

State of Hawaii
DEPARTMENT OF LAND AND NATURAL RESOURCES
Honolulu, Hawaii 96813

January 11, 2019

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

REQUEST TO OPEN THE FOLLOWING EXISTING MAIN HAWAIIAN ISLANDS BOTTOMFISH RESTRICTED FISHING AREAS (BRFA): BRFA C (POIPU, KAUAI, BRFA F (PENGUIN BANKS), BRFA J (HANA, MAUI) AND BRFA L (LELEIWI, HAWAII ISLAND), AND REQUEST TO DELEGATE TO THE CHAIRPERSON THE AUTHORITY TO IMPLEMENT THE DECISION.

Submitted for your review and approval is a request to open four of the twelve Bottomfish Restricted Fishing Areas (BRFAs) in the Main Hawaiian Islands. BRFAs were originally established in 1998 to provide refuges for the deep-7 bottomfish species following a federal stock assessment that suggested certain species were in danger of being overfished. A more recent stock assessment (2018) using improved methodologies determined that the deep-7 bottomfish complex is not experiencing overfishing. The network of BRFAs is just one of many regulations that are currently applied to manage this fishery. The other regulations include bottomfish vessel registration, expedited catch reporting, expedited dealer reporting, gear restrictions, commercial size limits, non-commercial bag limits, and an Annual Catch Limit (ACL).

Closed areas allow fish to grow in size and age for exponentially greater reproductivity, allowing population recovery in the closed areas and in adjacent areas. The Division of Aquatic Resources (DAR) believes that due to bottomfish recovery, better data, and decreased commercial pressure, opening four of the BRFAs to fishing is not likely, at this time, to adversely affect the sustainability of deep-7 bottomfish populations, and would benefit local bottomfishers. DAR recommends opening four BRFAs while carefully monitoring fishing effort and catch in those newly opened areas. This conservative approach would ensure continued protection of significant portions of bottomfish habitat while allowing DAR to gather more information about the influence of fishing on bottomfish stocks over time.

Joint State and Federal Management of Bottomfish

Because the Main Hawaiian Islands deep-7 bottomfish fishery exists in both state and federal waters, it is currently managed under a cooperative, joint state and federal approach. The State gathers commercial bottomfish fishing data from state licensed commercial fishers and registered commercial marine dealers, and then shares these data with the National Marine Fisheries Service, Pacific Islands Fisheries Science Center (PIFSC), for its analysis. The Science and Statistical Committee (SSC) of the Western Pacific Regional Fishery Management Council (WPRFMC) also reviews these data and the analysis conducted by PIFSC, then provides recommendations to WPRFMC. WPRFMC takes the SSC recommendations into consideration to determine the ACL as

required under federal law. The National Marine Fisheries Service, Pacific Islands Regional Office (PIRO) reviews WPRFMC's decisions and, if consistent with federal law, implements them into federal regulations. The State, PIRO, and WPRFMC develop complementary regulations based on the best scientific information available and agree on one set of regulations to make compliance easier for the fishers.

History of BRFAs

In 1998, DAR established nineteen BRFAs through the adoption of Chapter 13-94, Hawaii Administrative Rules (HAR), "Bottomfish Management". Within the BRFAs, it is unlawful to take or possess the following seven deep bottomfish species ("deep-7 bottomfish"): *Aphareus rutilans* (Lehi), *Epinephelus quernus* (Hapuu), *Etelis carbunculus* (Ulaula or Ehu), *E. coruscans* (Ulaula koae or Onaga), *Pristipomoides filamentosus* (Opakapaka), *P. sieboldii* (Kalekale), and *P. zonatus* (Ukikiki or Gindai). This management measure was implemented following a federal bottomfish stock assessment that determined that certain bottomfish species were in danger of being overfished based on estimates of low Spawning Potential Ratio (SPR). The SPR is a measure of the proportion of spawning sized fish in the population. Bottomfish grow relatively slowly and reach spawning size late in life, so large old fish are important to the population. Although these fish have a wide habitat range, they tend to inhabit specific geologic features, making them susceptible to take. To conserve spawning populations of bottomfish and to maintain an SPR above 20%, nineteen BRFAs were established. In 2007, the network of BRFAs was amended to the current 12 BRFA network (Figure 1). This amendment reduced the number of BRFAs, but expanded the total area of quality bottomfish habitat within BRFAs.

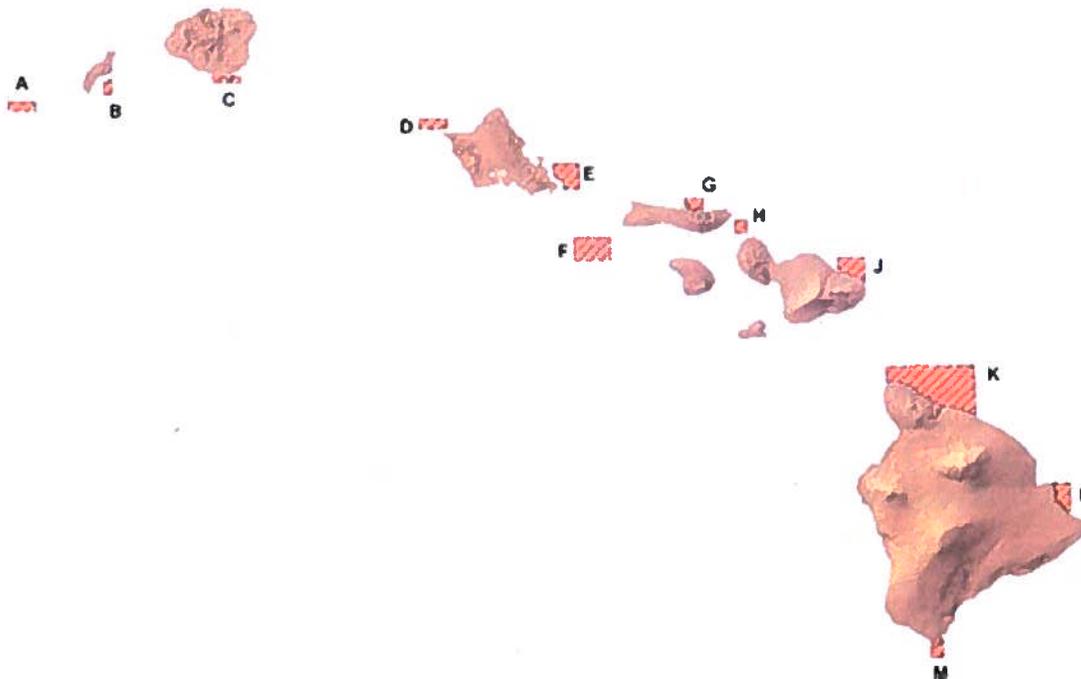


Figure 1. Location of Bottomfish Restricted Fishing Areas

Status of the Main Hawaiian Islands Bottomfish Stock

In February 2018, PIFSC completed a benchmark stock assessment for the Main Hawaiian Islands Deep-7 bottomfish complex. Unlike prior stock assessments, the 2018 stock assessment integrated input from fishermen, to produce what is considered the most comprehensive stock assessment ever completed for this fishery to date. The assessment indicated that the stock is not in a state of overfishing or overfished. The current ACL for the commercial fishery is set at 492,000 pounds. Last year's commercial take was 230,912 pounds and the average for the past 10 years was 251,761 pounds. Based on this updated information, DAR believes that the current state/federal regulations can be revised without likely posing a threat, at this time to the continued sustainability of the fishery. While some regulations are still considered essential, such as those mentioned previously, the BRFAs need not be as restrictive.

Prioritization of Which BRFAs to Open

Currently DAR is taking a conservative approach and proposing to open four of the twelve BRFAs to fishing. To determine which BRFAs to open, DAR considered several factors which included habitat value, fishery catch, enforceability, safety, and fisher input. Fisher input was solicited by a DAR initiated survey that captured the opinion of registered bottomfishermen, and recommendations by the Western Pacific Regional Fisheries Management Council (WPRFMC). Another major factor considered was equality at the county level. Based on these factors DAR recommends opening the following BRFAs to fishing: BRFA C (Poipu, Kauai), BRFA F (Penguin Banks), BRFA J (Hana, Maui), and BRFA L (Lelewi, Hawaii Island).

Authority to Act

Subsection 13-94-8(d), HAR, provides that the Board may establish or amend the BRFAs by formal action at a publicly noticed meeting. The subsection also provides that Exhibit A (Attachment 1), a map of the BRFAs, may be amended by board action and a copy of the amended Exhibit A filed with the Office of the Lieutenant Governor.

Implementation

Any decision to change the current BRFA system would involve several steps. A major change would be to amend Exhibit A. We would consult with the Attorney General's office to ensure legal requirements are met. Once amended, the new Exhibit A would need to be filed with the Office of the Lieutenant Governor. While the amendment would become effective 10 days after filing, the actual public notification of the change would need to be published with a date of implementation. Prior to this public notice, preparations for potentially other forms of notification, such as direct notice to registered bottomfishers, would need to be planned for and implemented. Our recommendation would be for the Board to delegate to the chairperson the authority to take whatever actions are needed to implement its decision on this proposal.

Monitoring Opened BRFAs

To monitor the impacts of opening four BRFAs, DAR will be refining the deep-7 bottomfish catch reporting system. This approach will not compromise the traditional reporting grids which have existed since 1948, but rather complement it, by overlaying sub-grids within the realm of the traditional grids. When finalized, this system will allow the Division to track the catch that is taken from the opened BRFAs and thus respond with management action if deemed necessary. Should the need arise, the Board is authorized to immediately close or otherwise amend the BRFAs.

RECOMMENDATIONS:

That the Board:

1. Open the following four BRFAs to fishing for deep-7 bottomfish: BRFA C (Poipu, Kauai), BRFA F (Penguin Banks), BRFA J (Hana, Maui), and BRFA L (Leleiwi, Hawaii Island); and
2. Delegate to the Chairperson the authority to implement this action.

Respectfully submitted,



Brian Kanenaka, Acting Administrator
Division of Aquatic Resources

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson
Board of Land and Natural Resources

Attachment:

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

Attachment 1. Taken from HAR section 13-94-8

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

