226 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 Hawaii coral reef ECS harvested under a special permit, and report the port and the approximate date and time at which the catch will be landed.

■ 37. In § 665.227, revise paragraphs (a) introductory text and (b) to read as follows:

§ 665.227 Allowable gear and gear restrictions.

(a) Hawaii coral reef ECS may be taken only with the following allowable gear and methods:

* * * * *

(b) Hawaii coral reef ECS 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

ECS in the management area is prohibited.

* * * * *

■ 38. In § 665.228, revise paragraph (a) to read as follows:

§ 665.228 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 Hawaii coral reef ECS in the management area.

* * * * *

■ 39. In § 665.241, add the definition of “Hawaii crustacean ecosystem component species” in alphabetical order and revise the definition of “Hawaii crustacean management unit species” to read as follows:

§ 665.241 Definitions.

* * * * *

Hawaii crustacean ecosystem component species (Hawaii crustacean ECS) means those species identified as ECS in the Hawaii FEP.

* * * * *

Hawaii crustacean management unit species (Hawaii crustacean MUS) means the following crustaceans:

Local name	Common name	Scientific name
papa'i kua loa	Kona crab	<i>Ranina ranina</i> .
	deepwater shrimp, nylon shrimp	<i>Heterocarpus</i> sp.

* * * * *

■ 40. In § 665.242, revise paragraph (a)(4) to read as follows:

§ 665.242 Permits.

(a) * * *

(4) Harvest of Hawaii crustacean MUS or ECS within the Northwestern Hawaiian Islands Marine National

Monument is subject to the requirements of 50 CFR part 404.

* * * * *

■ 41. In § 665.261, add the definition of “Hawaii precious coral ecosystem component species” in alphabetical order and revise the definition of “Hawaii precious coral management unit species” to read as follows:

§ 665.261 Definitions.

* * * * *

Hawaii precious coral ecosystem component species (Hawaii precious coral ECS) means those species identified as ECS in the Hawaii FEP.

Hawaii precious coral management unit species (Hawaii precious coral MUS) means the following species:

Common name	Scientific name
Pink coral	<i>Pleurocorallium secundum</i> .
Red coral	<i>Hemicorallium laauense</i> .
Gold coral	<i>Kulamanamana haumea</i> .
Bamboo coral	<i>Acanella</i> sp.
Black coral	<i>Antipathes griggsi</i> , <i>Antipathes grandis</i> , <i>Myriopathes ulex</i> .

* * * * *

■ 42. In § 665.262, revise paragraph (a) to read as follows:

§ 665.262 Permits.

(a) Any vessel of the United States fishing for, taking, or retaining Hawaii precious coral MUS or ECS in any Hawaiian Archipelago precious coral

permit area must have a permit issued under § 665.13.

* * * * *

■ 43. In § 665.263, revise the introductory text of paragraphs (b) and (c) to read as follows:

§ 665.263 Prohibitions.

* * * * *

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

* * * * *

(c) Take and retain, possess, or land any live *Hemicorallium laauense*, *Pleurocorallium secundum*, *Corallium* sp., or live black coral from any

precious coral permit area that is less than the minimum height specified in § 665.265 unless:

* * * * *

■ 44. In § 665.265, revise paragraphs (a) and (b) to read as follows:

§ 665.265 Size restrictions.

* * * * *

(a) Live *Hemicorallium laauense*, *Pleurocorallium secundum*, or *Corallium* sp. harvested from any precious coral permit area must have attained a minimum height of 10 inches (25.4 cm).

(b) 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).

■ 45. Revise § 665.270 to read as follows:

§ 665.270 Gold coral harvest moratorium.

Fishing for, taking, or retaining any gold coral MUS or ECS in any precious coral permit area is prohibited through June 30, 2023.

■ 46. In § 665.401, add the definition of “Mariana bottomfish ecosystem component species” in alphabetical

order and revise the definition of “Mariana bottomfish management unit species” to read as follows:

§ 665.401 Definitions.

* * * * *

Mariana bottomfish ecosystem component species (Mariana bottomfish ECS) means those species identified as ECS in the Marianas Archipelago FEP and not defined as Mariana bottomfish MUS.

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

Local name	Common name	Scientific name
lehi/maroobw	red snapper, silvermouth	<i>Aphareus rutilans</i> .
tarakitu/etam	giant trevally, jack	<i>Caranx ignobilis</i> .
tarakiton attelong, orong	black trevally, jack	<i>Caranx lugubris</i> .
buei, bwele	lunartail grouper	<i>Variola louti</i> .
buninas agaga', falaghal moroobw	red snapper	<i>Etelis carbunculus</i> .
abuninas, taighulupegh	red snapper	<i>Etelis coruscans</i> .
mafuti, atigh	redgill emperor	<i>Lethrinus rubrioperculatus</i> .
funai, saas	blueline snapper	<i>Lutjanus kasmira</i> .
buninas, falaghal-maroobw	yellowtail snapper	<i>Pristipomoides auricilla</i> .
buninas, pakapaka, falaghal-maroobw,	pink snapper	<i>Pristipomoides filamentosus</i> .
buninas, falaghal-maroobw	yelloweye snapper	<i>Pristipomoides flavipinnis</i> .
	pink snapper	<i>Pristipomoides seiboldii</i> .
buninas rayao amariyu, falaghal-maroobw	flower snapper	<i>Pristipomoides zonatus</i> .

■ 47. In § 665.403, revise paragraph (a) introductory text to read as follows:

§ 665.403 Bottomfish fishery area management.

(a) *Guam large vessel bottomfish prohibited area (Area GU-1)*. A large vessel of the United States, as defined in § 665.12, may not be used to fish for Mariana bottomfish MUS or ECS in the Guam large vessel bottomfish prohibited area, defined as the U.S. EEZ waters surrounding Guam that are enclosed by straight lines connecting the following coordinates in the order listed:

* * * * *

■ 48. In § 665.404, revise paragraphs (a)(1) and (2) to read as follows:

§ 665.404 Permits.

(a) * * *

(1) *Guam large vessel*. The owner of any large vessel used to fish for, land, or transship Mariana bottomfish MUS or ECS shoreward of the outer boundary of the Guam subarea must have a permit issued under this section, and the permit must be registered for use with that vessel.

(2) *Commonwealth of the Northern Mariana Islands (CNMI) commercial*. The owner of any vessel used to commercially fish for, transship, receive, or land Mariana bottomfish MUS or ECS shoreward of the outer boundary of the CNMI management subarea must have a permit issued

under this section, and the permit must be registered for use with that vessel.

* * * * *

■ 49. Revise § 665.405 to read as follows:

§ 665.405 Prohibitions.

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

(a) Fish for Mariana bottomfish MUS or ECS using gear prohibited under § 665.406.

(b) Use a large vessel that does not have a valid Guam bottomfish permit registered for use with that vessel to fish for, land, or transship Mariana bottomfish MUS or ECS shoreward of the outer boundary of the Guam management subarea of the bottomfish fishery management area in violation of § 665.404(a).

(c) Use a large vessel to fish for Mariana bottomfish MUS or ECS within the Guam large vessel bottomfish prohibited area, as defined in § 665.403(a).

(d) Land or transship, shoreward of the outer boundary of the Guam management subarea of the bottomfish fishery management area, Mariana bottomfish MUS or ECS that were harvested in violation of § 665.405(c).

(e) Use a vessel to fish commercially for Mariana bottomfish MUS or ECS in

the CNMI management subarea without a valid CNMI commercial bottomfish permit registered for use with that vessel, in violation of § 665.404(a)(2).

(f) Falsify or fail to make, keep, maintain, or submit a Federal logbook as required under § 665.14(b) when using a vessel to engage in commercial fishing for Mariana bottomfish MUS or ECS in the CNMI management subarea in violation of § 665.14(b).

■ 50. Revise § 665.421 to read as follows:

§ 665.421 Definitions.

As used in §§ 665.420 through 665.439, *Mariana coral reef ecosystem component species (Mariana coral reef ECS)* are those species identified in the Marianas Archipelago FEP and are not defined as MUS or another ECS in this subpart.

■ 51. Revise § 665.423 to read as follows:

§ 665.423 Relation to other laws.

To ensure consistency between the management regimes of different Federal agencies with shared management responsibilities of fishery resources within the Mariana coral reef ecosystem management area, fishing for Mariana coral reef ECS 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.

■ 52. In § 665.424, revise paragraphs (a)(1) and (2) and (a)(3)(i) and (ii) to read as follows:

§ 665.424 Permits and fees.

(a) * * *

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

(i) Mariana coral reef ecosystem MUS ECS in low-use MPAs as defined in § 665.399;

(ii) Mariana coral reef ECS in the coral reef ecosystem management area; or

(iii) Mariana coral reef ECS in the Mariana 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 Mariana coral reef ecosystem management area to land or transship any Mariana coral reef ECS harvested within low-use MPAs.

(3) * * *

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

(ii) Any person fishing for Mariana coral reef ECS outside of an MPA, who does not retain any Mariana coral reef ECS.

* * * * *

■ 53. In § 665.425, revise paragraphs (a) introductory text, (a)(3), and (b) introductory text to read as follows:

§ 665.425 Prohibitions.

* * * * *

(a) Fish for, take, retain, possess or land any Mariana coral reef ECS in any low-use MPA as defined in § 665.12 unless:

* * * * *

(3) The Mariana coral reef ECS 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 Mariana coral reef ECS species:

* * * * *

■ 54. Revise § 665.426 to read as follows:

§ 665.426 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 Mariana coral reef ECS harvested under a special permit, and report the port and the approximate date and time at which the catch will be landed.

■ 55. In § 665.427, revise paragraphs (a) introductory text and (b) to read as follows:

§ 665.427 Allowable gear and gear restrictions.

(a) Mariana coral reef ECS may be taken only with the following allowable gear and methods:

* * * * *

(b) Mariana coral reef ECS 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 ECS in the management area is prohibited.

* * * * *

■ 56. In § 665.441, add the definition of “Mariana crustacean ecosystem component species” in alphabetical order and remove the definition of “Mariana crustacean management unit species” to read as follows:

§ 665.44 Definitions.

* * * * *

Mariana crustacean ecosystem component species (Mariana crustacean ECS) means those species identified as ECS in the Marianas Archipelago FEP.

■ 57. In § 665.442, revise paragraph (a)(2) to read as follows:

§ 665.442 Permits.

(a) * * *

(2) The owner of any vessel used to fish for *Heterocarpus* sp. in Crustacean Permit Area 5 must have a permit issued for that vessel.

* * * * *

■ 58. Revise § 665.443 to read as follows:

§ 665.443 Prohibitions.

In addition to the general prohibitions specified in § 600.725 of this chapter and § 665.15, it is unlawful for any person in Crustacean Permit Area 5 to fish for, take, or retain *Heterocarpus* sp. without a permit issued under § 665.442.

■ 59. In § 665.461, add introductory text and the definition of “Mariana precious coral ecosystem component species” in alphabetical order and remove the

definition of “Mariana precious coral management unit species” to read as follows:

§ 665.461 Definitions.

As used in §§ 665.460 through 665.470:

Mariana precious coral ecosystem component species (Mariana precious coral ECS) means those species identified as ECS in the Marianas Archipelago FEP.

* * * * *

■ 60. In § 665.462, revise paragraph (a) to read as follows:

§ 665.462 Permits.

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

* * * * *

■ 61. In § 665.463, revise paragraphs (a), (b) introductory text, and (c) introductory text to read as follows:

§ 665.463 Prohibitions.

* * * * *

(a) Use any vessel to fish for, take, retain, possess or land Mariana precious coral ECS in any Mariana 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 Mariana precious coral ECS in any Mariana precious coral permit area:

* * * * *

(c) Take and retain, possess, or land any live *Hemicorallium laauense*, *Pleurocorallium secundum*, *Corallium* sp., or live black coral from any precious coral permit area that is less than the minimum height specified in § 665.465 unless:

* * * * *

■ 62. In § 665.465, revise paragraphs (a) and (b) to read as follows:

§ 665.465 Size restrictions.

* * * * *

(a) Live *Hemicorallium laauense*, *Pleurocorallium secundum*, or *Corallium* sp. harvested from any precious coral permit area must have attained a minimum height of 10 inches (25.4 cm).

(b) 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).

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