



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
One Blackburn Drive
Gloucester, MA 01930-2298

January 12, 2004

SMALL ENTITY COMPLIANCE GUIDE

2004 FINAL SPECIFICATIONS AND CLOSURE NOTICE FOR SUMMER FLOUNDER, SCUP, AND BLACK SEA BASS

Dear Permit Holder:

NOAA's National Marine Fisheries Service (NOAA Fisheries) has approved final 2004 specifications, including commercial quotas and possession limits, and recreational harvest limits, for the summer flounder (fluke), scup (porgy), and black sea bass fisheries. This rule was published in Federal Register on January 14, 2004.

All commercial quotas are in effect as of **January 14, 2004**. Also, as of January 14, 2004, fishing vessels issued a Federal moratorium permit for the summer flounder fishery may not land summer flounder in Delaware during the 2004 calendar year, because Delaware has no 2004 commercial quota due to overages in previous years. Dealers issued Federal dealer permits for summer flounder are advised that they may not purchase summer flounder from federally permitted vessels that land in the Delaware during the 2004 calendar year, unless additional quota becomes available through a transfer.

SUMMER FLOUNDER

For 2004, the summer flounder total allowable landings (TAL) is 28.2 million lb. Through the research set-aside (RSA) program, one research project that would utilize the full summer flounder RSA of 174,750 lb has been approved. After deducting the RSA, the commercial quota is 16.82 million lb and the recreational harvest limit is 11.21 million lb. Consistent with the revised quota setting procedures of the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) (67 FR 6877, February 14, 2002), summer flounder overages were determined based upon landings for the period November 2002-October 2003, plus any previously unaccounted for late-reported landings from January-October 2002. Table 1 shows, for each state, the initial 2004 commercial quota, the 2004 commercial quota less the RSA, any applicable overages, and the resulting final adjusted 2004 commercial quota.



SCUP

The scup TAL for 2004 is 16.5 million lb. Two research projects that would utilize the full scup RSA of 160,000 lb has been approved. After deducting the RSA, the commercial quota is 12.35 million lb and the recreational harvest limit is 3.99 million lb. Consistent with the revised quota setting procedures of the FMP, scup overages were determined based upon landings for the 2003 Winter I and Summer periods, plus any previously unaccounted for late-reported landings from January-December 2002; the adjustment for the Winter II period is made in July of each year based on the previous year's Winter II overage, if any. There was no overage of the Winter I and Summer quotas for 2003. Table 2 shows, for each period, the initial 2004 commercial quota and the final 2004 commercial quota (less the RSA) and possession limits. The current Winter period possession limits are retained: 15,000 lb for Winter I (January-April), with a reduction to 1,000 lb when 80 percent of the Winter I quota is projected to be harvested, and 1,500 lb for Winter II (November-December). The final rule to implement Framework 3 to the FMP (68 FR 62250, November 3, 2003) implemented a process, for years in which the full Winter I commercial scup quota is not harvested, to allow unused quota from the Winter I period to be rolled over to the quota for the Winter II period. In any year that NOAA Fisheries determines that the landings of scup during Winter I are less than the Winter I quota for that year, NOAA Fisheries will, through a notification in the Federal Register, increase the Winter II quota for that year by the amount of the Winter I underharvest, and adjust the Winter II possession limits consistent with the amount of the quota increase, based on the possession limits recommended by the Council and presented in Table 3.

The Scup Gear Restricted Area Exemption Program, as established in the 2003 final rule, remains in effect. The compliance requirements for each vessel owner are described at the end of this letter. The cost of each at-sea observer day to each participating vessel will be \$1,150. The \$1,150 per day cost accounts for the total program costs per at-sea observer day, including administrative and other costs associated with the observer program.

BLACK SEA BASS

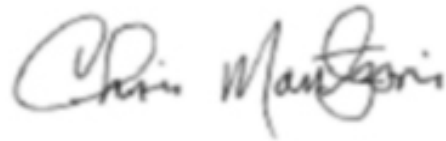
For 2004, the black sea bass TAL is 8 million lb. Three research projects that would utilize the full black sea bass RSA of 134,792 lb have been approved. After deducting the RSA, the commercial quota is 3.86 million lb and the recreational harvest limit is 4.01 million lb. Consistent with the revised quota setting procedures for the FMP, as modified in the final rule to implement Amendment 13 to the FMP (68 FR 10181, March 4, 2003), the black sea bass overage is determined based upon landings for the period October 2002-September 2003, plus any previously unaccounted for late-reported landings from January-September 2002. Table 4 shows the initial 2004 commercial quota, the 2004 commercial quota less the RSA, the applicable overage, and the resulting final adjusted 2004 commercial quota.

This letter does not contain all the regulatory provisions that pertain to these species, and consequently, has no legal force or effect. A copy of the regulations can be obtained through a link to the Office of the Federal Register at the NOAA Fisheries Northeast Regional Office

website: <http://www.nero.noaa.gov>.

This small entity compliance guide complies with Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996.

Sincerely,

A handwritten signature in cursive script that reads "Chris Mantzaris".

for Patricia A. Kurkul
Regional Administrator

ATTACHMENT

Table 1. Final state-by-state commercial summer flounder allocations for 2004.

State	Percent Share	2004 Initial Quota (lb)	2004 Initial Quota Less Research Set-aside (lb)	Quota Overages (through 10/31/03) ¹ (lb)	Final (Adjusted) 2004 Quota (lb)
ME	0.04756	8,047	7,797	6,890	1,107
NH	0.00046	78	77	0	77
MA	6.82046	1,154,022	1,146,871	18,875	1,127,996
RI	15.68298	2,653,560	2,637,117	0	2,637,117
CT	2.25708	381,898	379,531	41,107	338,424
NY	7.64699	1,293,871	1,285,853	0	1,285,853
NJ	16.72499	2,829,868	2,812,332	0	2,812,332
DE	0.01779	3,010	2,991	50,088	0
MD	2.03910	345,016	342,878	73,297	269,581
VA	21.31676	3,606,796	3,584,445	0	3,584,445
NC	27.44584	4,643,836	4,615,059	451,595	4,163,464
Total ²	100.00	16,920,000	16,815,150	641,852	16,220,396

1 For Delaware, includes continued repayment of overharvest from 2002

2 Total quota is sum of all states having allocation, i.e., other than Delaware

Table 2. Final scup commercial quota allocations for 2004.

Period	Percent	2004 Initial Quota (lb)	2004 Quota Less Research Set-aside (lb)	Quota Overages (through 10/31/03) (lb)	Final (Adjusted) 2004 Quota (lb)	Possession Limits (per trip) ¹ (lb)
Winter I (Jan-Apr)	45.11	5,625,217	5,568,920	0	5,568,920	15,000
Summer (May-Oct)	38.95	4,857,065	4,808,455	0	4,808,455	N/A
Winter II (Nov-Dec)	15.94	1,987,718	1,967,825	N/A	1,967,825	1,000
Total	100.00	12,470,000	12,345,200		12,345,200	

1 The Winter I possession limit will drop to 1,000 lb upon attainment of 80 percent of that period's allocation.

Table 3. Potential Increase in Winter II Possession Limits based on the Amount of Scup Rolled over from Winter I to Winter II period.

Initial Winter II Possession Limit	Rollover from Winter I to Winter II	Increase in Initial Winter II Possession Limit	Final Winter II Possession Limit after Rollover from Winter I to Winter II
lb	lb	lb	lb
1,500	0-499,999	0	1,500
1,500	500,000-999,999	500	2,000
1,500	1,000,000-1,499,999	1,000	2,500
1,500	1,500,000-1,999,999	1,500	3,000
1,500	2,000,000-2,500,000	2,000	3,500

Table 4. Final black sea bass commercial quota allocations for 2004.

2004 Initial Quota	2004 Quota Less Research Set-aside	Quota Overages (through 09/30/03)	Final (Adjusted) 2004 Quota
(lb)	(lb)	(lb)	(lb)
3,920,000	3,853,951	85,376	3,768,575

Scup GRA Exemption Program

Any appropriately permitted vessel that chooses to fish for non-exempt species (Loligo squid, black sea bass, and silver hake (whiting)) in the scup GRAs (defined at 50 CFR 648.122) using mesh smaller than the minimum otherwise required at 50 CFR 648.123, must abide by the following requirements of the Scup GRA Exemption Program:

1. Enroll in the Scup GRA Exemption Program by calling the NOAA Fisheries Northeast Regional Office (NERO) Permits Office at (978) 281-9370, and providing your vessel name, permit number, mailing address, and the GRA for which you wish exemption;
2. Carry on board the vessel a Letter of Authorization (LOA) for the Scup GRA Exemption Program issued by the Regional Administrator;
3. Obtain, pay for, and carry on board the vessel a NOAA Fisheries-certified observer (*see details below*) when fishing in a scup GRA using the exempted gear; and
4. Use, while fishing in the scup GRAs, a specially modified trawl net that has an escapement extension consisting of a minimum of 45 meshes of 5.5-inch square mesh that is positioned behind the body of the net and in front of the codend.

The LOA will be valid only for the duration of the applicable GRA. If you plan to participate in the Program during both 2004 GRA seasons, i.e., Southern GRA (January 1-March 15) and Northern GRA (November 1-December 31), you will need to request an LOA for each GRA. Failure to comply with any of the above provisions, or any of the provisions of the Magnuson-Stevens Fishery Conservation and

Management Act and its regulations, including those regarding at-sea sampler/observer coverage for the Fisheries of the Northeastern United States (50 CFR 648.11), will automatically and immediately render enrollment in the Scup GRA Exemption Program null and void as of the date of the violation and may subject the violator to fines and/or permit sanctions.

Although the above requirements apply to any vessel that chooses to participate in the Scup GRA Exemption Program, this Program is voluntary and the decision to fish in the GRAs rests with the vessel owner/operator. If you enroll in the Program and request an LOA, you should then make arrangements to obtain an observer for any trip that will be in a GRA by calling Atlantic Inspection Services, Inc. (A.I.S., Inc.), the NOAA-certified observer contractor, at (757) 678-5074, ***a minimum of 5 business days in advance of the start of the trip.*** Please be prepared to provide the following information:

- Vessel name and permit number;
- Captain or contact name and phone number;
- Port of departure; and
- Date of departure.

A.I.S., Inc., will notify the captain (or vessel contact person) by telephone and identify the observer by name; if no observer is available for the specified trip, a denial will be issued, and the vessel captain/contact person may request a new departure date. If an observer is unavailable, the vessel may not fish in the GRA until an observer is available and on board. Obtaining and paying for a NOAA Fisheries-certified observer is the sole responsibility of the participating vessel. The cost to the fishing vessel of one at-sea observer day will be \$1,150. Note that vessels are assessed an observer day for every calendar day, or part thereof, an observer is on board. Vessels must send payment to A.I.S., Inc., for observer services within 5 business days following a trip or prior to their next deployment, whichever is sooner. An observer will not be assigned to a vessel until all previous trips' observer costs have been settled.

Trawl vessels *not enrolled in the GRA Exemption Program* may fish in the scup GRAs provided they comply with the following provisions:

- the vessel does not fish for or possess non-exempt species (Loligo squid, black sea bass, and silver hake (whiting)); or
- the vessel fishes with nets that have a minimum mesh size of 4.5 inches diamond mesh, applied throughout the codend for at least 75 continuous meshes forward of the terminus of the net. For codends with fewer than 75 meshes, the minimum-mesh-size codend must be a minimum of one-third of the net, measured from the terminus of the codend to the headrope, excluding any turtle excluder device extension.

As listed at 50 CFR 648.122(b), the Northern GRA is an area bounded by straight lines connecting the following points in the order stated:

<u>Point</u>	<u>N. Latitude</u>	<u>W. Longitude</u>
NGA 1	41° 00'	71° 00'
NGA 2	41° 00'	71° 30'
NGA 3	40° 00'	72° 40'
NGA 4	40° 00'	72° 05'
NGA 1	41° 00'	71° 00'

As listed at 50 CFR 648.122(a), the Southern GRA is an area bounded by straight lines connecting the following points in the order stated:

<u>Point</u>	<u>N. Latitude</u>	<u>W. Longitude</u>
SGA 1	39° 20'	72° 50'
SGA 2	39° 20'	72° 25'
SGA 3	38° 00'	73° 55'
SGA 4	37° 00'	74° 40'
SGA 5	36° 30'	74° 40'
SGA 6	36° 30'	75° 00'
SGA 7	37° 00'	75° 00'
SGA 8	38° 00'	74° 20'
SGA 1	39° 20'	72° 50'

