

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulation
Department of Natural Resources**
(DLS Control No. 20-032)

Overview and Legal and Fiscal Impact

This regulation updates requirements for gear that is used commercially to catch scup and modifies the threshold for trawl mesh size to be consistent with recent changes to the Atlantic States Marine Fisheries Commission (ASMFC) Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan. Additionally, the regulation modifies powers of the Secretary of Natural Resources and updates public notice requirements to be consistent with other species managed by a fishery management plan.

The regulation presents no legal issue of concern.

There is no fiscal impact on State or local agencies.

Regulation of COMAR Affected

Department of Natural Resources:

Fisheries Service: Fish: COMAR 08.02.05.22

Legal Analysis

Background

Scup are a migratory, schooling fish species found on the Northwest Atlantic continental shelf in the Atlantic Ocean that commonly inhabit waters from Cape Cod, Massachusetts to Cape Hatteras, North Carolina. Scup are jointly managed by ASMFC and the Mid-Atlantic Fishery Management Council (MAFMC). ASMFC coordinates the management of scup fisheries in state waters (up to three miles offshore) while MAFMC manages scup fisheries in federal waters (3 to 200 miles offshore). Scup were incorporated into the ASMFC and MAFMC Summer Flounder Fishery Management Plans in 1996. Since then, a series of amendments and addenda have been implemented to modify management measures for the species.

Maryland's current scup gear restrictions are not consistent with ASMFC and MAFMC trawl mesh size standards. The regulations update these standards to be consistent with the fishery management plan for scup and to be consistent with federal water standards.

Summary of Regulation

The regulation repeals the current standards for commercial gear restrictions related to mesh size for trawls, and instead specifies that the minimum mesh size for trawl nets used in the commercial scup fishery is 5 inch diamond mesh instead of 5 inch stretched mesh size. This minimum size applies throughout the codend of the net for at least 75 continuous meshes forward of the end of the net, or throughout the entire net for codends with less than 75 meshes. This minimum does not apply to a person who possesses less than (1) 1,000 pounds of scup per trip from October 1 through April 14; (2) 2,000 pounds of scup per trip from April 15 through June 15; or (3) 200 pounds of scup per trip from June 16 through September 30. Further, the minimum does not apply to a person who stores scup separate from all other species.

The regulation also specifies that the Secretary may establish or modify a size limit in addition to a season or catch limit in order to implement the ASMFC Interstate Fishery Management Plan for Scup by publishing notice on the department's website.

Finally, the regulation establishes that a violation of the season, size limit, or catch limit restrictions set by the Secretary is a violation of the regulation.

Legal Issues

The regulation presents no legal issues of concern.

Statutory Authority and Legislative Intent

The department cites § 4-2A-03 of the Natural Resources Article as statutory authority for the regulation. Section 4-2A-03 requires the Secretary to investigate fish resources of the State to determine conservation measures necessary to successfully sustain individual populations. Subsection (b) of this section requires the Secretary to adopt rules and regulations that limit the taking, possession, transportation, exportation, processing, sale or offer for sale, or shipment of fish deemed in need of conservation.

This authority is correct and complete. The regulation complies with the legislative intent of the law.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The department advises that the regulation has no impact on State or local governments. The Department of Legislative Services concurs.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The department advises that the regulation has minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

Contact Information

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