

SMALL ENTITY COMPLIANCE GUIDE

2003 FINAL RULE, 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 2003 specifications, including commercial quotas, recreational harvest limits, and other commercial management measures for the summer flounder (fluke), scup (porgies), and black sea bass fisheries. This rule was published in the Federal Register on January 2, 2003.

All commercial quotas are in effect beginning **January 2, 2003**. Also, beginning January 2, 2003, fishing vessels issued a Federal moratorium permit for the summer flounder fishery may not land summer flounder in the states of Maine and Delaware during the 2003 calendar year, because those states have no 2003 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 states of Maine and Delaware during the 2003 calendar year, unless additional quota becomes available through a transfer.

SUMMER FLOUNDER

For 2003, the summer flounder total allowable landings (TAL) is 23.3 million lb, resulting in a commercial quota of 13.98 million lb and a recreational harvest limit of 9.32 million lb. Through the research quota set-aside program, two research projects were approved that have requested 91,163 lb of the TAL. After deducting the research set-aside, the commercial quota is 13.92 million lb and the recreational harvest limit is 9.28 million lb. Consistent with the revised quota setting procedures of the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP), summer flounder overages were determined based upon landings for the period November 2001-October 2002, plus any late-reported landings from January-October 2001. Table 1 shows, for each state, the initial 2003 commercial quota less the research set-aside, any applicable overage as described above, and the adjusted 2003 commercial quota less the research set-aside.

SCUP

The scup TAL for 2003 is 16.5 million lb. Through the research quota set-aside program, three research projects were approved that have requested 66,650 lb of the TAL. After deducting the research set-aside, the commercial quota is 12.42 million lb and the recreational harvest limit is 4.01 million lb. Consistent with the revised quota setting procedures of the FMP, scup overages were determined based upon landings for the Winter I and Summer 2002 periods, plus any late-reported landings from January-December 2001; the adjustment for the Winter II period is made in July of each year based on the previous year's Winter II overage. Table 2 shows, for each period, the initial 2003 commercial quota less the research set-aside, any applicable overage as described above, the adjusted 2003 commercial quota less the research set-aside, and the possession limit per trip.

The final rule implements a Winter I period (January-April) per trip possession limit of 15,000 lb, and a Winter II period (November-December) per trip possession limit of 1,500 lb. The Winter I per trip possession limit will be reduced to 1,000 lb when 80 percent of the commercial quota allocated to that period is projected to be harvested. NOAA Fisheries has determined that implementation of a 15,000-lb Winter I per trip possession limit (rather than 10,000-lb, as originally proposed) would be compatible with action being taken by states to implement 15,000-lb per week landing limits, would be enforceable, and would benefit the industry.

The final rule also establishes an access program under which any vessel that chooses to fish for non-exempt species (Loligo squid, black sea bass, and silver hake (whiting)) in the scup GRAs using mesh smaller than the minimum otherwise required must abide by the following requirements of the Scup GRA Exemption Program:

1. Enroll in the exemption program through a telephone call to the NOAA Fisheries Northeast Regional Office (NERO);
2. Carry on board the vessel a Letter of Authorization 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; and
4. Use, while 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.

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 of whether to fish in the GRAs rests with the vessel owner/operator. Obtaining and paying for a NOAA Fisheries-certified observer is the responsibility of the participating vessel. NOAA Fisheries estimates the cost to the fishing vessel of one at-sea observer day as approximately \$600. Final approval of the reporting and recordkeeping requirements of the GRA Exemption Program is pending. Once such approval is obtained, NOAA Fisheries will send another letter providing final details of the Exemption Program and post the letter and notice at NERO's website: <http://www.nero.nmfs.gov>.

BLACK SEA BASS

For 2003, the black sea bass TAL is 6.8 million lb. Through the research quota set-aside program, three projects were approved that have requested 67,676 lb of the black sea bass TAL. After deducting the research set-aside, the black sea bass commercial quota is 3.3 million lb, and the recreational harvest limit is 3.43 million lb. Consistent with the revised quota setting procedures established for the FMP, black sea bass overages were determined based upon landings for the 2002 Quarters 1 through 3, plus any late-reported landings for the same period in 2001; the adjustment for the Quarter 4 quota is made in July of each year based on the previous year's Quarter 4 overage. Table 3 shows, for each quarter, the initial 2003 commercial quota less the research set-aside, any applicable overage as described above, the final adjusted 2003 commercial quota, and the possession limit per trip.

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 and Fairness Act of 1996.

Sincerely,

Patricia A. Kurkul
Regional Administrator

Table 1. Final 2003 state-by-state commercial summer flounder allocations (lb).

State	Percent Share	2003 Initial Quota, less Research Set- Aside	2002 Quota Overages (through 10/31/02)	Adjusted 2003 Quota, less Research Set-Aside ¹
ME	0.04756	6,623	13,513	(6,890)
NH	0.00046	64	0	64
MA	6.82046	949,772	42,498	907,274
RI	15.68298	2,183,907	204,121	1,979,786
CT	2.25708	314,306	13,183	301,123
NY	7.64699	1,064,869	0	1,064,869
NJ	16.72499	2,329,010	0	2,329,010
DE	0.01779	2,477	48,086	(45,609)
MD	2.03910	283,951	0	283,951
VA	21.31676	2,968,429	76,024	2,892,405
NC	27.44584	3,821,924	0	3,821,924
Total ²	100.00	13,925,332	397,425	13,527,907

¹ For Maine and Delaware, includes continued repayment of over harvest from 2001; parentheses indicate a negative number.

² Total quota is the sum of all states having allocation. A state with a negative number has an allocation of zero (0).

Table 2. Final 2003 commercial scup allocations and possession limit by period (lb).

Quota Period	2003 Initial Quota, less Research Set-Aside	2002 Quota Overages (through 10/31/02)	2003 Adjusted Quota	Possession Limit (per Trip)
Winter I	5,602,495	0	5,602,495	15,000
Summer	4,837,445	402,754	4,434,691	n/a
Winter II	1,979,689	n/a	1,979,689	1,500
Total	12,419,629	402,754	12,016,875	

Table 3. Final 2003 commercial black sea bass allocations and possession limit by quarter (lb).

Quarter	2003 Initial Quota, less Research Set-Aside	2002 Quota Overages (through 10/31/02)	2003 Adjusted Quota	Possession Limit (per Trip)
1 (Jan-Mar)	1,274,671	77,007	1,197,664	7,000
2 (Apr-Jun)	965,240	214,338	750,902	5,000
3 (Jul-Sep)	406,747	5,459	401,288	5,000
4 (Oct-Dec)	652,180	n/a	652,180	5,000
Total	3,298,838	296,804	3,002,034	