



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

February 12, 2003

## SMALL ENTITY COMPLIANCE GUIDE

### SCUP GEAR RESTRICTED AREA EXEMPTION PROGRAM

Dear Permit Holder:

In the final rule for the summer flounder (fluke), scup (porgies), and black sea bass fisheries 2003 specifications, published in the Federal Register on January 2, 2003, NOAA's National Marine Fisheries Service (NOAA Fisheries) established a Scup Gear Restricted Area (GRA) Exemption Program. At the time of publication of the final rule, final approval of the reporting and record keeping requirements of the GRA Exemption Program was pending. NOAA Fisheries has now received the necessary approval and provides further information to vessel owners who may be interested in participating in the 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 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 2003 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 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 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 \$625. 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 AIS 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.

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 NERO's website: <http://www.nero.nmfs.gov>.

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

NOAA Fisheries requires this information for the conservation and management of marine fishery resources in accordance with the Magnuson-Stevens Fishery Conservation and Management Act. The data reported will be used to develop, implement, and monitor fishery management strategies and for a variety of other uses. Submission is mandatory for those persons falling under the requirements of 50 CFR 648.7(b). It is NOAA policy to preserve the confidentiality of information submitted under this reporting requirement, except that NOAA Fisheries may release such information in aggregate or summary form, such that individual identifiers are not disclosed (NAO 216-100). Public reporting burden for both enrolling in the Exemption Program and subsequent observer request(s) is estimated to average 2 minutes per response (i.e., per telephone call), including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments on this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: Patricia A. Kurkul, Regional Administrator, Northeast Region, NOAA Fisheries, One Blackburn Drive, Gloucester, MA 01930; and to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

Notwithstanding any provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

OMB Control Number: 0648-0469, expires: 02/28/06; OMB Control Number: 0648-0202, expires: 03/31/04

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

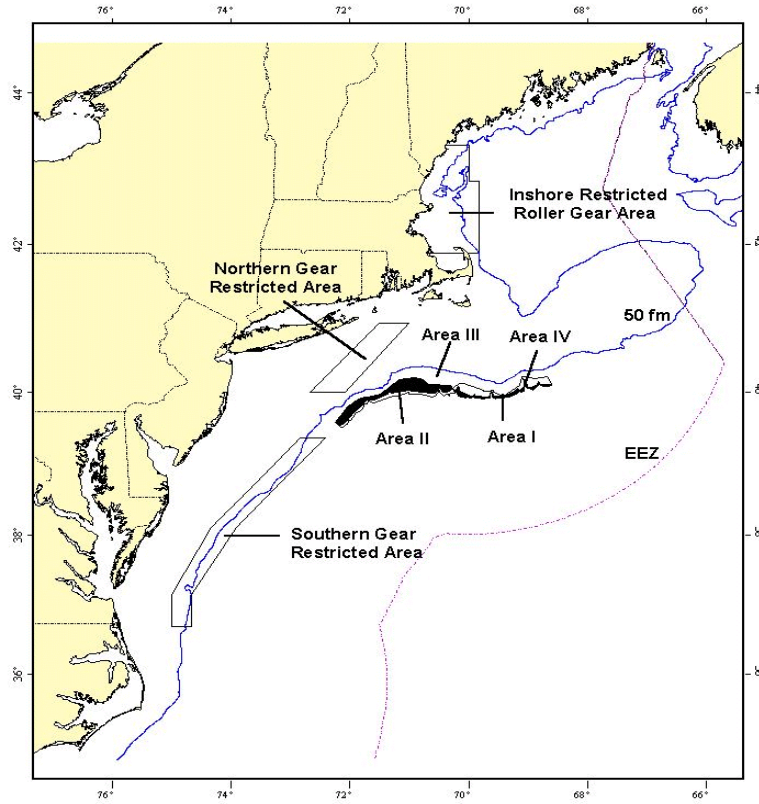
<u>Point</u>	<u>N. Latitude</u>	<u>W. Longitude</u>
NGA 1	41° 00'	71° 00'
NGA 2	41° 00'	71° 30'
NGA 3	40° 00'	72° 40'
NGA 4	40° 00'	72° 05'
NGA 1	41° 00'	71° 00'

As listed at 50 CFR 648.122(a), the Southern Gear Restricted Area 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'

**(See following chart of Scup Gear Restricted Areas)**

### Gear Restricted Areas



(See Scup Gear Restricted Areas coordinates on previous page)