



**OFFICE OF THE GOVERNOR
AMERICAN SAMOA GOVERNMENT**

EXECUTIVE ORDER 011 – 2023

**AN ORDER PROHIBITING THE SALE OF SHARKS OR POSSESSION OF RARE
MARINE SPECIES IN AMERICAN SAMOA, SUPERCEDING EXECUTIVE ORDER
002-2012**

Section 1: Authority

This Executive Order is issued under the authority granted to the Governor in Article IV, Section 6 and Section 7, of the American Samoa Revised Constitution and the American Samoa Code Annotated §4.0111.

Section 2: Preamble

WHEREAS, the mission statement of the Department of Marine and Wildlife Resources is to manage, protect and perpetuate the marine and wildlife resources in the Territory of American Samoa;

WHEREAS, preservation of our living marine resources, including healthy and sustainable fish and shark populations, is a priority issue for the benefit of present and future generations; and

WHEREAS, American Samoa is actively involved in the conservation and protection of healthy coral reefs and associated marine species; and

WHEREAS, rare marine species in American Samoa include Humphead Wrasse (*Cheilinus undulatus*); Bumphead parrotfish (*Bolbometopon muricatum*); and Giant grouper (*Epinephelus lanceolatus*);

WHEREAS, sharks and rare marine species are more vulnerable than abundant species to overexploitation;

WHEREAS, unlike other species, sharks and rare marine species' populations grow more slowly, take longer to mature, and produce very few juveniles, leaving them particularly vulnerable to overfishing;

WHEREAS, Bumphead Parrotfish (*Bolbometopon muricatum*) are especially vulnerable to nighttime spear fishing because they sleep in schools either in the open or in holes that are too small for them to completely fit into, and they sleep in the same area every night, and have been driven by fishing to local extinction in many areas.

Bumphead Parrotfish are extremely rare in American Samoa and may be close to local extinction;

WHEREAS, the minimum population doubling time for Bumphead parrotfish is 4.5 to 14 years;

WHEREAS, Bumphead Parrotfish is functionally important on reefs as a major bioeroder which maintains ecosystem resilience;

WHEREAS, Humphead Wrasse (*Cheilinus undulates*) are heavily targeted in the Pacific for the live food fish trade, and fishers tend to target the juveniles of Humphead Wrasse, which severely reduces the reproductive potential of the species;

WHEREAS, the minimum population doubling time for Humphead Wrasse is 4.5 to 14 years;

WHEREAS, Giant Grouper (*Epinephelus lanceolatus*) is heavily targeted for the live fish food trade;

WHEREAS, Giant Grouper juveniles are commonly targeted, reducing their reproductive potential by removing them from the population before they can breed;

WHEREAS, the minimum population doubling time for Giant Grouper is over 14-years;

WHEREAS, Humphead Wrasse is listed as an endangered species by the IUCN Red List;

WHEREAS, Bumphead parrotfish and Giant grouper are listed as vulnerable species by the IJCN Red list;

WHEREAS, Humphead Wrasse and Bumphead parrotfish are listed as "species of concern" by NOAA NMFS;

WHEREAS, sharks are keystone species for maintaining healthy marine systems, including coral reefs and fish populations; and

WHEREAS, approximately 73 million sharks are killed around the world each year, primarily for their fins, and this rate is pushing about one-third of open ocean shark species to the brink of extinction, damaging the ecosystems that support other species, degrading coral reef habitats, and adversely affecting fish populations;

WHEREAS, American Samoa has only 4-8% of the coral reef sharks that our reef should have;

WHEREAS, American Samoa recognizes that failure to protect these sharks and rare marine species may cause serious repercussions to the marine ecosystem, and we could lose these species forever.

Section 3: Rare marine species defined.

The American Samoa Government recognizes that the following species are rare and deserving of additional protections. For purposes of this Order, the term "rare marine species" shall include the following species:

1. Humphead Wrasse (*Cheilinus undulates*), also known as a Napoleon Wrasse, Maori Wrasse, Lalafi, Tagafa, or Malakea;
2. Bumphead parrotfish (*Bolbometopon muricatum*), also known as Green Humphead parrotfish, Uluto'l, Laea-uluto'l, or Galo uluto'l; and
3. Giant grouper (*Epinephelus lanceolatus*), also known as Ata'ata-uli or Vaolo.

Section 4: Possession of rare marine species prohibited

- (a) It shall be unlawful for any person to:
 - (1) Possess, deliver, carry, transport or ship by any means whatsoever any rare marine species or the body parts of any such species;
 - (2) Import, export, sell or offer for sale any such species or body parts of a rare marine species; or
 - (3) Take or kill any rare marine species in American Samoa.
- (b) If any rare marine species is caught or captured, it shall be immediately released, whether dead or alive. If the rare marine species is captured alive, it shall be released in a manner that affords it the greatest opportunity for survival.
- (c) It is not a defense that the rare marine species was caught or captured inadvertently, as bycatch, or from another fishery.
- (d) For purposes of this section, there shall be a rebuttable presumption that any rare marine species, or part of a rare marine species, found in possession was possessed or transferred in violation of this section.
- (e) Notwithstanding subsection (a), any person who holds a permit issued by the Department of Marine and Wildlife Resources to conduct scientific research shall not be subject to the penalties of this section.

Section 5: Sale of sharks and possession of shark fins prohibited.

- (a) It shall be unlawful for any person to:
 - (1) import, export, sell, offer for sale, distribute, trade, or transport out of American Samoa any shark species or the body parts of such species; and
 - (2) possess, sell, offer for sale, distribute, trade, or transport shark fins in American Samoa.
- (b) As used in this section "shark fin" means the raw, dried, or otherwise processed detached fin, or the raw, dried, or otherwise processed detached tail, of an elasmobranch.
- (c) Any person who possesses any shark species or the body parts of such species shall report the possession to the Department of Marine and Wildlife Resources.
- (d) Notwithstanding subsection (a), any person who acts in accordance with the terms of a permit by the Department of Marine and Wildlife Resources or any federal agency to conduct scientific research shall not be subject to the penalties of this section.
- (e) Nothing in subsection (a) shall prohibit the landing and dressing of sharks, rays, or skates that have been lawfully caught in the American Samoa Exclusive Economic Zone or a federally managed fishery, provided the sharks, rays or skates are handled consistently with the Magnuson-Stevens Fishery Conservation and Management Act 1976 as amended by the Shark Conservation Act 2010.

Section 6: Penalties.

- (a) With the exception of Section 5(c), any person who violates this order shall be subject to the fines and penalties prescribed in A.S.C.A. 24.0312.
- (b) Any species listed in this Order or parts discovered in violation of this section shall be confiscated by the government. All species and parts confiscated under this subsection shall be delivered to the Department of Marine and Wildlife Resources, for use as it sees fit other than sale.
- (c) Any other law, regulation, or order permitting the sale or other disposal of seized or forfeited fish or fish products shall not apply to the species listed in this Order.

Section 7: Regulations to be Promulgated.

The Department of Marine and Wildlife Resources shall promulgate regulations in conformance with this Order. Said regulations shall be reviewed at least every three years to determine whether these fisheries are sustainable, whether these rare marine species need continued protection, and whether new species should be added for protection.

Section 8: Repealer

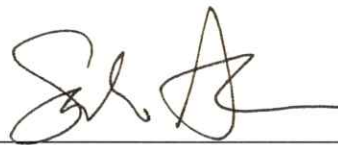
The Order supersedes Executive Order 002-2012.

Section 9: Effective Date

This order shall take effect immediately and remain in effect until it is extended, superseded, amended, or repealed.

Date: _____

11/6/23



TALAUEGA E. V. ALE

Acting Governor of American Samoa