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bed will be reached prior to the end of the fishing year, NMFS shall publish a document to that effect in the FEDERAL REGISTER and shall use other means to notify permit holders. Any such notice must indicate the fishery shall be closed, the reason for the closure, the specific bed being closed, and the effective date of the closure.

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

[75 FR 2205, Jan. 14, 2010, as amended at 85 FR 26624, May 5, 2020]

§ 665.269 Annual Catch Limits (ACL).

(a) *General.* The ACLs limiting the amount of precious coral that may be taken in any precious coral permit area during the fishing year are listed in paragraph (c) of this section. Only live coral is counted toward the ACL. The accounting period for each fishing year for all precious coral ACLs begins July 1 and ends June 30 of the following year.

(b) *Reserves and reserve release.* The ACL for exploratory area X–P–H will be held in reserve for harvest by vessels of

the United States in the following manner:

(1) At the start of the fishing year, the reserve for the Hawaii exploratory areas will equal the ACL minus the estimated domestic annual harvest for that year.

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

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

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

(c) In accordance with § 665.4, the ACLs for MHI precious coral permit areas for each fishing year are as follows:

TABLE 1 TO PARAGRAPH (c)

Type of coral bed	Area and coral group	2019 ACL (lb)	2020 ACL (lb)	2021 ACL (lb)
Established bed	Auau Channel—Black coral	5,512	5,512	5,512
	Makapuu Bed—Pink and red coral	2,205	2,205	2,205
	Makapuu Bed—Bamboo coral	551	551	551
Conditional Beds	180 Fathom Bank—Pink and red coral.	489	489	489
	180 Fathom Bank—Bamboo coral	123	123	123
	Brooks Bank—Pink and red coral	979	979	979
	Brooks Bank—Bamboo coral	245	245	245
	Kaena Point Bed—Pink and red coral.	148	148	148
	Kaena Point Bed—Bamboo coral	37	37	37
	Keahole Bed—Pink and red coral	148	148	148
	Keahole Bed—Bamboo coral	37	37	37
	Exploratory Area	Hawaii—precious coral	2,205	2,205

NOTE 1 TO § 665.269: No fishing for coral is authorized in refugia.

NOTE 2 TO § 665.269: A moratorium on gold coral harvesting is in effect through June 30, 2023.

[85 FR 26624, May 5, 2020]

§ 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.

[84 FR 2774, Feb. 8, 2019]

Subpart D—Mariana Archipelago Fisheries

§ 665.398 Management area.

The Mariana fishery management area is the EEZ seaward of Guam and

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CNMI with the inner boundary a line coterminous with the seaward boundaries of Guam and CNMI and the outer boundary a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured, or is coterminous with adjacent international maritime boundaries.

§ 665.399 Area restrictions.

Anchoring by all fishing vessels over 50 ft (15.25 m) LOA is prohibited in the U.S. EEZ seaward of Guam west of 144°30' E. long. except in the event of an emergency caused by ocean conditions or by a vessel malfunction that can be documented.

§ 665.400 Mariana bottomfish fisheries. [Reserved]

§ 665.401 Definitions.

As used in §§ 665.400 through 665.419:

Local name	Common name	Scientific name
(1) lehi/marobw	red snapper, silvermouth	<i>Aphareus rutilans.</i>
(2) tarakitu/etam	giant trevally, jack	<i>Caranx ignobilis.</i>
(3) tarakiton attelong, orong	black trevally, jack	<i>Caranx lugubris.</i>
(4) bueli, bwele	lunartail grouper	<i>Variola louti.</i>
(5) buninas agaga', falaghal moroobw ..	red snapper	<i>Etelis carbunculus.</i>
(6) abuninas, taighulupegh	red snapper	<i>Etelis coruscans.</i>
(7) mafuti, atigh	redgill emperor	<i>Lethrinus rubrioperculatus.</i>
(8) funai, saas	blueline snapper	<i>Lutjanus kasmira.</i>
(9) buninas, falaghal-marobw	yellowtail snapper	<i>Pristipomoides auricilla.</i>
(10) buninas, pakapaka, falaghal-marobw, ..	pink snapper	<i>Pristipomoides filamentosus.</i>
(11) buninas, falaghal-marobw	yelloweye snapper	<i>Pristipomoides flavipinnis.</i>
(12) buninas, falaghal-marobw	pink snapper	<i>Pristipomoides sieboldii.</i>
(13) buninas rayao amariyu, falaghal-marobw.	flower snapper	<i>Pristipomoides zonatus.</i>

[75 FR 2205, Jan. 14, 2010, as amended at 84 FR 2774, Feb. 8, 2019; 84 FR 29397, June 24, 2019]

§ 665.402 Management subareas.

The Mariana fishery management area is divided into bottomfish management subareas with the following designations and boundaries:

(a) *Guam Management Subarea* means the EEZ seaward of the Territory of Guam, with the inner boundary defined as a line coterminous with the seaward boundary of the Territory of Guam.

(b) *CNMI Management Subarea* means the EEZ seaward of the CNMI, with the inner boundary defined as a line coterminous with the seaward boundary of the CNMI.

(c) The outer boundary of each fishery management area is a line drawn in

CNMI commercial bottomfish permit means the permit required by § 665.404(a)(2) to engage in commercial fishing for Mariana bottomfish MUS in the CNMI management subarea.

Guam bottomfish permit means the permit required by § 665.404(a)(1) to use a large vessel to fish for, land, or transship Mariana bottomfish MUS shoreward of the outer boundary of the Guam subarea of the Mariana fishery management area.

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:

such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured, or is coterminous with adjacent international maritime boundaries. The boundary between the fishery management areas of Guam and the CNMI extends to those points that are equidistant between Guam and the island of Rota in the CNMI. CNMI and Guam management subareas are divided by a line intersecting these two points: 148° E. long., 12° N. lat., and 142° E. long., 16° N. lat.

[75 FR 2205, Jan. 14, 2010, as amended at 81 FR 61626, Sept. 7, 2016]

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§ 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:

Point	N. lat.	E. long.
GU-1-A	14°16'	144°17'
GU-1-B	13°50'	143°52'
GU-1-C	13°17'	143°46'
GU-1-D	12°50'	143°54'
GU-1-E	12°30'	144°14'
GU-1-F	12°25'	144°51'
GU-1-G	12°57'	145°33'
GU-1-H	13°12'	145°43'
GU-1-I	13°29'44"	145°48'27"
GU-1-A	14°16'	144°17'

(b) [Reserved]

[75 FR 2205, Jan. 14, 2010, as amended at 81 FR 61626, Sept. 7, 2016; 84 FR 2774, Feb. 8, 2019]

§ 665.404 Permits.

(a) *Applicability—(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.

(b) *Submission.* An application for a permit required under this section must be submitted to PIRO as described in § 665.13.

[75 FR 2205, Jan. 14, 2010, as amended at 84 FR 2774, Feb. 8, 2019]

§ 665.405 Prohibitions.

In addition to the general prohibitions specified in § 600.725 of this chap-

ter 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).

(g) Fish for or possess any Mariana Bottomfish MUS as defined in § 665.401 in the Guam Management Subarea after a closure of the fishery in violation of § 665.409(d).

(h) Sell or offer for sale any Mariana Bottomfish MUS as defined in § 665.401 in the Guam Management Subarea after a closure of the fishery in violation of § 665.409(e).

[84 FR 2774, Feb. 8, 2019, as amended at 87 FR 9272, Feb. 18, 2022]

§ 665.406 Gear restrictions.

(a) Bottom trawls and bottom set gillnets. Fishing for bottomfish 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

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§ 665.404 or otherwise established to be fishing for bottomfish 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 bottomfish is prohibited.

§ 665.407 At-sea observer coverage.

All fishing vessels subject to §§ 665.400 through 665.407 must carry an observer

when directed to do so by the Regional Administrator.

§ 665.408 CNMI Annual Catch Limits (ACL) and Annual Catch Targets (ACT).

(a) In accordance with § 665.4, the ACL and ACT for Mariana bottomfish MUS in the CNMI Management Subarea for each fishing year is as follows:

TABLE 1 TO PARAGRAPH (a)

	2021	2022	2023
ACL (lb)	84,000	84,000	84,000
ACT (lb)	78,000	78,000	78,000

(b) If the average catch of the three most recent years exceeds the specified ACL in a fishing year, the Regional Administrator will reduce the ACL and the ACT for the subsequent year by the amount of the overage in a separate rulemaking.

[87 FR 9272, Feb. 18, 2022]

§ 665.409 Guam Annual Catch Limits (ACL).

(a) In accordance with § 665.4, the ACL for Mariana bottomfish MUS in the Guam Management Subarea is 31,000 lb.

(b) When NMFS projects the ACL will be reached, the Regional Administrator shall publish a document to that effect in the FEDERAL REGISTER and shall use other means to notify permit holders. The document will include an advisement that the fishery will be closed, beginning at a specified date that is not earlier than seven days after the date of filing the closure notice for public inspection at the Office of the Federal Register, through the end of the fishing year in which the catch limit is reached.

(c) If the ACL is exceeded in any fishing year, the Regional Administrator shall publish a document to that effect in the FEDERAL REGISTER and shall use other means to notify permit holders. The document will include an advisement that the fishery will be closed, beginning at a specified date that is not earlier than seven days after the date of filing the closure notice for

public inspection at the Office of the Federal Register. The fishery will remain closed until such time that a coordinated approach to management is developed and regulations are implemented that ensures catch in both Federal and territorial waters can be maintained at levels that allow the stock to rebuild or the rebuilding plan is modified based on the best scientific information available.

(d) On and after the date the fishery is closed as specified in paragraphs (b) or (c) of this section, fishing for and possession of Mariana bottomfish MUS is prohibited in the Guam Management Subarea, except as otherwise authorized by law.

(e) On and after the date the fishery is closed as specified in paragraphs (b) or (c) of this section, sale, offering for sale, and purchase of any Mariana bottomfish MUS caught in the Guam Management Subarea is prohibited.

[87 FR 9272, Feb. 18, 2022]

§§ 665.410–665.419 [Reserved]

§ 665.420 Mariana coral reef ecosystem fisheries. [Reserved]

§ 665.421 Definitions.

As used in §§ 665.420 through 665.439, *Mariana coral reef ecosystem component species (Mariana coral reef ECS)* are

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those species identified in the Marianas Archipelago FEP and are not defined as MUS or another ECS in this subpart.

[84 FR 2774, Feb. 8, 2019]

§ 665.422 Management area.

The Mariana coral reef management area consists of the U.S. EEZ around Guam and the offshore area of the CNMI or that portion of the U.S. EEZ around CNMI between three nautical miles offshore and the outer boundary of the U.S. EEZ. The inner boundary of the management area is the seaward boundaries of the Territory of Guam, and a line three nautical miles seaward from the shoreline of CNMI. The outer boundary of the management area is the outer boundary of the U.S. EEZ or adjacent international maritime boundaries. The CNMI and Guam management area is divided by a line intersecting these two points: 148° E. long., 12° N. lat., and 142° E. long., 16° N. lat.

§ 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.

[84 FR 2774, Feb. 8, 2019]

§ 665.424 Permits and fees.

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

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

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

(i) Any person issued a permit to fish under any FEP who incidentally catches 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.

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

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

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

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

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

a description of the planned fishing operation, including location of fishing and gear operation, amount and species (directed and incidental) expected to be harvested and estimated habitat and protected species impacts).

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

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

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

(A) Information provided by the applicant;

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

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

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

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

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

(A) Concur with the Council's recommendation and, after finding that it is consistent with the goals and objectives of the FEP, the national standards, the Endangered Species Act, and other applicable laws, approve or deny a special permit; or

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

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

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

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

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

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

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

(E) NMFS has determined that the maximum number of permits for a given area in a given season has been

reached and allocating additional permits in the same area would be detrimental to the resource.

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

(vi) The Regional Administrator may attach conditions to the special permit, if it is granted, consistent with the management objectives of the FEP, including, but not limited to:

(A) The maximum amount of each resource that can be harvested and landed during the term of the special permit, including trip limits, where appropriate.

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

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

(D) Data reporting requirements.

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

(4) Appeals of permit actions.

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

(ii) Upon receipt of an appeal authorized by this section, the Regional Administrator will notify the permit applicant, or permit holder as appropriate, and will request such additional information and in such form as will allow action upon the appeal. Upon receipt of sufficient information, the Regional Administrator will rule on the appeal in accordance with the permit eligibility criteria set forth in this section and the FEP, as appropriate, based upon information relative to the application on file at NMFS and the Council and any additional information, the summary record kept of any hearing and the hearing officer's recommended

decision, if any, and such other considerations as deemed appropriate. The Regional Administrator will notify all interested persons of the decision, and the reasons therefore, in writing, normally within 30 days of the receipt of sufficient information, unless additional time is needed for a hearing.

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

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

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

[75 FR 2205, Jan. 14, 2010, as amended at 84 FR 2775, Feb. 8, 2019]

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§ 665.425 Prohibitions.

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

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

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

(2) A permit is not required, as outlined in § 665.424 of this part; or

(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:

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

(2) By means of gear or methods prohibited under § 665.427.

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

(4) In violation of any permit issued under §§ 665.13 or 665.424.

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

[75 FR 2205, Jan. 14, 2010, as amended at 84 FR 2775, Feb. 8, 2019]

§ 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.

[84 FR 2775, Feb. 8, 2019]

§ 665.427 Allowable gear and gear restrictions.

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

(1) Hand harvest;

(2) Spear;

(3) Slurp gun;

(4) Hand net/dip net;

(5) Hoop net for Kona crab;

(6) Throw net;

(7) Barrier net;

(8) Surround/purse net that is attended at all times;

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

(10) Crab and fish traps with vessel ID number affixed; and

(11) Remote-operating vehicles/submersibles.

(b) 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.

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

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

[75 FR 2205, Jan. 14, 2010, as amended at 84 FR 2775, Feb. 8, 2019]

§ 665.428 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 665.424 or that is otherwise established to be fishing for Mariana coral reef ecosystem MUS in the management area.

(b) *Enforcement action.* (1) Traps not marked in compliance with paragraph (a) of this section and found deployed in the coral reef ecosystem management area will be considered unclaimed

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or abandoned property, and may be disposed of in any manner considered appropriate by NMFS or an authorized officer.

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

§§ 665.429–665.439 [Reserved]

§ 665.440 Mariana crustacean fisheries. [Reserved]

§ 665.441 Definitions.

As used in §§ 665.440 through 665.459:

Crustacean Permit Area 5 (Permit Area 5) means the EEZ around Guam and the EEZ seaward of points 3 nautical miles from the shoreline of the CNMI.

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

Mariana crustacean management unit species means the following crustaceans:

Local name	English common name	Scientific name
Mahonggang	spiny lobster	<i>Panulirus marginatus</i> , <i>Panulirus penicillatus</i> .
pa'pangpang	slipper lobster	Scyllaridae.
	Kona crab	<i>Ranina ranina</i> .
	deepwater shrimp	<i>Heterocarpus</i> spp.

[75 FR 2205, Jan. 14, 2010, as amended at 84 FR 2775, Feb. 8, 2019]

§ 665.442 Permits.

(a) *Applicability.* (1) The owner of any vessel used to fish for lobster in Crustacean Permit Area 5 must have a permit issued for such a vessel.

(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.

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

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

[75 FR 2205, Jan. 14, 2010, as amended at 81 FR 61626, Sept. 7, 2016; 84 FR 2775, Feb. 8, 2019]

§ 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.

[84 FR 2775, Feb. 8, 2019]

§ 665.444 Notifications.

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

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

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

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

§ 665.445 At-sea observer coverage.

All fishing vessels subject to §§ 665.440 through 665.445 and subpart A of this part must carry an observer when requested to do so by the Regional Administrator.

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§§ 665.446–665.459 [Reserved]

§ 665.460 Mariana precious coral fisheries. [Reserved]

§ 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.

Mariana precious coral management unit species means any coral of the genus *Corallium* in addition to the following species of corals:

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

Mariana precious coral permit area means the area encompassing the precious coral beds within the EEZ around the Mariana Archipelago. Each bed is designated by a permit area code and assigned to one of the following four categories:

- (1) Established beds. [Reserved]
- (2) Conditional beds. [Reserved]
- (3) Refugia. [Reserved]
- (4) Exploratory Area.

(i) Permit Area X-P-G includes all coral beds, other than established beds, conditional beds, or refugia, in the EEZ seaward of Guam.

(ii) Permit Area X-P-CNMI includes all coral beds, other than established beds, conditional beds, or refugia, in the EEZ seaward of points 3 nautical miles from the shoreline of the CNMI.

[75 FR 2205, Jan. 14, 2010, as amended at 84 FR 2775, Feb. 8, 2019]

§ 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.

(b) Each permit will be valid for fishing only in the permit area specified on the permit. Precious Coral Permit Areas are defined in § 665.461.

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

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

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

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

[75 FR 2205, Jan. 14, 2010, as amended at 84 FR 2775, Feb. 8, 2019]

§ 665.463 Prohibitions.

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

(a) Use any vessel to fish for, take, retain, possess or land 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:

- (1) By means of gear or methods prohibited by § 665.464.
- (2) In refugia specified in § 665.461.
- (3) In a bed for which the quota specified in § 665.467 has been attained.
- (4) In violation of any permit issued under §§ 665.13 or 665.17.
- (5) In a bed that has been closed pursuant to §§ 665.466 or 665.469.

(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:

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

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

[75 FR 2205, Jan. 14, 2010, as amended at 84 FR 2775, Feb. 8, 2019]

§ 665.464 Gear restrictions.

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

§ 665.465 Size restrictions.

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

(a) Live *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).

[75 FR 2205, Jan. 14, 2010, as amended at 84 FR 2775, Feb. 8, 2019]

§ 665.466 Closures.

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

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

§ 665.467 Quotas.

(a) *General.* The quotas limiting the amount of precious coral that may be taken in any precious coral permit area during the fishing year are listed in § 665.467(d). Only live coral is counted

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toward the quota. The accounting period for all quotas begins July 1, 1983.

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

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

(1) At the start of the fishing year, the reserve for the Guam and CNMI exploratory areas will equal the quota minus the estimated domestic annual harvest for that year.

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

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

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

(d) The Guam and CNMI exploratory permit areas, X-P-GU and X-P-CNMI, each have annual quotas of 1,000 kg for all precious coral MUS combined with the exception of black corals.

§ 665.468 Seasons.

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

§ 665.469 Gold coral harvest moratorium.

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

[83 FR 27717, June 14, 2018]