

## 6 NYCRR Part 40 - Marine Fish (Black Sea Bass & Scup) - Regulatory Impact Statement

1. **Statutory authority:** Environmental Conservation Law (ECL) §§ 13-0105, 13-0340-e, and 13-0340-f authorize the New York State Department of Environmental Conservation (Department) to establish by regulation the open season, size, catch limits, possession and sale restrictions, and manner of taking for Scup and Black Sea Bass.
2. **Legislative objectives:** It is the objective of the above-cited law that the Department manages marine fisheries to optimize resource use for recreational harvesters in a manner that is consistent with marine fisheries conservation and management policies and interstate fishery management plans.
3. **Needs and benefits:** The proposed regulations were developed in response to the Atlantic States Marine Fisheries Commission (ASMFC) and Mid-Atlantic Fishery Management Council (MAFMC) requiring recreational harvest reductions for Scup and Black Sea Bass after multiple years of exceeding the recreational harvest limit for both species coastwide. The proposed amendments will implement the recreational harvest decreases required by ASMFC and MAFMC. For Black Sea Bass, changes are proposed to the size limit, and for Scup, changes are proposed to the size limit and possession limit.

The Department is adopting these changes in order to protect the general welfare of New York State, and particularly those who participate in these fisheries, by complying with ASMFC and MAFMC fishery management plan requirements. If ASMFC determines that New York is non-compliant, it sends notice of New York's non-compliance to the U.S. Secretary of Commerce. The Secretary of Commerce could then promulgate and enforce a complete closure of New York's Scup and Black Sea Bass recreational fisheries if they concur with ASMFC's non-compliance determination.

4. **Costs:** There are no new costs to state and local governments from this action. The Department will incur limited costs associated with both the implementation and administration of these rules, including the costs relating to notifying recreational fishers, party and charter boat operators, and other recreational fishing associated businesses of the new rules.
5. **Local government mandates:** The proposed rule does not impose any mandates on local government.
6. **Paperwork:** Regulated parties are not expected to experience an increase in paperwork as a result of the proposed regulations.
7. **Duplication:** The amendment does not duplicate any state or federal requirement.
8. **Alternatives:** New York State marine recreational fishers had an opportunity to comment on new recreational fishing measures for Scup and Black Sea Bass, including the measures proposed in this rulemaking, during the Marine Resource Advisory Council (MRAC) meeting on March 7, 2023, a public meeting on Black Sea Bass on February 27, 2023, and in a feedback survey distributed through the Department's Saltwater Fishing and Boating newsletter and

social media. Alternative management measures, which included various combinations of possession limits, size limits, and seasons, were suggested and discussed. While some fishers questioned why measures could not remain status quo, attendees generally favored the measures included in this rulemaking when compared to alternative options. Pursuant to ECL §13-0105, a majority of MRAC members voted in favor of the proposed regulations in this rulemaking.

“No action” alternative: If New York were to not adopt regulations that reduced recreational Scup and Black Sea Bass recreational harvest in 2023, the State would be out of compliance with ASMFC requirements, which could result in the complete closure of New York’s Scup and Black Sea Bass fisheries.

9. **Federal standards:** The amendments to Part 40 are in compliance with the ASMFC and MAFMC’s Fishery Management Plans for Scup and Black Sea Bass.
10. **Compliance schedule:** These regulations are being adopted by emergency rulemaking and therefore will take effect immediately upon filing with Department of State. Regulated parties will be notified of the changes to the regulations through publication in the State Register, appropriate news releases, and through the Department’s website.