

**15 CFR Part 922, Subpart J –National Marine Sanctuary of American Samoa**

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**§ 922.100 Scope of regulations.**

The provisions of this subpart J apply only to the waters of the United States and the Territory of American Samoa that are located within the boundary of the National Marine Sanctuary of American Samoa (Sanctuary). Neither the provisions of this subpart J nor any permit issued under its authority shall be construed to relieve a person from any other requirements imposed by statute or regulation of the Territory of American Samoa or of the United States. In addition, no statute or regulation of the Territory of American Samoa shall be construed to relieve a person from the restrictions, conditions, and requirements contained in this subpart J.

**§ 922.101 Boundary.**

The Sanctuary is comprised of six distinct units, forming a network of marine protected areas around the islands of the Territory of American Samoa. Tables containing the exact coordinates of each point described below can be found in Appendix to Subpart J –National Marine Sanctuary of American Samoa Boundary Coordinates.

(a) *Fagatele Bay Unit.* The Fagatele Bay Unit is a 163-acre (0.25 sq. mi.) coastal embayment formed by a collapsed volcanic crater on the island of Tutuila, Territory of American Samoa, and includes Fagatele Bay in its entirety. The landward boundary is defined by the mean high high water line of Fagatele Bay until the point at which it intersects the seaward boundary of the

Sanctuary as defined by a straight line between Fagatele Point (-14.36527, -170.76932) and Steps Point (-14.37291, -170.76056) from the point at which it intersects the mean high high water line seaward.

(b) *Fagalua/Fogama'a Unit*. The landward boundary of the Fagalua/Fogama'a Unit is defined by the mean high high water line of Fagalua/Fogama'a until the point at which it intersects the seaward boundary of the Fagalua/Fogama'a Unit as defined by a straight line between Steps Point (-14.37307, -170.75852) and Sail Rock Point (-14.36534, -170.74119) from the point at which it intersects the mean high high water line seaward.

(c) *Aunu'u Unit*. The Aunu'u Unit is comprised of two adjacent zones.

(1) *Zone A*. The Aunu'u Unit boundary for Zone A is defined by the coordinates provided in Table 1 and the following textual description. The Zone A boundary extends from Point 1, the northwest corner of the unit, southward to Point 2 along a straight line following the western boundary of the unit, which is aligned with Taugamalama Point on Tutuila. It then extends northeastward in a multi-part line along the deepest seaward edge of Nafanua Bank from Point 2 to Point 3 and then to Point 4, which lies on the southern boundary of Zone B. The boundary then follows a straight line westward towards Point 5 until it intersects the mean high high water line at the southern tip of Ma'ama'a Cove. The landward boundary of Zone A is defined by the mean high high water line from this intersection point at the southern tip of Ma'ama'a Cove to the intersection of the mean high high water line and the straight line between Point 6 and Point 7 at Salevatia Point. From this intersection point at Salevatia Point, the boundary extends straight west to Point 7, which has the exact same coordinates as Point 1.

(2) *Zone B*. The Aunu'u Unit boundary for Zone B is defined by the coordinates provided in Table 2 and the following textual description. The Zone B boundary extends from Point 1, the northeast corner of the unit, southward along a straight line following the eastern boundary of the unit to Point 2, which is on the southern boundary of the unit. The southern boundary then follows a line westward towards Point 3 until it intersects the mean high high water line at the southern tip of Ma'ama'a Cove Point. The landward boundary of Zone B is defined by the mean high high water line from this intersection point at the southern tip of Ma'ama'a Cove around the volcanic crater to the intersection of the mean high high water line and the straight line between Point 4 and Point 5. From here, the boundary extends seaward straight north to Point 5. The northern border, the last straight line, is defined by connecting Point 5 and Point 6, along the northern boundary of the unit, which is aligned with Matuli Point on Tutuila. Point 6 has the exact same coordinates at Point 1.

(d) *Swains Island Unit*. The Swains Island Unit boundary is defined by the coordinates provided in Table 3 and the following textual description. The landward boundary of the Swains Island Unit is the mean high high water line. The seaward boundary of the Swains Island Unit is the territorial water boundary 3 nautical miles from the mean high high water line that surrounds the island. Within that area surrounding the island, there are two areas excluded from the sanctuary boundaries. The first excluded area extends from Point 1 along the mean high high water line northward along the western coast of the island to Point 2. From Point 2, the boundary extends offshore in a line perpendicular to the coast to Point 3. From Point 3, the boundary extends

south-southwest to Point 4, and from Point 4 the boundary extends south-southeast to Point 5. From there, the boundary extends landward in a straight line to Point 6. The second excluded area extends from Point 7 along the mean high high water line northeastward along the southeastern coast to Point 8. From Point 8, the boundary extends offshore in a perpendicular line to the coast to Point 9. From Point 9, the boundary extends south-southwest to Point 10. From there, the boundary extends landward in a straight line to Point 11.

(e) *Muliāva Unit*. The Muliāva Unit boundary is defined by the coordinates provided in Table 4 and the following textual description. The landward boundary of the Muliāva Unit is the extreme low water line, which adjoins the boundary of the Rose Atoll National Wildlife Refuge. The Muliāva Unit seaward boundary extends from Point 1, the southwest corner of the unit, to Point 2 along a straight line northward following the western boundary of the unit. From Point 2, the line extends in a straight line westward to Point 3. It then extends along a straight line northward to Point 4. From Point 4, the line extends in a straight line eastward to Point 5. From Point 5, the line extends along a straight line northward to Point 6. It then extends along a straight line eastward from Point 6 to Point 7, which is on the eastern boundary of the unit. The boundary then follows a straight line southward until it intersects the line of the southern boundary of the unit at Point 8, the southeastern corner of the unit. The last straight line is defined by connecting Point 8 and Point 9, which has the exact same coordinates as Point 1, along the southern boundary of the unit.

(f) *Ta'u Unit*. The Ta'u Unit boundary is defined by the coordinates provided in Table 5 and the following textual description. The Ta'u Unit boundary extends from Point 1, Vaita Point, along the mean high high water line southward along the western coast to Point 2, Si'ufa'alele Point. From Point 2, the boundary extends offshore 0.25 miles to Point 3 to become conterminous with the offshore boundary of the National Park of American Samoa. From Point 3 the boundary continues to follow the coastline 0.25 miles offshore until it reaches Point 4, which is directly south of Si'u Point. From Point 4, the boundary extends due south to Point 5. From Point 5, the boundary extends due west to Point 6, forming the southern border of the unit. From Point 6, the boundary extends due north until it reaches Point 7, directly west and one mile offshore from Point 8, which is Point 1, also known as Vaita Point.

## § 922.102 Definitions.

In addition to those definitions found at §922.3, the following definitions apply to this subpart:

*Clean* means not containing detectable levels of harmful matter.

*Fishing* means the catching, taking, or harvesting of marine species; the attempted catching, taking, or harvesting of marine species; any other activity which can reasonably be expected to result in the catching, taking, or harvesting of marine species; or any operation at sea in support of, or in preparation for, any activity described in this definition.

*Harmful matter* means any substance, or combination of substances that, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may pose a present or potential

threat to Sanctuary resources or qualities, including but not limited to: fishing nets, fishing line, hooks, fuel, oil, and those contaminants (regardless of quantity) listed at 40 CFR 302.4 pursuant to 42 U.S.C. 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act.

*Introduced species* means any species (including, but not limited to, any of its biological matter capable of propagation) that is nonnative to the ecosystem(s) protected by the Sanctuary; or any organism into which altered genetic matter, or genetic matter from another species, has been transferred in order that the host organism acquires the genetic traits of the transferred genes.

*Live rock* means any Coral, basalt rock, or other natural structure with any living organisms growing in or on the Coral, basalt rock, or structure.

*Stowed and not available for immediate use* means not readily accessible for immediate use, e.g., by being securely covered and lashed to a deck or bulkhead, tied down, unbaited, unloaded, or partially disassembled (such as spear shafts being kept separate from spear guns).

#### **§ 922.103 Prohibited or otherwise regulated activities – Sanctuary-wide.**

(a) The following activities are prohibited and thus are unlawful for any person to conduct or to cause to be conducted within the Sanctuary:

- (1) Introducing or releasing introduced species from within or into the sanctuary.
- (2) Anchoring a vessel.
- (3) Deserting a vessel aground, adrift, or at anchor.
- (4) Leaving harmful matter on an abandoned or deserted vessel or structure.
- (5) Operating a vessel at a speed exceeding three knots when closer than 200 feet (60.96 meters) of another vessel displaying a dive flag.
- (6) Operating a vessel in a manner which causes the vessel to strike or otherwise cause damage to Sanctuary resources.
- (7) Diving, snorkeling, or conducting diving or snorkeling operations from a vessel not in compliance with applicable U.S. Coast Guard navigation rules governing the display of lights and signals, and not flying in a conspicuous manner the international code flag alpha “A” or the standard red-and-white U.S. “diver down” flag.
- (8) Discharging, or depositing from within or into the Sanctuary, any material or other matter, except clean vessel deck wash down, clean vessel engine cooling water, clean vessel generator cooling water, clean bilge water, anchor wash, or vessel engine or generator exhaust.

- (9) Discharging or depositing from beyond the boundary of the Sanctuary any material or other matter that subsequently enters the Sanctuary and injures a Sanctuary resource or quality, except those listed in paragraph (a)(8) of this section and § 922.105(c).
- (10) Sand mining, dredging, filling, dynamiting, or otherwise disturbing or altering the seabed.
- (11) Removing, damaging, or tampering with any historical or cultural resource.
- (12) Taking any marine mammal, sea turtle, or seabird within or above the Sanctuary, except as authorized by the Marine Mammal Protection Act, as amended, (MMPA), 16 U.S.C. 1361 *et seq.*, Endangered Species Act, as amended, (ESA), 16 U.S.C. 1531 *et seq.*, Migratory Bird Treaty Act, as amended, (MBTA), 16 U.S.C. 703 *et seq.*, or any regulation, as amended, promulgated under the MMPA, ESA, or MBTA.
- (13) Using or discharging explosives or weapons of any description. Distress signaling devices, necessary and proper for safe vessel operation, and knives generally used by fishermen and swimmers shall not be considered weapons for purposes of this section.
- (14) Marking, defacing, or damaging in any way, or displacing or removing or tampering with any signs, notices, or placards, whether temporary or permanent, or with any monuments, stakes, posts, or other boundary markers related to the Sanctuary.
- (15) Abandoning a structure, material, or other matter on or in the submerged lands of the Sanctuary.

(b) The prohibitions in paragraphs (a)(1) through (15) of this section, § 922.104, and § 922.105 do not apply to any activity necessary for national defense.

(c) The prohibitions in paragraphs (a)(2) through (15) of this section, § 922.104, and § 922.105 do not apply to any activity necessary to respond to an emergency threatening life, property, or the environment.

(d) The prohibitions in paragraphs (a)(2) through (15) of this section, § 922.104, and § 922.105 do not apply to any activity necessary for valid law enforcement purposes in the Sanctuary.

(e) The prohibitions in paragraphs (a)(2) through (15) of this section, § 922.104, and § 922.105 do not apply to any activity conducted under and in accordance with the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued pursuant to 15 CFR 922.48 and 922.107.

**§ 922.104 Prohibited or otherwise regulated activities – Sanctuary-Wide except in the Muliāva Unit.**

(a) The following activities are prohibited and thus are unlawful for any person to conduct or to cause to be conducted within any unit of the Sanctuary except the Muliāva Unit:

- (1) Gathering, taking, breaking, cutting, damaging, destroying, or possessing any giant clam [*Tridacna spp.*], live coral, bottom formation including live rock and crustose coralline algae.
- (2) Possessing or using poisons, electrical charges, explosives, or similar environmentally destructive methods of fishing or harvesting.
- (3) Possessing or using spearguns, including such devices known as Hawaiian slings, pole spears, arbalettes, pneumatic and spring-loaded spearguns, bows and arrows, bang sticks, or any similar taking device while utilizing SCUBA equipment.
- (4) Possessing or using a seine, trammel, drift gill net, or any type of fixed net.
- (5) Disturbing the benthic community by bottom trawling.

(b) There shall be a rebuttable presumption that any items listed in paragraph (a) of this section found in the possession of a person within the Sanctuary have been used, collected, or removed within or from the Sanctuary.

**§ 922.105 Prohibited or otherwise regulated activities – Unit-specific.**

In addition to the prohibitions set forth in § 922.103 and § 922.104, the following regulations apply to activities conducted within specified Sanctuary units described in the appendix to this subpart.

(a) The following activities are prohibited in the Fagatele Bay Unit:

- (1) Harvesting, catching, removing, taking, injuring, destroying, collecting, moving, possessing or causing the loss of any Sanctuary resource, including but not limited to fishing, or attempting any of these activities.
- (2) Possessing fishing gear unless such gear is stowed and not available for immediate use.

(b) The following activities are prohibited in the Aunu'u Unit:

- (1) In Zone A: Fishing from a vessel without providing notification to the Sanctuary Superintendent or his/her designee in the village of Aunu'u prior to each fishing trip.
- (2) In Zone B:

- (i) Fishing for bottom-dwelling species or otherwise harvesting, catching, removing, taking, injuring, destroying, collecting, moving, or causing the loss of any bottom-dwelling species, or attempting any of these activities. Surface fishing for pelagic species, including trolling, is allowed.
  - (ii) Disturbing the benthic community.
  - (iii) Possessing any Sanctuary resource, except legally harvested fish on board a vessel.
- (c) In the Muliāva Unit:
- (1) The prohibitions in paragraphs (a)(2) through (7) and (a)(9) through (15) of § 922.103 do not apply to scientific exploration or research activities conducted by or for the Department of Commerce or the Department of the Interior.
  - (2) Notwithstanding the prohibition in § 922.103(a)(8), the following vessels may discharge treated waste from a U.S. Coast Guard approved Type I, II or III Marine Sanitation device 12 nautical miles seaward of the Rose Atoll National Wildlife Refuge:
    - (i) Vessels engaged in scientific exploration or research activities conducted by or for the Department of Commerce or the Department of the Interior; or
    - (ii) All other vessels engaged in scientific exploration or research activities, if authorized under a permit issued in consultation with the U.S. Fish and Wildlife Service and in accordance with § 922.48 and § 922.107.

#### **§ 922.106 Management and enforcement.**

The National Oceanic and Atmospheric Administration (NOAA) has primary responsibility for the management of the Sanctuary pursuant to the Act. The American Samoa Department of Commerce (ASDOC) will assist NOAA in the administration of the Sanctuary, and act as the lead territorial agency, in conformance with the terms of designation, these regulations, and the terms and provisions of any grant or cooperative agreement.

#### **§ 922.107 Permit procedures and criteria.**

(a) Any person in possession of a valid permit issued by the Director, in consultation with the ASDOC, in accordance with this section and § 922.48, may conduct an activity otherwise prohibited by § 922.103, § 922.104, and § 922.105 in the Sanctuary if such activity is judged not to cause long-term or irreparable harm to the resources of the Sanctuary, and is:

- (1) Related to research involving Sanctuary resources designed to enhance understanding of the Sanctuary environment or to improve resource management decisionmaking;
- (2) Intended to further the educational value of the Sanctuary and thereby enhance understanding of the Sanctuary environmental or improve resource management decisionmaking;
- (3) Intended to further the management of the Sanctuary; or
- (4) For salvage or recovery operations.

(b) Permit applications shall be addressed to the Director, Office National Marine Sanctuaries; ATTN: Sanctuary Superintendent, American Samoa National Marine Sanctuary, P.O. Box 4318, Pago Pago, AS 96799.

(c) In considering whether to grant a permit, the Director shall evaluate such matters as:

- (1) The general professional and financial responsibility of the applicant;
- (2) The appropriateness of the methods being proposed for the purpose(s) of the activity;
- (3) The extent to which the conduct of any permitted activity may diminish or enhance the value of the Sanctuary as a source of recreation, education, or scientific information; and
- (4) The end value of the activity.

(d) In addition to meeting the criteria in this section and § 922.48, the applicant also must demonstrate to the Director that:

- (1) The activity shall be conducted with adequate safeguards for the environment; and
- (2) The environment shall be returned to, or will regenerate to, the condition which existed before the activity occurred.

(e) The Director may, at his or her discretion, grant a permit which has been applied for pursuant to this section, in whole or in part, and subject the permit to such condition(s) as he or she deems necessary.

### Appendix to Subpart J of Part 922 – American Samoa National Marine Sanctuary Boundary Coordinates

[Coordinates listed in this Appendix are unprojected (Geographic) and based on the North American Datum of 1983.]

(a) Fagatele Bay

No coordinates are needed in addition to those described in § 922.101 (a).

(b) Fagalua/Fogama'a

No coordinates are needed in addition to those described in § 922.101 (b).

(c) Aunu'u (Zones A, B)

The Aunu'u Unit is comprised of two adjacent zones, described in § 922.101(c), for which the point coordinates are provided in following tables 1 and 2.

Table 1: Coordinates for the Aunu'u Unit, Zone A

Point ID	Latitude (south)	Longitude (west)
1	14.286 S	170.577 W
2	14.304 S	170.577 W
3	14.302 S	170.566 W
4	14.286 S	170.533 W
5	14.286 S	170.546 W
6	14.286 S	170.562 W
7	14.286 S	170.577 W

Table 2: Coordinates for the Aunu'u Unit, Zone B

Point ID	Latitude (south)	Longitude (west)
1	14.270 S	170.496 W
2	14.286 S	170.496 W
3	14.286 S	170.546 W
4	14.280 S	170.550 W
5	14.270 S	170.550 W
6	14.270 S	170.551 W

## (d) Swains Island

The Swains Island Unit boundary is defined by the coordinates provided in Table 3 and the textual description in § 922.101(d).

Table 3: Coordinates for the Swains Island Unit

Point ID	Latitude (south)	Longitude (west)
1	11.058639	171.08865
2	11.051669	171.089494
3	11.048561	171.092686
4	11.054867	171.094453
5	11.060239	171.092825
6	11.058639	171.08865
7	11.063967	171.075989
8	11.058622	171.068617
9	11.062167	171.066222
10	11.067414	171.073639
11	11.063967	171.075989

## (e) Muliāva

The Muliāva Unit boundary is defined by the coordinates provided in Table 4 and the textual description in § 922.101(e).

Table 4: Coordinates for the Muliāva Unit

Point ID	Latitude (south)	Longitude (west)
1	15.387 S	169.012 W
2	14.271 S	169.012 W
3	14.271 S	169.121 W
4	14.150 S	169.121 W
5	14.150 S	169.012 W
6	13.698 S	169.012 W
7	13.698 S	167.283 W
8	15.387 S	167.283 W
9	15.387 S	169.12

## (f) Ta'u Unit

The Ta'u Unit boundary is defined by the coordinates provided in Table 5 and the textual description in § 922.101(f).

Table 5: Coordinates for the Ta'u Unit

Point ID	Latitude (south)	Longitude (west)
1	14.24889 S	169.503056 W
2	14.273056S	169.488056 W
3	14.277222 S	169.488056 W
4	14.261111 S	169.429167W
5	14.293889 S	169.429167W
6	14.293889 S	169.519722 W
7	14.24889 S	169.519722 W
8	14.24889 S	169.503056 W