

Regulatory Impact Statement

1. Statutory authority:

Environmental Conservation Law (ECL) § 13-0105 directs that “the management of the state’s transboundary and migratory species shall be consistent with any interjurisdictional management plans, interstate or federal.” In addition, pursuant to ECL § 13-0371, New York State is a party to the Atlantic States Marine Fisheries Compact. That Compact established the Atlantic States Marine Fisheries Commission (ASMFC) which facilitates cooperative management of marine, shellfish, and anadromous fish species among the fifteen member states. The principal mechanism for implementation of cooperative management of migratory fish is ASMFC’s Interstate Fishery Management Plans (FMPs) for individual species or groups of fish. The FMPs are designed to promote the long-term health of these species, preserve resources, and protect the interests of both commercial and recreational fishers.

ECL § 13-0335 requires any person taking and landing food fish from New York waters for commercial purposes to obtain a food fishing license, and any person landing food fish taken from waters outside the State for commercial purposes to obtain a food fish landing license.

2. Legislative objectives:

ECL section 13-0105 directs that “the management of the state’s transboundary and migratory species shall be consistent with any interjurisdictional management plans, interstate or federal.” The proposed rulemaking is necessary for New York to remain in compliance with the ASMFC FMP for Cobia.

3. Needs and benefits:

Pursuant to ASMFC’s Cobia FMP, commercial fishery harvest is evaluated against a coastwide quota through in-season monitoring and closure when the quota is met. If ASMFC

determines that the coastwide Cobia quota will be met, participating states must close their commercial Cobia fisheries. The proposed rule authorizes New York to close the State's commercial Cobia fishery should ASMFC determine that the coastwide commercial Cobia quota will be met. This rule is necessary for New York to remain in compliance with the Cobia FMP. Failure to adopt these regulations could result in federal closure of New York's Cobia fisheries.

In addition, the proposed rule clarifies in regulation that a food fishing license or food fish landing license is required by statute to take and land Cobia for commercial purposes in New York State. The rule further clarifies that harvest limits for Cobia are approved and adopted by ASMFC and that the Department establishes trip limits consistent with such harvest limits. Neither of these additions establish new obligations for New York fishers.

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.

Because Cobia plays a relatively minor role among New York's commercial fisheries, any cost to New York State fishers is expected to be minimal. In each of the last four years, fewer than 20 New York State commercial harvesters participated in the commercial Cobia Fishery. The proposed rule is mandated by ASMFC; failure to adopt the rule may result in federal closure of the State's Cobia fisheries.

5. Local government mandates:

The proposed rule does not impose any mandates on local government.

6. Paperwork:

The proposed rule does not require and paperwork for local government.

7. Duplication:

The amendment does not duplicate any state or federal requirement.

8. Alternatives:

“No action” alternative: This alternative was not considered because failure to adopt the proposed regulations may result in federal closure of New York’s Cobia fisheries.

9. Federal standards:

The proposed amendments to Part 40 comply with ASMFC’s FMP for Cobia.

10. Compliance schedule:

Compliance with the proposed regulation is required upon publication of the Notice of Adoption in the State Register. 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.