

HIGH CONSEQUENCE AREAS**§ 192.761 Definitions.**

The following definitions apply to this section and § 192.763:

A *high consequence area* means any of the following areas:

- (a) An area defined as a Class 3 location under § 192.5;
 - (b) An area defined as a Class 4 location under § 192.5;
 - (c) For a pipeline not more than 12 inches in nominal diameter and operating at a maximum allowable operating pressure of not more than 1200 p.s.i.g., an area which extends 300 feet from the centerline of the pipeline to the identified site;
 - (d) For a pipeline greater than 30 inches in nominal diameter and operating at a maximum allowable operating pressure greater than 1000 p.s.i.g., an area which extends 1000 feet from the centerline of the pipeline to the identified site; and
 - (e) For a pipeline not described in paragraph (c) or (d) of this section, an area which extends 660 feet from the centerline of the pipeline to the identified site.
- (f) An identified site. An identified site is a building or outside area that—
- (1) Is visibly marked;
 - (2) Is licensed or registered by a Federal, State, or local agency;
 - (3) Is known by public officials; or
 - (4) Is on a list or map maintained by or available from a Federal, State, or local agency or a publicly or commercially available database; and
 - (5) Is occupied by persons who are confined, are of impaired mobility, or would be difficult to evacuate. Examples include, but are not limited to hospitals, prisons, schools, day-care facilities, retirement facilities, and assisted-living facilities; or
 - (6) There is evidence of use of the site by at least 20 or more persons on at least 50 days in any 12-month period. (The days need not be consecutive.) Examples include, but are not limited to, beaches, playgrounds, recreational facilities, camping grounds, outdoor theaters, stadiums, religious facilities, and recreational areas near bodies of water.

Issued in Washington, DC, on August 1, 2002.

Ellen G. Engleman,
Administrator.

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DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 660**

[Docket No. 011231309-2090-03; I.D. 072902E]

Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Removal of the Sablefish Size Limit South of 36° N. Latitude for Limited Entry Fixed Gear and Open Access Fisheries

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Inseason sablefish size limit adjustment; request for comments.

SUMMARY: NMFS announces removal of the sablefish size limit south of 36° N. latitude (lat.) for limited entry fixed gear and open access Pacific Coast groundfish fisheries. This action, which is authorized by the Pacific Coast Groundfish Fishery Management Plan (FMP), is intended to help the fisheries achieve optimum yield (OY) while protecting overfished and depleted stocks.

DATES: Changes to management measures are effective 0001 hours (local time) August 1, 2002, through the effective dates of the 2003 specifications and management measures for the Pacific Coast groundfish fishery, unless modified, superseded, or rescinded, which will be published in the **Federal Register**. Comments on this action will be accepted through August 21, 2002.

FOR FURTHER INFORMATION CONTACT: Jamie Goeen or Carrie Nordeen (Northwest Region, NMFS) 206-526-6140.

SUPPLEMENTARY INFORMATION: The Pacific Coast Groundfish FMP and its implementing regulations at 50 CFR part 660, subpart G, regulate fishing for over 80 species of groundfish off the coasts of Washington, Oregon, and California. Annual groundfish specifications and management measures are initially developed by the Pacific Fishery Management Council (Council), and are implemented by NMFS. The specifications and management measures for the current fishing year (January 1 - December 31, 2002) were initially published in the **Federal Register** as an emergency rule for January 1 - February 28, 2002 (67 FR 1540, January 11, 2002), and as a proposed rule for all of 2002 (67 FR 1555, January 11, 2002), then finalized

effective March 1, 2002 (67 FR 10490, March 7, 2002). The final rule was subsequently amended at 67 FR 15338, April 1, 2002; 67 FR 18117, April 15, 2002; 67 FR 30604, May 7, 2002; 67 FR 40870, June 14, 2002; 67 FR 44778, July 5, 2002; and 67 FR 48571, July 25, 2002.

The July inseason trip limit adjustments (67 FR 44778, July 5, 2002) to the groundfish management measures were recommended by the Council in consultation with Pacific Coast Treaty Tribes and the States of Washington, Oregon, and California at its June 18-21, 2002, meeting in Foster City, CA and subsequently corrected by 67 FR 48571, July 25, 2002. The July trip limit adjustments were made to slow the catch of overfished species, particularly darkblotched and bocaccio rockfish. By the end of June the projected bocaccio rockfish catch in the commercial and recreational fisheries combined may have exceeded the rebuilding OY of 100 mt and could approach or exceed the acceptable biological catch of 122 mt. In order to reduce fishing effort on the continental shelf where bocaccio are found and move vessels into deeper waters off the slope, the Council recommended reinstating the minimum 22-inch (56-cm) size requirement for sablefish taken with non-trawl (fixed) gear and a reduced trip limit for sablefish under the 22-inch (56-cm) requirement taken with trawl gear. Adult sablefish tend to be found at greater depths (109 to 547 fathoms), while bocaccio tend to be found at shallower depths (27 to 137 fathoms). Prohibiting retention of small sablefish in the non-trawl fisheries and reducing the trip limit for small sablefish in the limited entry trawl fishery is expected to force vessels into deeper water when targeting sablefish, thereby reducing opportunities for fishermen targeting sablefish to intercept bocaccio. Therefore, in the trawl fishery south of 40° 10' N. lat., the July trip limit changes kept the currently scheduled cumulative sablefish limit of 4,500 lb (2,041 kg) per 2 months, but added a per trip restriction of no more than 500 lb (227 kg) of sablefish smaller than 22 inches (56 cm). To encourage the non-trawl (fixed gear) fisheries to also operate in deeper waters, the July trip limit changes kept the currently scheduled limits, but reinstated the size restriction prohibiting retention of sablefish smaller than 22 inches (56 cm) south of 40° 10' N. lat. This restriction was put in place south of the 40° 10' N. lat. management line to protect bocaccio, which are most abundant along the California coast. In addition, bocaccio tend to be at the deeper end of

their depth range (i.e., closer to 137 fathoms) along California, making it necessary to push the sablefish fishery into even deeper waters south of 40°10' N. lat.

After receiving inquiries from the fixed gear industry regarding the sablefish size restriction south of 36° N. lat., the Council staff, Groundfish Management Team (GMT), and NMFS decided to re-evaluate the basis of the Council's June decision. The Council decision to reinstate the 22-inch (56-cm) minimum size restriction for sablefish landed by the limited entry fixed gear and open access fleets south of 40°10' N. lat. was intended to protect bocaccio rockfish, a continental shelf overfished species, as small sablefish and bocaccio may co-occur in some areas. Public comment received in July, however, indicated that not only are sablefish smaller at all depths south of 36° N. lat., but that sablefish may not co-occur with bocaccio south of 36° N. lat.

Trawl surveys and stock assessments conducted by NMFS do not extend south of Pt. Conception (34°27' N. lat.) and cannot provide data on whether sablefish are smaller in that area. However, data from two Alaska Fisheries Science Center resource assessment and conservation engineering (RACE) surveys summarizing sablefish average weight by depth and latitude, show a noticeably smaller average weight at all depths south of 36° N. lat. The average weight of sablefish north of 40°10' N. lat. is 0.88 kg at depths less than 150 fathoms, 1.52 kg at depths between 150 to 250 fathoms, and 1.84 kg for depths greater than 250 fathoms. The average weight of sablefish between 40°10' N. lat. and 36° N. lat. is 0.68 kg at depths less than 150 fathoms, 1.19 kg at depths between 150 to 250 fathoms, and 1.95 kg for depths greater than 250 fathoms. The

average weight of sablefish south of 36° N. lat. is 0.51 kg at depths less than 150 fathoms, 0.97 kg at depths between 150 to 250 fathoms, and 1.63 kg for depths greater than 250 fathoms. In addition to the RACE surveys, data from pot surveys conducted between 1979 and 1991 also reported smaller sablefish south of Monterey Bay. Because the sablefish south of 36° N. lat. are smaller at all depths, the minimum size restriction south of 36° N. lat. does not necessarily move effort into deeper waters away from bocaccio but does increase discards of sablefish under 22 inches.

Regarding whether bocaccio and sablefish co-occur south of 36° N. lat., according to NMFS' triennial survey data in an area between roughly 37° N. lat. and 34°27' N. lat. (Pt. Conception), 14 percent of the sablefish distribution within the survey area overlaps with the distribution of bocaccio. However, the majority of sablefish in the survey area, 86 percent, tend to be at depths greater than 150 fathoms (i.e., generally beyond bocaccio's depth range). In addition to the triennial survey data, NMFS reviewed landings data supplied by the California Department of Fish and Game (CDFG) for the years 2000 and 2001 from trips targeting sablefish in the Conception Area (south of 36° N. lat.). The highest rate at which bocaccio was reported landed with sablefish over these 2 years was 0.0227 mt of bocaccio with 42 mt of sablefish, or 0.05 percent. The expected catch of bocaccio under the remaining commercial sablefish OY south of 36° N. lat. (142 mt), is between 0.02 mt and 0.08 mt.

Based on the evidence from the RACE surveys, pot surveys, triennial survey, and CDFG landings data, NMFS has determined, in consultation with the GMT, that removing the minimum size restriction of 22 inches for the sablefish

fishery south of 36° N. lat. is warranted and will only have a negligible impact on bocaccio rockfish. Because sablefish are larger in deeper waters between 40°10' N. lat. and 36° N. lat., the 22-inch (56-cm) minimum size restriction on sablefish in that area will remain as previously announced for the limited entry fixed gear and open access fleets at 67 FR 44778, July 5, 2002, and subsequently corrected at 67 FR 48571, July 25, 2002. For the limited entry trawl fleet, the minimum size restriction will also remain as previously announced (67 FR 44778, July 5, 2002, as corrected at 67 FR 48571, July 25, 2002).

NMFS Actions

For the reasons stated here, NMFS rescinds the requirement for a 22-inch (56-cm) minimum size restriction for the limited entry fixed gear and open access fleets south of 36° N. lat. as implemented in 67 FR 44778, July 5, 2002, and subsequently corrected at 67 FR 48571, July 25, 2002. NMFS hereby announces the following changes to the 2002 specifications and management measures (67 FR 10490, March 7, 2002, as amended at 67 FR 15338, April 1, 2002; 67 FR 18117, April 15, 2002; 67 FR 30604, May 7, 2002; 67 FR 40870, June 14, 2002; 67 FR 44778, July 5, 2002; and 67 FR 48571, July 25, 2002, to read as follows:

1. In **Federal Register** Document 02-5302 of March 7, 2002, on page 10518, in section IV, under B. Limited Entry Fishery, at the end of paragraph (1), Table 4 is revised to read as follows:

IV. NMFS Actions

B. Limited Entry Fishery

(1) * * *

BILLING CODE 3510-22-S

Table 4. Trip Limits^{1/} for Limited Entry Fixed Gear

Other Limits and Requirements Apply -- Read Sections IV. A. and B. NMFS Actions before using this table

line	Species/groups	JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
**NOTE FOR FISHING SOUTH OF 40°10': ALL GROUND FISH FISHING IS CLOSED OFFSHORE OF THE 20 FATHOM DEPTH CONTOUR, EXCEPT FOR SABLEFISH, THORNYHEADS, AND SLOPE ROCKFISH. SEE FOOTNOTE 8/.							
1	Minor slope rockfish						
2	North	1,000 lb/ month		5,000 lb/ 2 months			2,000 lb/ 2 months
3	South						
4	40°10' - 36° N. lat.	25,000 lb/ 2 months		5,000 lb/ 2 months		1,800 lb/ 2 months	
5	South of 36° N. lat.		25,000 lb/ 2 months			15,000 lb/ 2 months	
6	Splitnose - South						
7	40°10' - 36° N. lat.	25,000 lb/ 2 months		5,000 lb/ 2 months		1,800 lb/ 2 months	
8	South of 36° N. lat.		25,000 lb/ 2 months			15,000 lb/ 2 months	
9	Pacific ocean perch - North ^{5/}	2,000 lb/ month	4,000 lb/ month		4,000 lb/ 2 months		2,000 lb/ month
10	Sablefish						
11	North of 36° N. lat. ^{9/}	300 lb/ day, or 1 landing per week of up to 800 lb, not to exceed 2,400 lb/ 2 months					
12	South of 36° N. lat.	350 lb/ day, or 1 landing per week of up to 1,050 lb		300 lb/ day, or 1 landing per week of up to 900 lb			
13	Longspine thornyhead				9,000 lb/ 2 months		
14	Shortspine thornyhead				2,000 lb/ 2 months		
15	Dover sole						
16	Arrowtooth flounder						
17	Petrale sole						
18	Rex sole						
19	All other flatfish ^{2/}						
20	Whiting ^{3/}				20,000 lb/ trip		
21	Shelf rockfish, including minor shelf rockfish, widow and yellowtail rockfish ^{4/}				200 lb/ month		
22	North						
23	South						
24	40°10' - 34°27' N. lat.	200 lb/ month	CLOSED ^{4/}	Shoreward of 20 fm depth, 200 lb/ month, otherwise CLOSED ^{4/}		CLOSED ^{4/}	
25	South of 34°27' N. lat.	CLOSED ^{4/}	1,000 lb/ month				
26	Canary rockfish				CLOSED ^{4/}		
27	Yelloweye rockfish				CLOSED ^{4/}		
28	Cowcod				CLOSED ^{4/}		
29	Bocaccio - South ^{5/}						
30	40°10' - 34°27' N. lat.	200 lb/ month	CLOSED ^{4/}			CLOSED ^{4/}	
31	South of 34°27' N. lat.	CLOSED ^{4/}	200 lb/ month				
32	Chilipepper - South ^{5/}						
33	40°10' - 34°27' N. lat.	500 lb/ month	CLOSED ^{4/}			CLOSED ^{4/}	
34	South of 34°27' N. lat.	CLOSED ^{4/}	2,500 lb/ month				
35	Minor nearshore rockfish						
36	North	5,000 lb/ month, no more than 2,000 lb of which may be species other than black or blue rockfish ^{6/}		6,000 lb/ 2 months, no more than 3,000 lb of which may be species other than black or blue rockfish ^{6/}			
37	South						
38	40°10' - 34°27' N. lat.	1,600 lb/ 2 months	CLOSED ^{4/}	Shoreward of 20 fm depth, 1,600 lb/ 2 months, otherwise CLOSED ^{4/}		1,600 lb/ 2 months ^{8/}	CLOSED ^{4/}
39	South of 34°27' N. lat.	CLOSED ^{4/}	2,000 lb/ 2 months			2,000 lb/ 2 months ^{8/}	
40	Lingcod ^{7/}						
41	North		CLOSED ^{4/}		400 lb/ month		CLOSED ^{4/}
42	South						
43	40°10' - 34°27' N. lat.		CLOSED ^{4/}	Shoreward of 20 fm depth, 400 lb/ month, otherwise CLOSED ^{4/}		400 lb/ month ^{8/}	CLOSED ^{4/}
44	South of 34°27' N. lat.			400 lb/ month			

1/ Trip limits apply coastwide unless otherwise specified. "North" means 40°10' N. lat. to the U.S.-Canada border. "South" means 40°10' N. lat. to the U.S.-Mexico border. 40°10' N. lat. is about 20 nm south of Cape Mendocino, CA.

2/ "Other flatfish" means all flatfish at 50 CFR 660.302 except those in this Table 4 with species specific management measures, including trip limits.

3/ The whiting "per trip" limit in the Eureka area inside 100 fm is 10,000 lb/ trip throughout the year. Outside Eureka area, the 20,000 lb/ trip limit applies.

4/ Closed means that it is prohibited to take and retain, possess, or land the designated species in the time or area indicated. See IV.A.(7).

5/ Yellowtail rockfish and widow rockfish coastwide and bocaccio and chilipepper rockfishes in the north are included in the trip limits for shelf rockfish in the appropriate area. POP in the south and splitnose rockfish in the north are included in the trip limits for minor slope rockfish in the appropriate area.

6/ For black rockfish north of Cape Alava (48°09'30" N.lat.), and between Destruction Island (47°40'00" N.lat.) and Leadbetter Point (46°38'10" N.lat.), there is an additional limit of 100 lbs or 30 percent by weight of all fish on board, whichever is greater, per vessel, per fishing trip.

7/ The minimum size limit for lingcod is 24 inches (61 cm) total length.

8/ South of 40°10' N. lat., trip limits apply to inside of 20 fm only. Beginning July 1, 2002, it is prohibited to prosecute groundfish fisheries with non-trawl gear outside 20 fm south of 40°10' N. lat.

9/ The minimum size requirement for sablefish is 22 inches (56 cm) total length between 40°10' N. lat. and 36° N. lat.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

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2. In Federal Register Document 02-5302 of March 7, 2002, on page 10520,

under C. Trip Limits in the Open Access Fishery, after paragraph (1), Table 5 is revised to read as follows:

C. Trip Limits in the Open Access Fishery

(1) * * *

Table 5. Trip Limits^{1/} for Open Access Gears

Other Limits and Requirements Apply -- Read Sections IV. A. and C. NMFS Actions before using this table
Exceptions for exempted gears at Section IV.C.

line	Species/groups	JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
**NOTE FOR FISHING SOUTH OF 40°10': ALL GROUND FISH FISHING IS CLOSED OFFSHORE OF THE 20 FATHOM DEPTH CONTOUR, EXCEPT SABLEFISH AND SLOPE ROCKFISH. SEE FOOTNOTE 8/.							
** NOTE: EFFECTIVE JULY 1, 2002, THERE IS NO RETENTION OF GROUND FISH WITH EXEMPTED TRAWL GEAR.							
1	Minor slope rockfish	Per trip, no more than 25% of weight of the sablefish landed					
2	North						
3	South						
4	40°10' - 36° N. lat.	10,000 lb/ 2 months		5,000 lb/ 2 months		1,800 lb/ 2 months	
5	South of 36° N. lat.			10,000 lb/ 2 months			
6	Splitnose - South			200 lb/ month			
7	Pacific ocean perch - North ^{4/}			100 lb/ month			
8	Sablefish	300 lb/ day, or 1 landing per week of up to 800 lb, not to exceed 2,400 lb/ 2 months					
9	North of 36° N. lat. ^{7/}						
10	South of 36° N. lat.	350 lb/ day, or 1 landing per week of up to 1,050 lb		300 lb/ day, or 1 landing per week of up to 900 lb			
11	Thornyheads	CLOSED ^{3/}					
12	North of 34° 27' N. lat.	CLOSED ^{3/}					
13	South of 34° 27' N. lat.	50 lb/ day, no more than 2,000 lb/ 2 months					
14	Dover sole	3,000 lb/ month, no more than 300 lb of which may be species other than Pacific sanddabs			3,000 lb/ month, no more than 300 lb of which may be species other than Pacific sanddabs ^{8/}		
15	Arrowtooth flounder						
16	Petrale sole						
17	Rex sole						
18	All other flatfish ^{2/}						
19	Whiting	300 lb/ month					
20	Shelf rockfish, including minor shelf rockfish, widow and yellowtail rockfish ^{4/}	200 lb/ month					
21	North						
22	South						
23	40°10' - 34°27' N. lat.	200 lb/ month	CLOSED ^{3/}	Shoreward of 20 fth depth, 200 lb/ month, otherwise CLOSED ^{3/}	CLOSED ^{3/}		
24	South of 34°27' N. lat.	CLOSED ^{3/}	500 lb/ month				
25	Canary rockfish	CLOSED ^{3/}					
26	Yelloweye rockfish	CLOSED ^{3/}					
27	Cowcod	CLOSED ^{3/}					
28	Bocaccio - South ^{4/}						
29	40°10' - 34°27' N. lat.	200 lb/ month	CLOSED ^{3/}		CLOSED ^{3/}		
30	South of 34°27' N. lat.	CLOSED ^{3/}	200 lb/ month				
31	Chilipepper - South ^{4/}						
32	40°10' - 34°27' N. lat.	500 lb/ month	CLOSED ^{3/}		CLOSED ^{3/}		
33	South of 34°27' N. lat.	CLOSED ^{3/}	2,500 lb/ month				
34	Minor nearshore rockfish	3,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black or blue rockfish ^{5/}					
35	North	3,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black or blue rockfish ^{5/}			6,000 lb/ 2 months, no more than 3,000 lb of which may be species other than black or blue rockfish ^{5/}		
36	South						
37	40°10' - 34°27' N. lat.	1,200 lb/ 2 months	CLOSED ^{3/}	Shoreward of 20 fth depth, 1,200 lb/ 2 months, otherwise CLOSED ^{3/}	1,200 lb/ 2 months ^{6/}	CLOSED ^{3/}	
38	South of 34°27' N. lat.	CLOSED ^{3/}	1,200 lb/ 2 months				
39	Lingcod ^{7/}						
40	North	CLOSED ^{3/}			300 lb/ month	CLOSED ^{3/}	
41	South						
42	40°10' - 34°27' N. lat.	CLOSED ^{3/}		Shoreward of 20 fth depth, 300 lb/ month, otherwise CLOSED ^{3/}	300 lb/ month ^{6/}	CLOSED ^{3/}	
43	South of 34°27' N. lat.			300 lb/ month			

1/ Trip limits apply coastwide unless otherwise specified. "North" means 40°10' N. lat. To the U.S.-Canada border. "South" means 40°10' N. lat. To the U.S.-Mexico border. 40°10' N. lat. is about 20 nm south of Cape Mendocino, CA.

2/ "Other flatfish" means all flatfish at 50 CFR 660.302 except those in this Table 5 with species specific management measures, including trip limits.

3/ Closed means that it is prohibited to take and retain, possess, or land the designated species in the time or area indicated. See IV.A.(7).

4/ Yellowtail rockfish in the south and bocaccio and chilipepper rockfishes in the north are included in the trip limits for minor shelf rockfish

in the appropriate area. Pop in the south and splitnose rockfish in the north are included in the trip limits for minor slope rockfish in the appropriate area.

5/ For black rockfish north of Cape Alava (48°09'30" N.lat.), and between Destruction Island (47°40'00" N.lat.) and Leadbetter Point (46°38'10" N.lat.),

there is an additional limit of 100 lbs or 30 percent by weight of all fish on board, whichever is greater, per vessel, per fishing trip.

6/ The size limit for lingcod is 24 inches (61 cm) total length.

7/ The minimum size requirement for sablefish is 22 inches (56 cm) total length between 40°10' N. lat. and 36° N. lat.

8/ South of 40°10' N. lat., trip limits apply to inside of 20 fm only. Beginning July 1, 2002, it is prohibited to prosecute groundfish fisheries with non-trawl gear outside 20 fm south of 40°10' N. lat.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

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Classification

These actions are authorized by the Pacific Coast groundfish FMP and its implementing regulations, 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, 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)(B), because providing prior notice and opportunity for comment would be impracticable and contrary to the public interest. It would be impracticable and contrary to the public interest because affording prior notice and opportunity for public comment would impede the agency's function of managing fisheries to achieve OY. By removing the size restriction on sablefish south of 36° N. lat., this inseason action allows fishers to access sablefish allocations without exceeding the OY for that species. Delaying removal of the size restriction in this area could prevent the industry from obtaining the intended benefit and unnecessarily increase discards of adult

sablefish under 22 inches. The changes implemented in this action are based in part on comment received on the July 5, 2002 (67 FR 44778) **Federal Register** document implementing the Council's decision. For these reasons, good cause also exists to waive the 30-day delay in effectiveness requirement of 5 U.S.C. 553(d)(3).

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 31, 2002.

John H. Dunnigan

*Director, Office of Sustainable Fisheries,
National Marine Fisheries Service.*

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