

(v) *Sanddabs*. South of 40°10' N. lat., recreational fishing for sanddabs is permitted both inshore of and within the closed areas, (i.e., recreational fishing for sanddabs is permitted in all areas south of 40°10' N. lat.). Recreational fishing for sanddabs is permitted seaward of the 20-fm (37-m) depth contour between 40°10' N. lat. and 34°27' N. lat. and seaward of a boundary line approximating the 30-fm (55-m) depth contour south of 34°27' N. lat., subject to a limit of up to 12-hooks, "Number 2" or smaller, which measure 11 mm (0.44 inches) point to shank, and up to 2 lb (0.91 kg) of weight per line. There is no bag limit, season, or size limit for sanddabs, however, it is prohibited to fillet sanddabs at sea.

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#### Classification

These actions are authorized by the Magnuson-Stevens Act, and are based on the most recent data available. The aggregate data upon which these actions are based are available for public inspection at the Office of the Administrator, Northwest Region, NMFS, (see **ADDRESSES**) during business hours.

The Assistant Administrator for Fisheries (AA), NMFS, finds good cause to waive the requirement to provide prior notice and opportunity for public comment on this action pursuant to 5 U.S.C. 553(b)(3)(B), because providing prior notice and opportunity for comment would be impracticable. It would be impracticable because the next cumulative trip limit period for the Pacific Coast groundfish fishery begins September 1, 2003, and affording prior notice and opportunity for public comment would delay implementation of this action to after the start of the cumulative limit period. The Pacific Coast groundfish commercial fishery is managed by trip limits and area closures, most of which are based on a 2-month cumulative period (January-February, March-April, May-June, July-August, September-October, November-December). If this action is not implemented by the beginning of the next cumulative trip limit period (September 1, 2003), fishers would be unnecessarily restricted from accessing the increased area available to fishing in southern California. In addition, data for management in both the commercial and recreational fisheries lines up with these 2 month cumulative periods. If management actions are changed during a cumulative limit period, it may complicate analysis of the data by making it more difficult to determine how management measures influence data results.

There was not adequate time between when new scientific information became available for decision-making and when drafting and reviewing the regulatory package, including the environmental analysis, was complete for prior notice and opportunity for public comment. The new stock assessment for bocaccio, showing an increased biomass and higher recruitment than previously predicted, was released in May 2003. This new scientific information was then presented to the Pacific Council as a tool for decision-making at their June 16-20, 2003 meeting in Foster City, CA. While new stock assessments are generally reserved for setting the harvest levels for the following annual management cycle, 2004 in this case, the Pacific Council recommended the new information on the status of bocaccio be used for inseason management of the fishery in 2003. In 2003, groundfish fisheries coastwide have been severely restricted by large areas closed to fishing. The Pacific Council, at its June meeting, decided to use the new information on bocaccio to provide some relief to the commercial non-trawl and recreational fisheries in southern California by moving the boundary line from 20-fm (37-m) to 30-fm (55-m) south of 34°27' N. lat. to the U.S./Mexico border. Moving the boundary line in this area made additional area in the ocean available for fishing. Because this new management measure recommended by the Pacific Council had not been previously analyzed in an environmental assessment, as required under the National Environmental Policy Act to determine potential impacts to the environment, an EA/RIR was prepared for this action following the June Council meeting. In addition to developing further data for analysis for the EA/RIR after the June Council meeting, CDFG had to develop coordinates approximating the 30-fm (55-m) depth contour. Between the approximately 2 months from the Pacific Council meeting decision to implementation of the recommendation, there was a tight time schedule to gather further information and complete the EA/RIR and regulatory package that did not allow for adequate time for prior notice and opportunity for comment.

Moving the boundary line will relieve restrictions by opening an area that was previously closed, thereby providing greater harvest opportunities than were previously scheduled for the remainder of the year. Thus, they are not subject to a 30-day delay in effectiveness under 5 U.S.C. 553(d)(1).

The AA also finds good cause to waive the requirement to provide prior notice and opportunity for public comment on this correction<sup>1</sup> pursuant to 5 U.S.C. 553(b)(3)(B), because providing prior notice and opportunity for comment would be impracticable. It would be impracticable because the next cumulative trip limit period for the Pacific Coast groundfish fishery begins on September 1, 2003, and affording prior notice and opportunity for public comment would result in revisions to an RCA boundary in the middle of a cumulative limit period. Revising an RCA boundary in the middle of a cumulative limit period makes that boundary more difficult to understand for the public and for enforcement agents, ultimately impeding the agency's function of managing fisheries to approach without exceeding the OYs for federally managed species. Because the Pacific Coast groundfish fishery is managed by trip limits and area closures, most of which are based on a 2-month cumulative period (January-February, March-April, May-June, July-August, September-October, November-December), this correction should be implemented by the beginning of the next cumulative trip limit period (September 1, 2003) to prevent confusion amidst the public. The corrections in this rule will allow the groundfish trawl fleet to fish in areas that would otherwise be closed. Accordingly, the corrections relieve a restriction, and therefore, pursuant to 5 U.S.C. 553(d)(1), this rule is not subject to a 30 day delay in effectiveness. These actions are taken under the authority of 50 CFR 660.323(b)(1).

This emergency rule has been determined to be not significant for purposes of Executive Order 12866.

This emergency rule is exempt from the procedures of the Regulatory Flexibility Act because this rule is

<sup>1</sup> In addition to the changes described earlier for the emergency rule, this action would correct the 200-fm (366-m) depth contour coastwide RCA boundary to ensure that the series of coordinates describing that contour are better aligned to the actual 200-fm depth contour. This action would also clarify in the trip limit tables that RCA boundaries apply to fishing occurring in waters surrounding islands off California, and it would clarify which islands and seamounts belong to what island groups referenced in the regulations. At present, portions of the 200-fm (366-m) depth contour coordinates are more closely aligned with the 300-fm (549-m) depth contour, placing an unnecessary restriction on fishery participants. The trip limit table clarification is needed to ensure that the regulations are better understood by the public, and to better protect overfished species as soon as possible. The clarification of which islands and seamounts belong to what island groups referenced in the regulations is a minor correction to existing regulations (essentially a housekeeping change) and has no effect on the fisheries.