

HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUBTITLE 4 FISHERIES

PART V PROTECTED MARINE FISHERIES RESOURCES

CHAPTER 94

BOTTOMFISH MANAGEMENT

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§13-94-1 Purpose. It is the intention of the department to establish these rules for the conservation and management of bottomfish resources in the main Hawaiian Islands. Scientific studies indicate that certain bottomfish species should be managed and certain areas strictly regulated to conserve existing stocks.

§13-94-2 Definitions. As used only in this chapter:

"Board" means the board of land and natural resources.

"Bottomfish" means those fish species listed in section 13-94-5 of this chapter.

"Bottomfish limited entry program" means a method of fishery management that limits or controls participation in a fishery, access to a fishery, or generally fishing, for a bottomfish species or a number of bottomfish species. Measures to limit or control participation, access, or fishing could include, but are not limited to, reducing or setting a maximum number of fishers, reducing or setting a maximum number of fishing vessels, restricting fishing gear types, restricting fishing areas, or restricting maximum amount of catch.

"Bottomfish longline" means a type of fishing gear or fishing method used to take bottomfish consisting of a weighted mainline, with attached shorter branchlines with fishing hook or hooks, that is either laid on the ocean bottom or suspended horizontally near the ocean bottom with floats.

"Clearly visible" means to be able to be seen in its entirety from a distance at least 100 feet away, free of any obstacle that may block the field of view from at least 45 degrees above, fore, and aft of the vessel.

"Commercial purposes" means the taking of marine life for profit or gain or as a means of livelihood where the marine life is taken in or outside of the State, or where the marine life is sold, offered for sale, bartered, landed, or transported for sale anywhere in the State.

"Kona crab net" means a type of fishing gear consisting of a metal frame over which is stretched netting material, and that is deployed on the bottom with the kona crab, as defined in section 13-95-1, being captured by entanglement on the netting material.

"Main Hawaiian islands commercial bottomfish fishery" means the fishing of bottomfish for commercial purpose in the waters of the main Hawaiian islands surrounding, between, and including the islands of Niihau and Kaula to the northwest and the island of Hawaii to the southeast.

"Net" means any of various fishing devices of mesh material made into various shapes, such as but not limited to, a bag, sack, pouch, or curtain, used to entangle, surround, or concentrate aquatic life.

"Non-commercial purposes" means any purpose other than commercial purposes.

"Scoop net" means a type of fishing net consisting of a bag of mesh material kept open with a rigid frame and manipulated by a rigid handle that is designed to be used by a single person unaided by any mechanical device.

"Take" means to fish for, catch, or harvest, or to attempt to fish for, catch, or harvest, aquatic life. The use of any gear, equipment, tool, or any means to fish for, catch, capture, or harvest, or to attempt to fish for, catch, capture, or harvest, aquatic life by any person who is in the water, or in a vessel on the water, or on or about the shore where aquatic life can be fished for, caught, or harvested, shall be construed as fishing.

"Trap" means any of various fishing devices of mesh, perforated, or solid material made into the shape of a box, container, or enclosure, with one or more openings that allow aquatic life to enter into the interior of the box, container, or enclosure, but restrict exit out, thereby capturing the aquatic life within.

"Trawl" means a type of fishing net, usually in the form of an elongated bag, with the mouth kept open by various means that captures aquatic life while being towed or dragged through the water by a vessel.  
[Eff 6/1/1998; am 10/18/2010] (Auth: HRS §187A-5)  
(Imp: HRS §187A-5)

§13-94-3 Penalty. A person violating this chapter, or the terms and conditions of any license or permit issued as provided by this chapter, shall be punished as provided by law. [Eff 6/1/1998] (Auth: HRS §§187A-5, 187A-13, 188-53, 188-70, 189-4) (Imp: HRS §§187A-5, 187A-13, 188-53, 188-70, 189-4)

§13-94-4 Severability. If any provision of this chapter, or the application thereof to any person or circumstance is held invalid, the invalidity does not

affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable. [Eff 6/1/1998] (Auth: HRS §§187A-5, 1-23) (Imp: HRS §§187A-5, 1-23)

§13-94-5 Bottomfish species. For the purposes of this chapter, the following species are bottomfish:

- (1) `Ula`ula koa`e, ruby or longtail snapper, or onaga (*Etelis coruscans*);
- (2) `Ula`ula or ehu (*Etelis carbunculus*);
- (3) Kalekale (*Pristipomoides sieboldii*);
- (4) `Opakapaka (*Pristipomoides filamentosus*);
- (5) `Ukikiki or gindai (*Pristipomoides zonatus*);
- (6) Hapu`u, hapu`upu`u, or Hawaiian grouper (*Epinephelus quernus*); and
- (7) Lehi or rusty jobfish (*Aphareus rutilans*).  
[Eff: 6/1/1998; am 10/18/2010] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-94-6 Restricted bottomfish fishing gears.

(a) Certain fishing gears shall be prohibited to restrict their use in the taking of bottomfish. Except as may be otherwise authorized by law, it is unlawful for any person to take bottomfish with any trap, trawl, bottomfish longline or net; provided that scoop nets may be used to bring on board a vessel any bottomfish that has already been caught by authorized fishing gear.

(b) Except as may be otherwise authorized by law, it is unlawful for any person, while on board a vessel, to possess both bottomfish and any trap, trawl, bottomfish longline, or net other than scoop net or Kona crab net. [Eff 6/1/1998; 10/18/2010] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-94-7 Non-commercial bag limits. (a) A limit on the number of bottomfish that may be taken for non-commercial purposes shall be established to conserve bottomfish resources.

(b) Unless otherwise authorized by law, it is unlawful for any person, to take or possess more than a combined total of five bottomfish per day. [Eff

6/1/1998; am 10/18/2010] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-94-8 Bottomfish restricted fishing areas.

(a) The department will restrict fishing in certain areas to conserve the spawning populations of bottomfish.

(b) To aid enforcement of this section, the department intends to restrict all fishing for and possession of bottomfish within the restricted fishing areas. It is unlawful for any person to take or possess bottomfish while in a vessel that is drifting or anchoring within any bottomfish restricted fishing area, except in times of emergency or as may be otherwise authorized by law.

(c) The department will gather and consider the following information when selecting the bottomfish restricted fishing areas:

- (1) Identify the fishing areas where spawning onaga and ehu are caught;
- (2) Restrict fishing in about twenty percent of the known fishing areas where spawning onaga and ehu are caught;
- (3) Distribute the bottomfish restricted fishing areas in the most effective manner to consider the potential benefits and limit negative impacts on bottomfish fishing opportunities;
- (4) Suggestions from bottomfish fishers statewide; and
- (5) Any other relevant information.

(d) Due to the critical need of some bottomfish species for conservation measures, the department may need to respond quickly to establish or modify bottomfish restricted fishing areas. The bottomfish restricted fishing areas shall be established or amended by formal board action at a publicly noticed meeting. The bottomfish restricted fishing areas are attached at the end of this chapter as Exhibit A, entitled the "Bottomfish Restricted Fishing Areas (BRFA) 12/8/06," or as may be amended by subsequent board action and a copy of the amended Exhibit A shall be filed with the Office of the Lieutenant Governor.  
[Eff 6/1/1998; am 10/18/2010] (Auth: HRS §§187A-5,

188-53) (Imp: HRS §§187A-5, 188-53)

§13-94-9 Bottomfish fishing vessel identification number. (a) The department may register, and assign a bottomfish fishing vessel identification number to, any vessel used to fish for bottomfish. The purpose of the number is to enable identification of vessels used to fish for bottomfish from a distance while on the open ocean. The bottomfish fishing vessel identification number shall be valid for a one year period from the date registered, and must be annually renewed. It is unlawful for the vessel owner to take bottomfish from a vessel with a vessel identification number that does not have current registration.

(b) It is unlawful for any person to take or possess bottomfish while on a vessel on the water without a bottomfish fishing vessel identification number assigned or approved by the department.

(c) The bottomfish fishing vessel identification number shall consist of the following vessel identification, in front of the letters "BF" added as a suffix:

- (1) A valid Division of Boating and Ocean Recreation vessel registration number issued and displayed pursuant to chapter 13-241;
- (2) A valid National Marine Fisheries Service permit number issued and displayed under the provisions set forth in Fishery Management Plans of the Western Pacific Regional Fishery Management Council pursuant to CFR Part 660 Subparts B through E;
- (3) A valid United States Coast Guard vessel documentation number issued pursuant to 46 CFR 67; or
- (4) Any other such identification approved by the department.

(d) If the vessel identification, listed in subsection (c) above is not required to be displayed, then the vessel identification and the capital letters "BF", shall be displayed and clearly visible on both sides of the vessel, either near the top of the gunwales or on the superstructure. Unless other specified, all characters in the bottomfish vessel

identification number shall be no less than six (6) inches high and three (3) inches wide in black or a contrasting solid color to the background. [Eff 6/1/1998; am 10/18/2010] (Auth: §187A-5) (Imp: §187A-5)

§13-94-10 Control date. (a) There is established a control date to give prior notice of intent to possibly limit participation in the Main Hawaiian Islands commercial bottomfish fishery. Persons who begin fishing in the Main Hawaiian Islands commercial bottomfish fishery on or after the control date will not be assured continued participation if the department establishes a bottomfish limited entry program in the future. The control date will be the original effective date of this chapter.

(b) Nothing in this chapter shall commit the department to establish a bottomfish limited entry program in the future nor does it prevent the department from establishing another control date. [Eff: 6/1/1998] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-94-11 Bottomfish fishing seasons, other restrictions. (a) There is established an annual bottomfish fishing season for the taking of bottomfish in the main Hawaiian islands to prevent overfishing in this fishery.

(b) The board shall approve a closure of the fishing season for bottomfish in the state marine waters when closure is needed in order to match a federal closed season, or is dictated when a catch limit is reached either by a total fishing quota or by individual quotas, as determined and announced by the National Marine Fisheries Service.

(c) While a bottomfish fishing season is closed, it is unlawful for any person to fish for, possess, or sell bottomfish, or for any dealer to sell bottomfish, except as provided in section 13-94-14.

(d) When a bottomfish fishing season is open, any person may take, possess, and sell bottomfish, subject to the provisions of this chapter, and as may be otherwise provided by law. [Eff 10/18/2010] Auth: HRS §§187A-5, 187A-5.5, 187A-6, 189-6) (Imp: HRS

§§187A-5, 187A-5.5, 187A-6, 189-6)

§13-94-14 Exceptions. (a) Notwithstanding the provisions of subsection 13-94-11(d), while a bottomfish closed fishing season is in effect, a person with a valid federal bottomfish fishing permit for the Northwestern Hawaiian Islands federal waters, and a valid commercial marine license, may take and possess bottomfish from the above-described area.

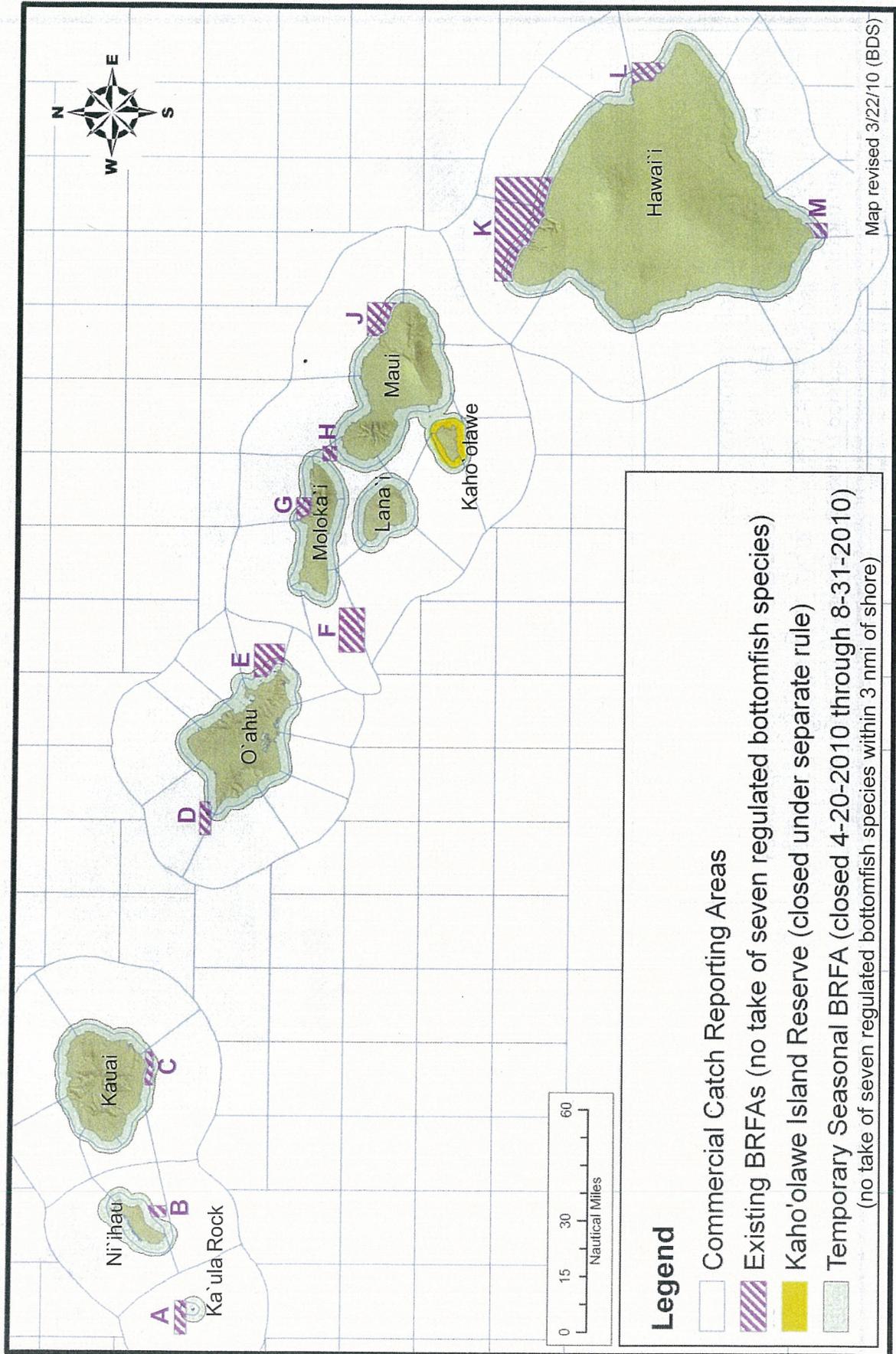
(b) Notwithstanding the provisions of subsection 13-94-11(d), while a bottomfish closed fishing season is in effect, a person may sell bottomfish, with:

- (1) A valid federal bottomfish fishing permit for the Northwestern Hawaiian Islands federal waters, and a valid commercial marine license, provided that the bottomfish were caught from the waters of the above-described area;
- (2) A valid special marine product license under section 13-74-42 and proper receipts as required under section 189-11, HRS, provided that the bottomfish were caught from the waters of the above-described areas or lawfully imported into the State; or
- (3) A valid aquaculture license under section 13-74-43 or valid license to sell reared species under section 13-74-44.

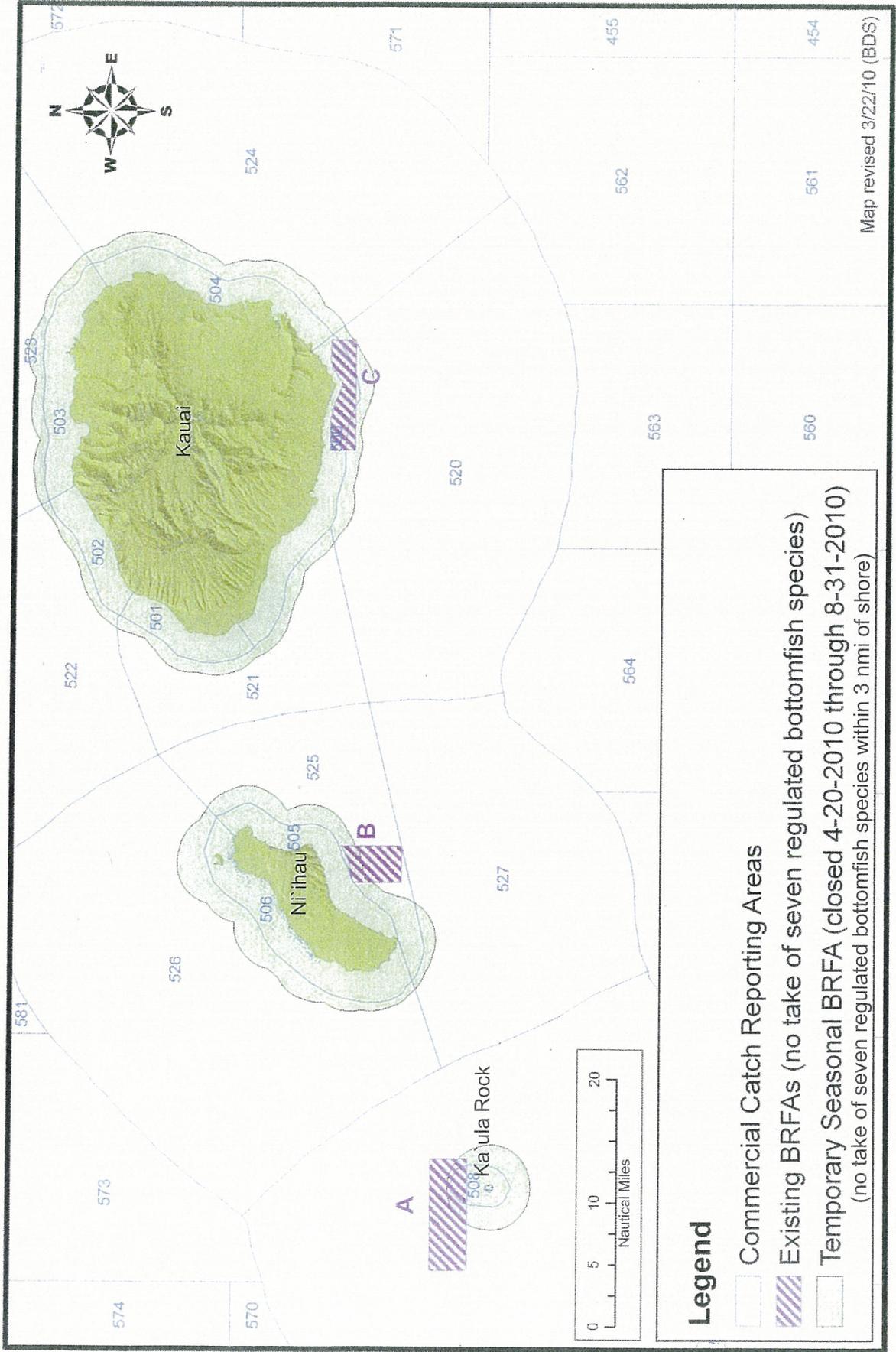
(c) Persons issued a special activity permit pursuant to section 187A-6, HRS, or other exemptions provided by law, may be exempted from the provisions of this chapter. [Eff 10/18/2010] (Auth: HRS §§187A-6, 189-6) (Imp: HRS §§187A-6, 189-6)

Exhibit A						
Bottomfish Restricted Fishing Areas (BRFA) 12/8/06						
Coordinates (endpoints)						
BRFA	Northwest (1)			Northeast (2)		
A	21° 44'	N Lat, 160° 39'	W Long	21° 44'	N Lat, 160° 30'	W Long
B	21° 50' 25"	N Lat, 160° 07' 30"	W Long	21° 51' 22"	N Lat, 160° 04' 30"	W Long
C	21° 52' 30"	N Lat, 159° 32'	W Long	21° 52' 30"	N Lat, 159° 23'	W Long
D	21° 39'	N Lat, 158° 24'	W Long	21° 39'	N Lat, 158° 15'	W Long
E	21° 25'	N Lat, 157° 41'	W Long	21° 25'	N Lat, 157° 32'	W Long
F	21° 02'	N Lat, 157° 34'	W Long	21° 02'	N Lat, 157° 22'	W Long
G	21° 14'	N Lat, 156° 58'	W Long	21° 14'	N Lat, 156° 52'	W Long
H	21° 07'	N Lat, 156° 42'	W Long	21° 07'	N Lat, 156° 38'	W Long
J	20° 55'	N Lat, 156° 08'	W Long	20° 55'	N Lat, 155° 59'	W Long
K	20° 21'	N Lat, 155° 53'	W Long	20° 21'	N Lat, 155° 25'	W Long
L	19° 44'	N Lat, 154° 59' 50"	W Long	19° 44'	N Lat, 154° 54'	W Long
M	18° 54' 13"	N Lat, 155° 41'	W Long	18° 57'	N Lat, 155° 37'	W Long
BRFA	Southeast (3)			Southwest (4)		
A	21° 41'	N Lat, 160° 30'	W Long	21° 41'	N Lat, 160° 39'	W Long
B	21° 46' 30"	N Lat, 160° 04' 30"	W Long	21° 46' 30"	N Lat, 160° 07' 30"	W Long
C	21° 50' 30"	N Lat, 159° 23'	W Long	21° 50' 30"	N Lat, 159° 32'	W Long
D	21° 36' 18"	N Lat, 158° 15'	W Long	21° 36'	N Lat, 158° 17' 10"	W Long
E	21° 17'	N Lat, 157° 32'	W Long	21° 17'	N Lat, 157° 37' 47"	W Long
F	20° 55'	N Lat, 157° 22'	W Long	20° 55'	N Lat, 157° 34'	W Long
G	21° 10'	N Lat, 156° 52'	W Long	21° 13' 08"	N Lat, 156° 58'	W Long
H	21° 03'	N Lat, 156° 38'	W Long	21° 03'	N Lat, 156° 42'	W Long
J	20° 47'	N Lat, 155° 59'	W Long	20° 52' 03"	N Lat, 156° 08'	W Long
K	20° 05' 30"	N Lat, 155° 25'	W Long	20° 16' 03"	N Lat, 155° 53'	W Long
L	19° 35'	N Lat, 154° 54'	W Long	19° 35'	N Lat, 154° 55' 02"	W Long
M	18° 51'	N Lat, 155° 37'	W Long	18° 51'	N Lat, 155° 41'	W Long
Additional (5)						
D	21° 36'	N Lat, 158° 24'	W Long			
E	21° 23' 38"	N Lat, 157° 41'	W Long			

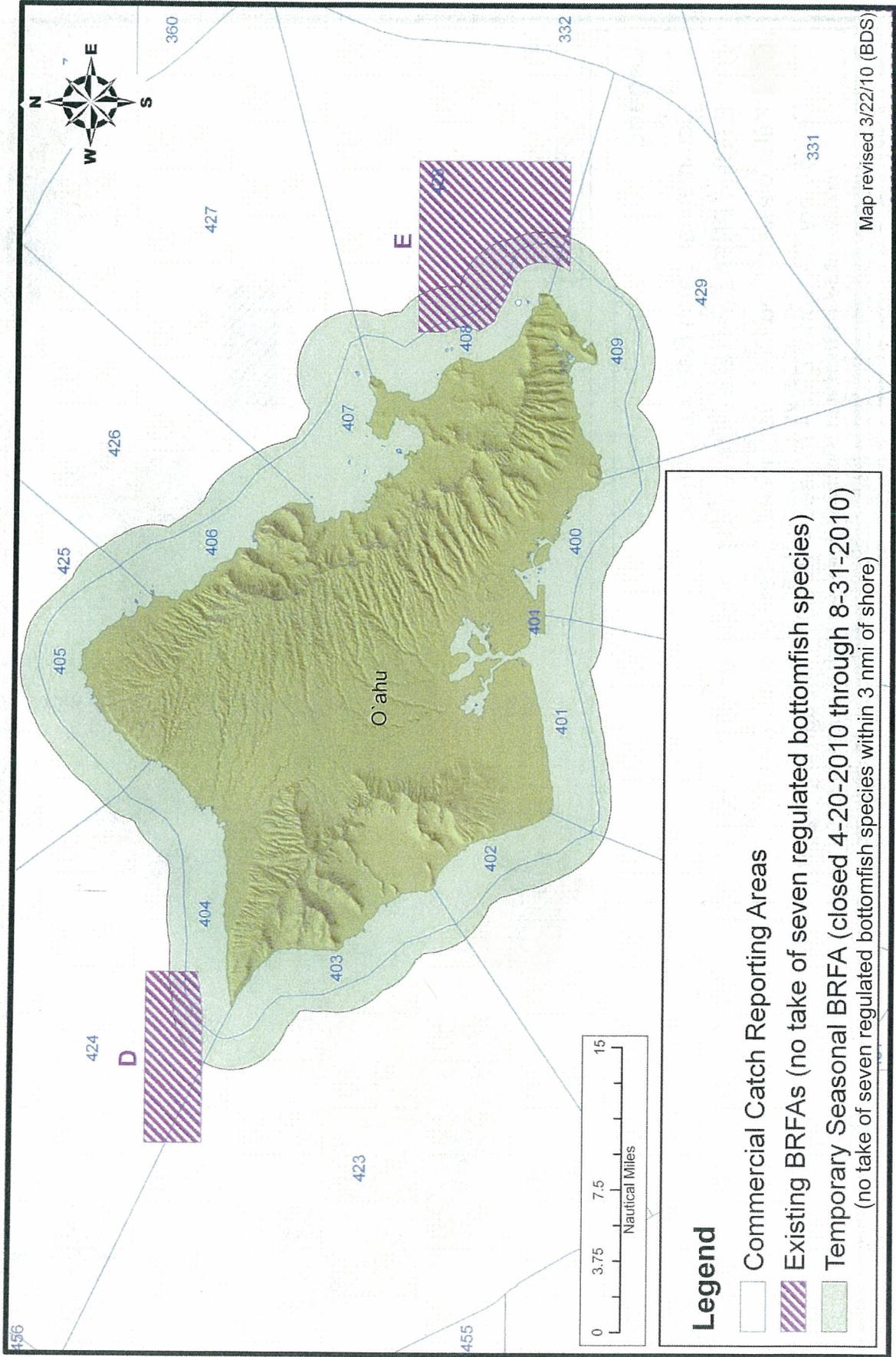
# Exhibit A: Bottomfish Restricted Fishing Areas (BRFAs) 4-8-2010



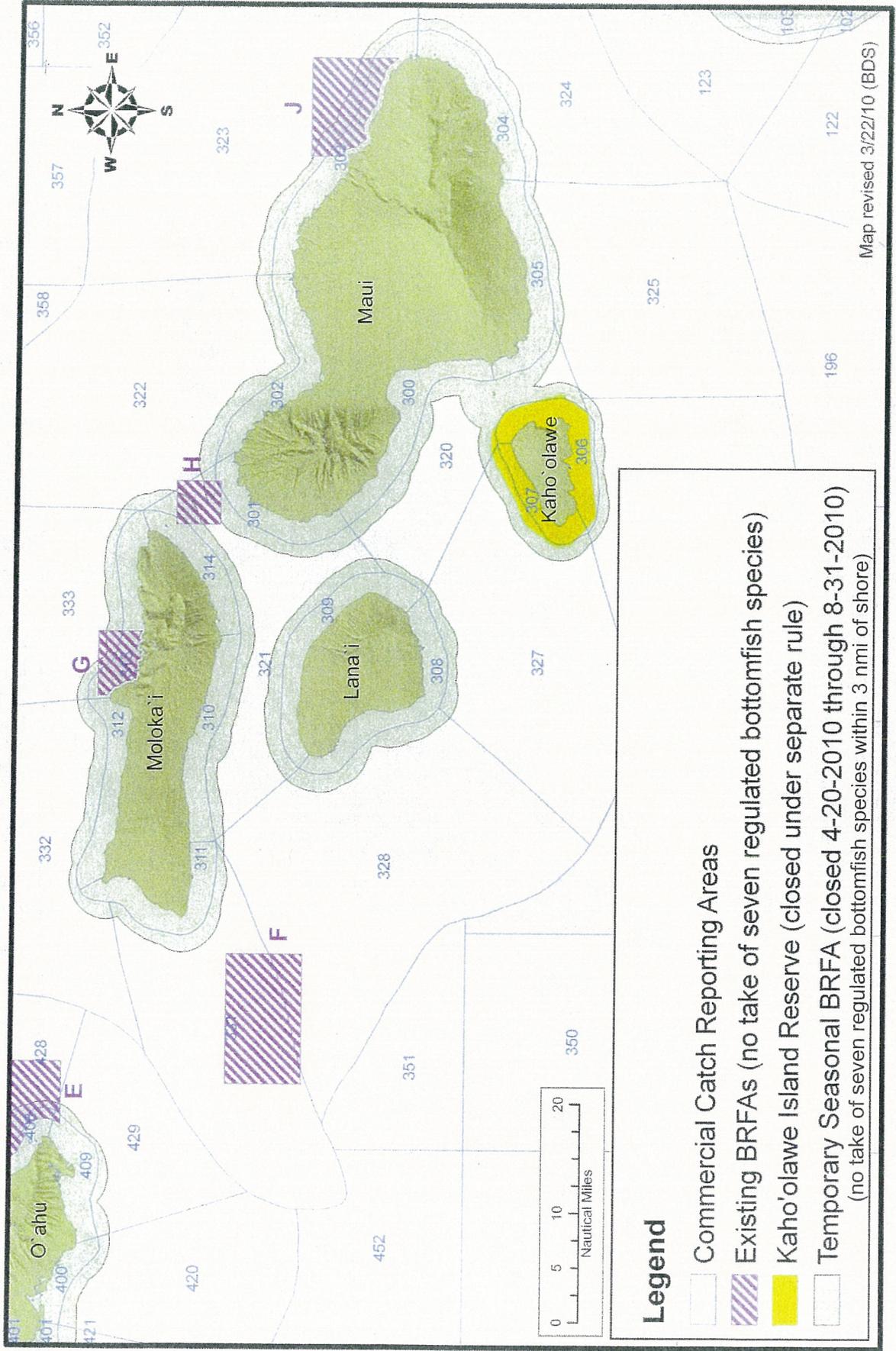
# Exhibit A2: Kauai County BRFAs 4-8-2010



# Exhibit A3: Honolulu City & County BRFA's 4-8-2010



# Exhibit A4: Maui County BRFAs 4-8-2010



# Exhibit A5: Hawai'i County BRFAs 4-8-2010

