



PRESS RELEASE

Recreational Fishing Alliance

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BLACK SEA BASS SEASON TO DOUBLE IN LENGTH ASMFC Votes to Increase Fishing Days – RFA Legal Defense Continues

In a vote supported by all member states of the Atlantic States Marine Fisheries Commission's (ASMFC) Summer Flounder, Scup and Black Sea Bass Management Board today, states will now have the option to liberalize the 2010 black sea bass season in state waters by an additional 90 days. The proposed new season will run from May 22 through October 11, with an additional open period of November 1 through December 31. The proposal would keep the size and bag limit the same of 12-1/2 inches and 25 fish per angler.

"RFA representatives have worked tirelessly on the 2010 black sea bass season since last summer, when drastic cuts to fishing days were first proposed," said Capt. Adam Nowalsky, chairman of the Recreational Fishing Alliance's New Jersey chapter (RFA-NJ). Nowalsky attended the ASMFC meetings this week in North Carolina alongside fellow RFA-NJ board member and United Boatmen representative Capt. Tony Bogan, and said perseverance has been the key to seeing the sea bass opportunities open up again for recreational anglers along the Mid-Atlantic coast. "In December, we were faced with a 60-day season for 2010, and now we are closing in on a near 200-day season," Nowalsky added.

The increase in fishing days became possible after the recent release of 2009 black sea bass landings. Projected 2009 landings had been mandating a 44% reduction in landings for 2010, but the updated data showed that only a 21% reduction was needed, allowing for the liberalization. For the new regulation to go into effect, individual states will have to implement the new proposal, but given the unanimous support of the states for the motion, implementation is expected.

RFA representatives have attended and advocated at every ASMFC and Mid-Atlantic Fishery Management Council meeting impacting the recreational black sea bass fishery since last August to ensure that the recreational sector is treated fairly by regulators and has the best opportunity possible to enjoy this healthy fishery. "When our state Marine Fisheries Council meets again back home at the Atlantic County Library in Galloway on May 13th at 4 p.m., this sea bass season increase should be on the agenda," said Nowalsky. "This is good news for all our coastal states from Massachusetts down through North Carolina, everyone who enjoys this healthy and robust sea bass fishery," he said.

NOAA Fisheries released a proposed rule last week that specified an opening date of May 22 for the fishery in federal waters with no firm end date for 2010; NOAA Fisheries did not oppose the ASMFC proposal today. When NOAA Fisheries abruptly closed the recreational sea bass fishery last October without any opportunity for public comment, the RFA immediately began working on a legal challenge to fight the closure. The RFA, United Boatmen and a coalition of industry allies (the "Plaintiffs") filed suit on November 4, 2009 in New Jersey Federal Court arguing that the sea bass closure should be declared unlawful and set aside for being arbitrary, capricious, an abuse of discretion, and otherwise not in accordance with law pursuant to the Administrative Procedure Act.

The Plaintiffs also allege that NOAA Fisheries violated numerous provisions of the Magnuson-Stevens Act for closing a recreational fishery in reliance upon the fatally flawed Marine Recreational Fisheries Statistics Survey (MRFSS) and for failing to adequately assess the impacts of the Emergency Rule on small business entities such as party and charter boats and bait and tackle shops.

“The emergency closure of the recreational sea bass fishery was unprecedented for a fishery that is not ‘overfished’ and where ‘overfishing is not occurring’,” said Jim Donofrio, RFA Executive Director. “This case is about more than just sea bass; it’s about taking a stand against a federal agency abusing its power and hurting individuals and small business owners. If NMFS gets away with using MRFSS data to shut down the sea bass fishery this time it will be tough to stop them from doing it in other fisheries.” Donofrio said that a legal win with this case would help set a precedent for anglers to ensure that NOAA couldn’t make similar closures in other regions in the future.

On January 22, NMFS filed the Administrative Record for the case, submitting all the documents the Court will consider in making its decision. “We carefully reviewed the Administrative Record to determine whether further documents existed that should have been, but were not, submitted by the government,” said Herb Moore, Jr., RFA co-counsel on the case. “Surprisingly, we discovered that NMFS failed to submit the minutes of the December 2008 meeting of the Mid-Atlantic Fishery Management Council, which is the meeting where the 2009 sea bass measures were debated and voted on only to be preempted roughly ten months later by the emergency closure,” Moore said.

According to the RFA’s legal team, the government would not consent to adding these materials to the Administrative Record so they filed a motion to supplement the record on April 23 which they expect will be decided sometime after May 17. “Thirty days after we have a decision on this motion to supplement, we will go ahead and file a motion for summary judgment and expect NMFS to file a cross motion for summary judgment after that,” Moore said, adding “We expect this case will ultimately be decided on these cross motions for summary judgment.”

As of May 4, 2010, \$26,470.27 has been deposited into the RFA Legal Defense Fund for ongoing efforts to challenge NOAA Fisheries’ decision to close the black sea bass fishery. “Tackle shops, party and charter boat captains, fishing clubs and captains organizations and hundreds of individual anglers have contributed to our campaign to ensure that NOAA Fisheries never does this again,” said RFA Managing Director, Jim Hutchinson, Jr. “This battle to reopen our sea bass fishery and the ongoing legal challenge to protect anglers against future arbitrary closures has been all grassroots so far, but I’m hoping that some of our friends from the national tackle industry who rely on a healthy sea bass fishery will contribute to the angler efforts to keep our folks fishing,” Hutchinson added.

Learn more about the RFA and the RFA Legal Defense Fund at www.joinrfa.org.

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The Recreational Fishing Alliance is a national, grassroots political action organization representing recreational fishermen and the recreational fishing industry on marine fisheries issues. RFA’s Mission is to safeguard the rights of saltwater anglers, protect marine, boat and tackle industry jobs, and ensure the long-term sustainability of our Nation’s saltwater fisheries. For more information, call 888-JOIN-RFA or visit www.joinrfa.org.