



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

June 30, 2004

SMALL ENTITY COMPLIANCE GUIDE

Dear Permit Holder:

The Northeast Skate Complex (Skate) Fishery Management Plan (FMP) was implemented on September 18, 2003. One of the provisions in the Skate FMP allows vessels to fish for skates as bait under a special exemption program. Members of industry have recently expressed some confusion related to the use of a Day-at-Sea (DAS) when targeting skates for bait purposes. The following describes the types of regulated skate fishing activities under 50 CFR part 648, subpart O, and the circumstances that would require the use of a DAS to fish for skates.

There are two general categories of skate fishing activity:

- The skate wing, or mixed skate wing/bait fisheries under the skate possession/landing limits; and
- The directed bait fishery under the Skate Bait Letter of Authorization (LOA) exemption program.

Note: The skate regulations in no way supersede or preempt any provisions under the Northeast (NE) Multispecies, Sea Scallop, and/or Monkfish FMPs; and, depending on the area(s) fished and gears used, there may be additional restrictions on your skate fishing (see the last example below).

The following examples relate to DAS use for skate fishing within



the Skate Management Unit (SMU)¹ :

< DAS use under the skate wing possession/landing limits

A vessel must be called into either a NE Multispecies, Sea Scallop, or Monkfish DAS to retain skates that are later sold as wings, or to retain any combination of skate wings and whole skates that are later sold for bait purposes. A vessel fishing under one of these scenarios would not qualify for a Skate Bait LOA (i.e., an exemption to the skate possession/landing limits). In addition, these vessels must fish under a DAS to determine the length of the trip under the skate wing possession/landing limits (50 CFR 648.322(a)). The following instance involves a vessel that is not otherwise required to use a DAS, but must do so to fish for skate wings or any combination of skate wings and whole skate for bait purposes. Example: Vessels possessing general category sea scallop permits under the 400 lb limit, although not required to use a DAS for their scallop fishing activity must fish under a scallop, NE multispecies, or monkfish DAS in order to land skates for the wing market.

< DAS use when fishing for skates as bait

When fishing for whole skates in the directed skate bait fishery and in possession of a Skate Bait LOA, a vessel does not need to be operating on a DAS for the purposes of the Skate FMP. If, however, the vessel is otherwise required to use a DAS to participate in another fishery, absent the Skate Bait LOA, then a DAS must still be in use. Example: Vessels fishing in the Gulf of Maine Regulated Mesh Area with trawl gear (6-inch diamond or 6.5-inch square mesh) must, in all cases, be under a NE Multispecies DAS, regardless of the species that are retained or landed on a given trip. Therefore, a vessel participating in the directed skate bait fishery in this area and with this gear would need to use a DAS, even if it holds a Skate Bait LOA on board.

If, on the other hand, the vessel's normal fishing operations would not require the use of a DAS, then the vessel may target skates as bait under the LOA. Example: A vessel fishing in the Southern New England Monkfish and Skate Trawl or Gillnet Exemption Areas (50 CFR 648.80(b)(5) and (6)) that is not operating under a multispecies DAS may fish for, possess on board, and land skates as bait (i.e., only whole skates less than 23 inches total length) under the Skate Bait LOA.

< Incidental catch of skates in other fisheries

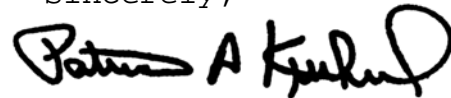
¹The SMU comprises the area of the Atlantic Ocean from 35°15.3' N. lat., the approximate latitude of Cape Hatteras Light, North Carolina, northward to the U.S.-Canada border, extending eastward from the shore to the outer boundary of the EEZ and northward to the U.S.-Canada border.

The last example involves vessels that are fishing for skates incidental to other target fisheries. In this instance, the vessel would not otherwise need to use a DAS, and would not necessarily be fishing for skates as bait under the LOA exemption program. Example: A vessel fishing in the Southern New England Exemption Area at 50 CFR 648.80(b)(10), for the exempted species listed under this section, including summer flounder, may possess/land skates incidental to other species, provided the skate and skate parts do not exceed 10 percent, by weight, of all other species on board.

This letter is only a summary of the fishery regulations implemented under the Skate FMP, and should not be considered as a substitute for the actual regulations. To read these regulations in their entirety, you are encouraged to obtain a complete copy by calling (978) 281-9278, or by accessing the Northeast Regional Office's web page at:

<http://www.nero.noaa.gov>. You may view a copy of the original Skate FMP permit holder letter, at the same website address. Select "permit holder letters" and then "past permit holder letters." The Skate FMP letter is filed under the heading, "August 2003 permit holder letters." Alternately, it may be obtained at the following link,
<http://www.nero.noaa.gov/ro/doc/skatefmppl.pdf>.

Sincerely,



Patricia A. Kurkul
Regional Administrator

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