



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Sustainable Fisheries Division
7600 Sand Point Way N.E., Bldg. #1
Seattle, Washington 98115-0070

OCT 12 2005

Mr. Don Hansen, Chair
Pacific Fishery Management Council
7700 NE Ambassador Place, suite 200
Portland, OR 97220-1384

Dear Mr. Hansen,

We are not able to completely implement the groundfish inseason adjustments recommended by the Pacific Fishery Management Council (Pacific Council) in September because one of the recommended adjustments (the 250-fm boundary line south of 38° N. lat) is not a "routine management measure." We are, however, immediately implementing management measures (boundary lines, trip limits and petrale retention prohibition) that meet the Pacific Council's recommendations as much as possible. By March 1, 2006, we expect to be able to implement the 250-fm boundary line as a "routine management measure."

The Pacific Council adopted inseason adjustments at their September 19-23, 2005, meeting in Portland, OR, under Agenda items, F.1. and F.5., that the National Marine Fisheries Service (NMFS) could not implement in a timely manner. Part of the Pacific Council's recommendation for the inseason adjustments was to modify the boundaries of the trawl RCA in order to further reduce the take of canary rockfish and petrale sole in the trawl fishery. The Pacific Council recommended increasing the size of the area closed to fishing with trawl gear, in part by modifying the seaward boundary of the trawl RCA to be at a boundary line approximating the 250-fm depth contour coastwide. However, NMFS is not able to implement this line south of 38° N. lat. to the U.S./Mexico border because there are no coordinates, or latitude/longitude waypoints, for this line in Federal regulations.

In order for NMFS to implement inseason adjustments to the 2005-2006 Pacific Coast groundfish specifications and management measures, they must be "routine management measures" as described at 50 CFR 660, Subpart G. Section 660.370 (c)(3) describes routine changes to the rockfish conservation areas (RCAs) by stating, "Depth-based management measures, particularly the setting of closed areas known as Groundfish Conservation Areas, may be imposed on any sector of the groundfish fleet using specific boundary lines that approximate depth contours with latitude/longitude waypoints."

Therefore, for NMFS to implement coordinates for the 250-fm boundary line south of 38° N. lat. to the U.S./Mexico border, coordinates would have to go through a full rulemaking process, proposed and final rule, which could take 90 days or more. Because catch of petrale sole was approaching its acceptable biological catch (ABC) for 2005 in September, action needed to be taken as soon as possible, and during October, to reduce the harvest of petrale sole to near zero.

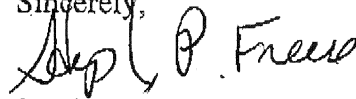


The next closest RCA boundary line for this area with coordinates published in Federal regulations is a boundary line approximating the 200-fm depth contour. Therefore, in order to implement the intent of the Pacific Council recommendation as much as possible, NMFS is implementing a boundary line approximating the 200-fm depth contour and a prohibition on the retention of petrale sole in this area.

Because there is catch of petrale between 200-fm and 250-fm, including some targeting on petrale sole, moving the RCA boundary line from 150-fm to 200-fm for October through December will likely not keep total catch of petrale sole within its ABC for the year. A reduction of the petrale sole trip limit during the middle of a cumulative trip limit period (in this case, September through October) is not possible for enforcement reasons. Therefore, in addition to the boundary line change, NMFS also planned to implement a prohibition on the retention of petrale sole between 38° N. lat. and the U.S./Mexico border during the month of October in order to prevent targeting on petrale sole. NMFS discussed these changes with Council staff on a September 28, 2005, conference call to confer on ensuring that our changes most closely implemented the Pacific Council's intent for inseason changes. Unfortunately, the inseason action published in the Federal Register on October 5, 2005 (70 FR 58066) contained an error in the limited entry trawl trip limit table, Table 3 (South), on page 58076. The trip limit for petrale sole on line 16 should have been closed only south of 38° N. lat., as stated in the preamble, rather than south of 40°10' N. lat. Currently, NMFS is in the process of filing a correction to the October inseason action to make the October prohibition on retention of petrale sole apply only south of 38° N. lat. We should also note that the Pacific Council recommendation to decrease the trip limit for petrale sole to 2,000 lb per 2 months for November and December is being implemented.

In addition, in preparation for the November 2005 Pacific Council meeting, NMFS will be working with CDFG staff to develop coordinates for the 250-fm line south of 38° N. lat. to the U.S./Mexico border, both modified to accommodate petrale fishing and unmodified, and coordinates that would apply around the islands. These coordinates can then go through the proposed and final rulemaking process that will come after the November meeting for any changes to 2006 management measures that would be effective after March 1, 2006.

Sincerely,



Stephen P. Freese
Acting Assistant Regional
Administrator
NMFS Northwest Region