



NOAA FISHERIES SERVICE

Pacific Islands
Regional Office

Compliance
Guide

Main Hawaiian Islands Bottomfish Fishing

revised July 2010

This guide provides information for fishermen on how to comply with Federal bottomfish management measures in the main Hawaiian Islands (MHI), that is, the waters from three to 200 nautical miles offshore around the Hawaiian Islands Archipelago lying to the east of 161°20' W. longitude.

This information pertains only to the final rule published in the *Federal Register* on April 4, 2008 (73 FR 18450), and the final rule published on July 18, 2008 (73 FR 41296). For the complete set of official regulations, please refer to Title 50 of the Code of Federal Regulations, Part 665 (50 CFR 665). These regulations were implemented by the National Oceanic and Atmospheric Administration (NOAA), National Marine Fisheries Service (NMFS), and are authorized under the Magnuson Stevens Fishery Conservation and Management Act (Public Law 94-265, as amended).

Regulations are subject to change, so fishermen must familiarize themselves with the most recent changes and are responsible for complying with them. Any discrepancy between this compliance guide and the regulations will be resolved in favor of the regulations published in the *Federal Register* on April 4, 2008 (73 FR 18450), July 18, 2008 (73 FR 41296), and the Code of Federal Regulations. This compliance guide is issued in accordance with Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996: Title II of Public Law 104-21.

GENERAL

Question 1. How and why did the regulations come about?

The Western Pacific Fishery Management Council (Council) recommended the regulations, after public meetings throughout Hawaii, to end overfishing of bottomfish by reducing fishing mortality. The regulations include non-commercial bag limits for Deep 7 bottomfish (see Question 2), an annual total allowable catch (TAC) limit, vessel marking requirements, Federal non-commercial bottomfish permits, as appropriate, and reporting requirements.

Question 2. What are the bottomfish management unit species and the Deep 7 bottomfish?

Hawaii bottomfish management unit species consists of the Deep 7 bottomfish (Hawaii Restricted Bottomfish species) and other species listed in the following tables:

Deep 7 (Hawaii Restricted Bottomfish Species)

<u>Local Name</u>	<u>Common name</u>	<u>Scientific Name</u>
Lehi	Silver jaw jobfish	<i>Aphareus rutilans</i>
Ehu	Squirrelfish snapper	<i>Etelis carbunculus</i>
Onaga	Longtail snapper	<i>E. coruscans</i>
Opakapaka	Pink snapper	<i>Pristipomoides filamentosus</i>
Kalekale	Snapper	<i>P. sieboldii</i>
Gindai	Snapper	<i>P. zonatus</i>
Hapu'upu'u	Sea bass	<i>Epinephelus quernus</i>

Other Species

<u>Local Name</u>	<u>Common name</u>	<u>Scientific Name</u>
Uku	Gray jobfish, green jobfish	<i>Aprion virescens</i>
Ta'ape	Blue stripe snapper	<i>Lutjanus kasmira</i>
Yellowtail kalekale	Yellowtail snapper	<i>Pristipomoides auricilla</i>
White ulua	Giant trevally	<i>Caranx ignobilis</i>
Black ulua	Black jack	<i>C. lugubris</i>
Pig ulua, butaguchi	Thick lipped trevally	<i>Pseudocaranx dentex</i>
Kahala	Amberjack	<i>Seriola dumerilli</i>

Question 3. Where do the regulations apply?

The Federal regulations apply to anyone who fishes for bottomfish from a vessel in waters from three nautical miles (nm) to 200 nm offshore in the MHI. Many State and Federal regulations complement each other, and fishermen should check with the State of Hawaii Department of Land and Natural Resources (DLNR) for bottomfish fishery regulations that apply in State waters (that is, from the shoreline to 3 nm offshore). (DLNR contact information is found at the end of this guide.)

Question 4. Who is affected by the regulations?

The regulations affect everyone who engages in vessel-based non-commercial (recreational and subsistence) or commercial bottomfish fishing in Federal waters of the MHI. Seafood dealers, markets, restaurants, and anyone else who possesses or sells Deep 7 bottomfish are also affected by the prohibition on the possession and sale of Deep 7 bottomfish during a fishery closure.

Question 5. When did the regulations take effect, and for how long are they effective?

The regulations were effective on April 1, 2008. The permit and reporting requirements were effective on August 18, 2008. The regulations will remain effective until they are revised or removed by NMFS.

BAG LIMIT

Question 6. What is the Federal non-commercial bag limit and to whom does it apply?

The bag limit is five (5) Deep 7 bottomfish, in any combination of species, per person, per fishing trip, in Federal waters. The bag limit applies to each person fishing in Federal waters on a vessel on which any fisherman on board does not have a State of Hawaii Commercial Marine License. The bag limit also applies to charterboat customers.

Question 7. What if I accidentally catch more than five Deep 7 bottomfish?

If you catch more than five Deep 7 bottomfish on a trip, you must release the excess fish, regardless of their condition.

TOTAL ALLOWABLE CATCH ("TAC")

Question 8. What is a TAC and to whom does it apply?

The total allowable catch (TAC) is an annual, fishery-wide limit on Deep 7 bottomfish catch. The TAC is set by NMFS each year, as recommended by the Council. Fishermen are encouraged to participate in the TAC-related discussions at Council meetings. Setting the TAC involves analyses of the status of the bottomfish stock, based on fishing records and other factors. The TAC limit applies to both commercial and non-commercial fishermen, and when fishing records indicate that the TAC is reached, all fishing for Deep 7 bottomfish in the MHI is prohibited until the start of the next fishing year.

Question 9. When is the fishing year?

The fishing year starts on September 1 and runs through August 31 of the following year, unless the TAC limit is reached before August 31.

Question 10. How will I know the TAC for the year?

NMFS publishes the TAC specification in the *Federal Register*, posts it at www.fpir.noaa.gov, and notifies the public through other means. The same information may be found at www.hawaiibottomfish.info.

Question 11. How will I know if the TAC is reached?

NMFS posts a running estimate of the bottomfish catch to be counted toward the TAC at www.fpir.noaa.gov. The same information may be found at www.hawaiibottomfish.info. When the TAC is projected to be reached, NMFS will notify bottomfish fishermen¹ and the general public that the fishery for Deep 7 bottomfish will close on a specified date. NMFS will provide at least two weeks notice before the fishery is closed. Notices will include publications in the *Federal Register*, postings on websites (www.fpir.noaa.gov and www.hawaiibottomfish.info), and other means.

¹ Information from DLNR and NMFS permit databases.

Question 12. What if the TAC is not reached during the fishing year?

If the TAC is not reached during the fishing year, the fishery will remain open for the entire fishing year.

Question 13. After the Deep 7 fishery is closed, may I fish for other bottomfish? What if I accidentally catch one of the Deep 7 bottomfish while I am fishing for other bottomfish?

During a closure of the Deep 7 bottomfish fishery, you may fish for other bottomfish management unit species. If you catch any Deep 7 bottomfish, you must release them immediately, regardless of their condition. For information on methods of releasing accidentally-caught bottomfish that may enhance their survivability, please contact the Council (contact information at end of this guide) or visit www.hawaiibottomfish.info.

Question 14. While the fishery is closed, may I fish for or sell Deep 7 bottomfish caught in the MHI?

No. During the closure, fishing for, and possession of, Deep 7 bottomfish is prohibited in Federal waters of the MHI. The new regulations also prohibit anyone, including fishermen, dealers, fish markets, and restaurants, from selling Deep 7 bottomfish caught in the MHI during the closure.

Question 15. May I keep Deep 7 bottomfish that were legally caught in the MHI prior to the closure in my refrigerator or freezer?

Yes.

Question 16. During the closure, may I sell Deep 7 bottomfish that were caught in the MHI prior to the closure of the fishery?

No. Sale of any Deep 7 bottomfish from the MHI is prohibited during the closure (see Question 13).

Question 17. Is it legal to possess or sell any Deep 7 bottomfish that were caught somewhere else during the closure?

Deep 7 bottomfish that were caught legally in the Northwestern Hawaiian Islands (NWHI), in the Pacific Remote Islands Areas (PRIA), or legally imported into Hawaii may be possessed or sold during the closure.

Question 18. How do I document that the fish I sell were caught legally?

Documentation could include, but is not limited to, such sources as State fishing reports, dealer and auction records, or the State Special Marine Product License. Further information may be obtained from the DLNR (see contact information at the end of this guide).

VESSEL MARKING

Question 19. Do I have to mark my vessel in a specific way for non-commercial bottomfish fishing?

Yes. You must mark your vessel in accordance with State of Hawaii bottomfish vessel identification requirements, or Federal vessel identification requirements.

PERMITS

Question 20. Who needs a Federal non-commercial bottomfish permit?

Every person who fishes for bottomfish management unit species in Federal waters (3-200 nm) around the MHI must have a Federal MHI Non-Commercial Bottomfish Permit or a State of Hawaii Commercial Marine License (CML). This includes owners of vessels used for bottomfish fishing in Federal waters. Charterboat customers do not need permits.

Question 21. How do I determine if I need a State CML or a Federal non-commercial permit?

If you fish for bottomfish species, and do not sell, barter, or trade² any fish, then either a Federal non-commercial bottomfish permit or a State CML will satisfy the Federal permit requirement. According to Federal regulations, if you sell, barter, or trade any fish at any time during the year, you must have a State CML.

Question 22. How do I get a non-commercial bottomfish permit?

Permits are issued by NMFS Sustainable Fisheries Division, Pacific Islands Regional Office (PIRO), 1601 Kapiolani Blvd. Suite 1110, Honolulu, HI 96814. The application form is available at PIRO, and online at www.fpir.noaa.gov and www.hawaiibottomfish.info. The application form may also be available at State of Hawaii Division of Aquatic Resources and Division of Boating and Ocean Recreation offices. For questions regarding permits, please call PIRO permits at (808) 944-2275, or email PIRO-permits@noaa.gov.

Question 23. I live on a neighbor island. How do I get a permit?

See Question 22 for information on obtaining a permit application form. All applications will be processed at PIRO. Completed applications may be mailed to the PIRO address above or hand-delivered to PIRO. NMFS will begin processing your permit upon receipt of a completed application. Permits will generally be mailed to applicants. If you have questions about permits, call PIRO Permits at (808) 944-2275 or email PIRO-permits@noaa.gov.

Question 24. Is there a fee for the Federal bottomfish permit?

Yes. A non-refundable processing fee of \$24 will be charged for each permit application. Checks should be made payable to Department of Commerce, NOAA. Cash or money orders will not be accepted.

Question 25. How long is the Federal permit valid?

A Federal non-commercial bottomfish permit is valid for one year from the date of issuance.

² Commercial fishing under Federal law means fishing in which the fish harvested, either in whole or in part, are intended to enter commerce or enter commerce through sale, barter, or trade.

REPORTING

Question 26. What are the required Federal logbook forms?

These are the forms on which a vessel operator in the MHI non-commercial bottomfish fishery must report information about fishing activities. (State CML holders must report to DLNR on State forms.)

Question 27. How do I get the Federal logbook forms?

NMFS provides Federal bottomfish logbook forms when issuing initial Federal non-commercial bottomfish permits, and as needed thereafter.

Question 28. What information do I report on my logbook form?

The Federal forms are used to record your fishing effort, fishing participants, fishing locations, number and species of fish caught, whether fish were kept or released, the condition of any released fish, and interactions with protected species such as sea turtles, Hawaiian monk seals, other marine mammals, and seabirds. All catch and effort on bottomfish trips must be reported, including Deep 7 and other bottomfish, and any non-bottomfish, such as mahimahi or tunas caught while trolling during a bottomfish trip. The logbooks contain specific instructions for completing the forms.

Question 29. Why does NMFS collect information on interactions between fisheries and protected resources?

Scientists and fishery managers use the information on interactions with marine mammals, sea turtles, and seabirds to help reduce the impacts of fishing on these protected resources.

Question 30. When am I required to submit my Federal logbook forms?

You must submit Federal logbook forms to NMFS within 72 hours after the end of each fishing trip. The logbooks contain specific instructions for submitting the forms.

Question 31. Who is required to submit the bottomfish logbook form?

The vessel operator is required to complete one form per trip. If the vessel operator holds a State CML, the catch must be reported to the DLNR on the State reporting form. If the vessel operator holds a Federal non-commercial permit, the catch must be reported on a Federal logbook form to NMFS. The vessel owner and operator are both responsible for ensuring that completed, original, signed Federal non-commercial forms are submitted.

Question 33. What if I am on a fishing trip where some fishermen have State CMLs and some have Federal non-commercial permits (“mixed trip”)?

The following table describes how the non-commercial bag limits³ and reporting requirements apply when on purely commercial, purely non-commercial, or “mixed” trips.

³ See Question 6.

If the vessel operator has:and the crew has:	Does the Federal bag limit apply?	Can any fish from the trip be sold?	Reporting
State CML	Only State CMLs	No	Yes	Vessel operator reports catch for entire trip on State form and submits the form to the State.
State CML	Mix of State CMLs and Federal non-commercial bottomfish permits	Yes (one bag limit per permitted person)	No	Vessel operator reports catch for entire trip on State form and submits the form to the State.
Federal Non-commercial bottomfish permit	Only Federal non-commercial bottomfish permits	Yes (one bag limit per permitted person)	No	Vessel operator reports catch for entire trip on Federal logbook form and either the vessel owner or operator must submit the form to NMFS.
Federal Non-commercial bottomfish permit	Mix of State CMLs and Federal non-commercial bottomfish permits	Yes (one bag limit per permitted person)	No	Vessel operator reports catch for entire trip on Federal logbook form and either the vessel owner or operator must submit the form to NMFS.

BOTTOMFISH CLOSED AREAS

Question 34. Are there any federal bottomfish closed areas around the MHI?

No. Closed areas for bottomfish are all administered by the State of Hawaii. Federal law governs only non-commercial permits and bag limits (Questions 6-7, and 20-25), reporting (Questions 26-33), vessel marking (Question 19), and TAC (Questions 8-18) in federal waters around the MHI.

Question 35. Do NOAA Office for Law Enforcement (OLE) officers enforce certain State Bottomfish Restricted Fishing Areas that extend into federal waters around the MHI?

No. NOAA OLE does not enforce any State of Hawaii laws or regulations.

Question 36. Do State of Hawaii Division of Conservation and Resources Enforcement (DOCARE) officers enforce certain State Bottomfish Restricted Fishing Areas that extend into federal waters around the MHI?

DOCARE officers will enforce BRFAs under Hawaii Administrative Rules Chapter 13-94-8 to the extent that this action lies within DOCARE's authority and jurisdiction to do so. Questions on enforcement of State fishing regulations should be directed to their office at the Kalanimoku Building, 1151 Punchbowl St., Honolulu, HI 96813, Phone: (808) 587-0400. dlnr@hawaii.gov

For more information about bottomfish fishing regulations, contact:

- NOAA NMFS
Pacific Islands Regional Office
Sustainable Fisheries Division
1601 Kapiolani Blvd. 1110
Honolulu, Hawaii 96814-4700
www.fpir.noaa.gov

General questions about regulations: Call (808) 944-2275
Questions about Federal permits: Call (808) 944-2275 or email PIRO-permits@noaa.gov.

- NOAA NMFS
Pacific Islands Fisheries Science Center
Fishery Monitoring and Socioeconomics Division (FMSD)
2570 Dole St.
Honolulu, HI 96822-2396
www.pifsc.noaa.gov

Questions about Federal logbook and reporting, or requests for more logbook forms: Write to FMSD at the address above, fax (808) 983-2902, or email hibottomfishlogs@noaa.gov.

- State of Hawaii
Department of Land and Natural Resources (DLNR)
Division of Aquatic Resources
1151 Punchbowl St. Room 330
Honolulu, HI 96813
www.hawaii.gov/dlnr/dar

Tel: 808-587-0100
Fax: 808-587-0115
email: DLNR.aquatics@hawaii.gov
Commercial Marine Licenses are available online at <https://dlnr.ehawaii.gov/cmls>

- Western Pacific Fishery Management Council
1164 Bishop St. Suite 1400
Honolulu, HI 96813
www.wpcouncil.org

Tel: (808) 522-8220
Fax: (808) 522-8226

- Hawaii Bottomfish Information Website
www.hawaiibottomfish.info

Search the *Federal Register* at www.gpoaccess.gov/fr/search.html.

Search the Code of Federal Regulations at ecfr.gpoaccess.gov.