



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

July 9, 2004

SMALL ENTITY COMPLIANCE GUIDE

Dear Permit Holder:

This letter is to inform you that the National Marine Fisheries Service (NOAA Fisheries) has approved the final 2004 recreational measures for the summer flounder, scup, and black sea bass fisheries. The final rule implementing these measures will be published in the Federal Register on July 13, 2004, and will remain in effect until further notification.

Tables 1 and 2 (see reverse) summarize the minimum size limits, possession limits, and open seasons for these fisheries. After reviewing updated landings information for 2003, NOAA Fisheries has added one day (September 7) to the open season for scup described in the proposed rule. The recreational measures for black sea bass contained in the final rule are unchanged from those published in the proposed rule. In cases where state recreational measures for scup and black sea bass are different from those listed in Table 1, federally permitted party/charter vessels are required to abide by the more restrictive state or Federal measure. For example, if a state has adopted a possession limit of 40 fish for scup, a federally permitted party/charter vessel is required to abide by the 40-fish per person possession limit when landing recreationally caught fish in that state.

For the summer flounder fishery in states other than NY, the final rule implements conservation equivalency, as the process was described in the proposed rule, i.e., each vessel is required to abide by the regulations in effect for the state in which it lands summer flounder. The Atlantic States Marine Fisheries Commission (Commission) did not approve the NY summer flounder proposal, and NOAA Fisheries finds that the recreational fishing measures implemented by NY for 2004 are not the conservation equivalent of the season, minimum size, and possession limit prescribed in the implementing regulations for the recreational summer flounder fishery (50 CFR 648.102, 648.103, and 648.105(a), respectively). Therefore, pursuant to § 648.107(b), federally permitted charter/party permit holders and recreational vessels fishing for summer flounder in the Exclusive Economic Zone and landing in NY are required to abide by the following precautionary default measures: A minimum size of 18 inches (45.7 cm) total length, a possession limit of one fish, and an open season of January 1 through December 31. If NY develops a new proposal that would achieve the conservation equivalency requirements, and this proposal is approved by the Commission and implemented by NY, NOAA Fisheries would publish a notice in the Federal Register informing the public as to a change in the State's management measures and thereby relieve Federal permit holders landing in NY from the requirement to abide by the more restrictive precautionary default measures.

You may also receive permit holder letters, including closure notices, by e-mail by clicking on "NOAA Fisheries News Releases" on our website at



<http://www.nero.noaa.gov>, or via fax by providing a fax number through a written request to the above address, or by faxing your request to (978) 281-9135. This small entity compliance guide complies with section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996.

Sincerely,



Patricia A. Kurkul
Regional Administrator

Table 1 - 2004 Recreational Measures

Species	Minimum Size (total length)	Possession Limit	Open Season
Summer Flounder	Varies according to state of landing (see Table 2)		
Scup	10 inches (25.4 cm)	50 fish	January 1 through last day of February, and September 7 through November 30
Black Sea Bass	12 inches (30.5 cm)	25 fish	January 1 through September 7, and September 22 through November 30

Table 2 - 2004 State Recreational Management Measures for Summer Flounder

State	Minimum Size (total length)	Possession Limit (number of fish)	Open Season
MA	16.5 inches (41.9 cm)	7	Year-Round
RI	17.5 inches (44.5 cm)	7	April 1 through December 31
CT	17 inches (43.2 cm)	6	Year-Round
NY*	18 inches (45.7 cm)	1	Year-Round
NJ	16.5 inches (41.9 cm)	8	May 8 through October 11
DE	17.5 inches (44.5 cm)	4	Year-Round
MD	16 inches (40.6 cm)	3	Year-Round
VA	17 inches (43.2 cm)	6	March 29 through December 31
NC	14 inches (35.6 cm)	8	Year-Round

*Under the provisions of Framework Adjustment 2 to the FMP, because NY's conservation equivalency proposal was disapproved by the Commission, NY is required to implement the precautionary default measures.