RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
OFFICE OF THE DIRECTOR
235 Promenade Street, Room 425
Providence, Rhode Island 02908

To: Conor McManus, Ph.D.
Chief, Division of Marine Fisheries

From: Terrence Gray, P.E.
Director

Date: April 5, 2023

Re: Final decisions regarding proposed and prospective regulation amendments that were subject of a public hearing held on March 6th, 2023, and a RI Marine Fisheries Council (RIMFC) meeting on April 3rd.

I have received and reviewed your memo to me, dated April 4, 2023 (attached), regarding the regulatory matters that were subject to a public hearing on March 6, 2023 and the RI Marine Fisheries Council (Council) meeting on April 4, 2023. I have also received and reviewed all relevant supporting documentation, including the public comments received and the draft Council meeting minutes.

The specific regulatory items, and the final decisions for each, are as follows:

1. **Providence/Seekonk River Shellfish Management Area Harvest Season**

   Decision: Amend the rule as recommended by the Council and supported by the Division, which modifies the annual harvest schedule as follows:

   Recreational shoredigging: Open daily.
   Recreational other than shoredigging: Closed.
   Commercial: Open 8:00 A.M.to 11:00A.M. per the following schedule:
   - January 1 through May 21: Closed.
   - May 22 through June 26: Open each Monday and Wednesday only; closed Memorial Day May 29th.
   - June 27: Open
   - June 28 through September 2: Open each Monday and Wednesday only.
   - September 3 through October 31: Open each Tuesday only.
   - November 1 through December 9: Closed.
   - December 10 through December 31: Open one (1) day each week on the first (1st)

weekday which is not closed due to water quality impairment; closed December 25th.

The fishery will close upon reaching eighteen harvest days between May 22 and October 31. If the cap of eighteen (18) days is reached, the fishery would then be closed and reopen for the month of December per the above schedule, for a maximum of three additional harvest days and a maximum of twenty-one (21) harvest days for the year.

2. **2023 recreational black sea bass management**

Decision: Amend the rule as recommended by the Council and supported by the Division, which modifies the minimum size limits and seasons for recreational black sea bass fishing as follows:

Mode	Min. Size	Season	Poss. limit
General Recreational	16.5"	May 22 – Aug. 26	2 fish/day
		Aug. 27 – Dec. 31	3 fish/day
Party/Charter	16"	June 18 – Aug. 31	2 fish/day
		Sept. 1 – Dec. 31	3 fish/day

3. **2023 recreational scup management**

Decision: Amend the rule as recommended by the Council and supported by the Division, which modifies minimum size limits, mode, and season for recreational scup fishing as follows:

Mode	Min. Size	Season	Poss. limit
Private and Rental Mode	10.5"	May 1 – Dec. 31	30 fish/day
Party/Charter	10.5"	May 1 – Dec. 31	30 fish/day
		Sept. 1 – Oct. 31	40 fish/day
		Nov. 1 – Dec. 31	30fish/day
Shore Mode	9.5"	May 1 – Dec. 31	30 fish/day

4. **Striped Bass Dealer Reporting**

Decision: Amend the rule as recommended by the Council and supported by the Division, which requires dealers to increase the reporting frequency of striped bass landings to improve management of the fishery. The rule as amended will require dealers to report landings no more than twenty-four (24) hours after the date of purchase.

5. **2023 commercial general category striped bass management**

Decision: Amend the rule as recommended by the Council and Division, which modifies seasonality and closed days for commercial striped bass fishing as follows:

Min. size	Season	Allocation	Poss. limit	Closed Days
34"	5/29 – 7/5	50%	5 fish/person/day	Thurs, Fri, Sat & Sun
	7/6 – 12/31	50%	5 fish/person/day	Thurs, Fri, Sat & Sun

6. **Commercial Menhaden Management**

Decision: Maintain status quo, until further analysis can be completed. While the Council voted to amend the rule to provide for a weekly possession limit of 50,000 pounds per vessel while the management area is closed, I will note that the vote was close, being approved by a vote of 4 to 3, and this is a signal to me that this was a difficult decision for the Council. While I am inclined to support the Council's decision in this case, I have concerns and have decided to hold this potential change for further study. There were concerns expressed both at the Council meeting as well as during the public comment period that give me pause. The RI Menhaden Management Plan in Narragansett Bay is a complex one both at the local level, with dynamic biomass triggers that were put in place to recognize the importance of menhaden as both forage for important predator species and their role as a secondary producer in the ecosystem of the Bay, and at the federal level with a very robust and multifaceted ASMFC Fishery Management Plan that governs this fishery. I do not believe that the changes approved by the Council fully considered potential interactions with the ASMFC management plan, and therefore careful study of how this change would align with those requirements is warranted. Further, I think it is important to investigate some projections of potential impacts that this change may have to the biomass cap that has been in place in the Bay for many years. Per the discussion during the Council meeting, I do not think it was the intent of the Council, or the original makers of this proposal, to negatively impact the ecosystem management process that we have in the Bay for menhaden, which hinges on this biomass cap, therefore it is important for us to understand to the best of our ability if this new harvest allowance at 50,000 pounds per week would negatively impact the effectiveness of the biomass cap, thus impacting the core feature of the dynamic management system that we have had in place for many years. To that end, I am asking the Division to undertake two lines of study:

1. Please review this potential change in the context of the ASMFC's Fishery Management Plan for Atlantic Menhaden to verify that this type of regulatory change in RI would not put the state out of compliance.
2. Please develop an analysis to project under various realistic scenarios what this type of a program might do to the effectiveness of the existing dynamic management program in place for menhaden in Narragansett Bay.

3. Please coordinate with the Division of Law Enforcement to fully consider prospective enforcement challenges with weekly possession limits under the current management area and fishery requirements."

I therefore direct the Division to conduct these two studies and report out to the Council on your findings in time to be able to readdress this proposal for the 2024 fishing seasons.

7. **Aggregate Program for Summer Flounder and Black Sea Bass**

Decision: Amend the rule as recommended by the Council and Division for the Winter I Aggregate Program for Summer Flounder and the Summer/Fall Program for Black Sea Bass.

Recognizing the benefits of aggregate programs and how such a program could be beneficial for summer flounder in the summer and/or fall, I direct the Division to continue evaluating the inclusion of the summer flounder aggregate program as early as for the fall of 2023 in hope of obtaining the benefits of the program while addressing the constructive criticism received from the industry.

8. **Summer Flounder Exemption Certificate Program Possession Limit**

Decision: Consistent with my decision above regarding inclusion of summer flounder in the Summer/Fall Aggregate Program, I direct the Division to evaluate this program for the fall of 2023.

9. **Other non-substantive proposed amendments to Part 3 – Finfish**

Decision: Amend the rule as recommended by the Council and Division with makes non-substantive technical adjustments and clarifications to the regulatory language.

RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
DIVISION OF MARINE FISHERIES
3 Fort Wetherill Road
Jamestown, Rhode Island
02835

INTER-OFFICE
MEMO

To: Terrence Gray, P.E., Director

From: Conor McManus, Chief

Date: April 4, 2023

Subject: Decisions regarding proposed and prospective regulation amendments that were subject of a public hearing held on March 6th, 2023, and a RI Marine Fisheries Council (RIMFC) meeting on April 3rd.

The public hearing folder contains all the necessary documentation related to this hearing, including the proposed rules that were publicly noticed and the comments received. Below is a summary of the proposed amendments:

1. **Providence/Seekonk River Shellfish Management Area Harvest Season (Part 4 "Shellfish"):**

    - Background: Annual review of this harvest schedule. The Council's Shellfish Advisory Panel (SAP) met on March 8 and March 20. At the 1st meeting on March 8th, the Division provided data (DMF Dredge Survey Results, 2022 Harvest Summary, 2022 Rainfall Closures) and were provided a deadline of April 17th to submit proposals for SAP consideration at their meeting on March 20th.
    - Proposal: Six proposals were submitted and deliberated by the SAP.
    - Public comment: Amendments to rule changes in Shellfish Management Areas are exempt from the requirements of the Administrative Procedures Act pursuant to R.I. Gen. Laws § 20-3-4; a proposed rule therefore was not publicly noticed. Opportunity for comment was however provided at the Council meeting.
    - RIMFC: 4-3 in support of recommending adoption of the SAP recommended schedule:

        - Recreational shoredigging: Open daily.
        - Recreational other than shoredigging: Closed.
        - Commercial:

- January 1 through May 21: Closed.
- May 22 through June 26: Open 8:00am to 11:00am. each Monday and Wednesday only; closed Memorial Day May 29th.
- June 27, 28, and 29: Open 8:00 A.M. to 11:00 A.M.
- June 30 through September 1: Open 8:00 A.M. to 11:00 A.M each Monday and Wednesday only.
- September 5 through October 31: Open each Tuesday only.
- November 1 through the first week in December: Closed.
- 2nd week in December through December 31: Open one (1) day each week on the first (1st) weekday which is not closed due to water quality impairment; closed December 25th.

  In addition to the recommended schedule, the Council also recommended a fishery closure upon reaching eighteen harvest days between May 22 and October 31. If the cap of eighteen days is reached, the fishery would then be closed and reopen for the month of December per the above schedule, for a maximum of three additional harvest days and a maximum of twenty one harvest days for the year.

- Marine Fisheries: The Division does not have a preference on the precise schedule but does support a fixed schedule for months other than December. The Division recommended a fixed schedule of 28 days (with an anticipation of 14 harvest days assuming a 50% closure due to rainfall) based on previous assessment and simulation work. For a schedule that seeks more than 28 days and thus assumes greater risk of exceeding sustainable harvest, the Division supports additional measures be considered, such as a cap on the total number of harvest days, also be instituted to mitigate risk of overharvest. The Division also supports that the cap not apply to the December openings due to the economic interest expressed by harvesters during this time of year. The Division supports status quo for recreational harvest measures.

2. **2023 recreational black sea bass management (Part 3 "Finfish"):**

- Background: Annual review of management. A workshop was held on January 31st to solicit proposals from the public. The MAFMC is requiring a 10% harvest reduction in black sea bass for 2023 compared with expected harvest under status quo regulations. Four proposals were noticed this year, which were later modified as RIDEM staff engaged in the proposal development process with NOAA Fisheries staff.
- Proposal: Four proposals were publicly noticed:

Proposal 1 (Industry proposal):

Mode	Min. Size	Season	Poss. limit
General	~~16"~~ 16.5"	May 22 – Aug. 31	2 fish/day

Recreational		Sept. 1 – Dec. 31	3 fish/day
Party/Charter	~~16”~~ 16.5”	June 18 – Aug. 31	2 fish/day
		Sept. 1 – Dec. 31	3 fish/day

Proposal 2 (Industry proposal):

Mode	Min. Size	Season	Poss. limit
General Recreational	~~16”~~ 16.5”	May 22 – Aug. 31	2 fish/day
		Sept. 1 – Dec. 31	3 fish/day
Party/Charter	16”	June 18 – Aug. 31	2 fish/day
		Sept. 1 – Dec. 31	3 fish/day

Proposal 3 (Industry proposal):

Mode	Min. Size	Season	Poss. limit
General Recreational	~~16”~~ 16.5”	May 22 – Aug. 31	2 fish/day
		Sept. 1 – Dec. 31	3 fish/day
Party/Charter	~~16”~~ 16.5”	June ~~18~~ 17 – Aug. 31	2 fish/day
		Sept. 1 – Dec. 31	3 fish/day

Proposal 4 (Industry proposal):

Mode	Min. Size	Season	Poss. limit
General Recreational	~~16”~~ 16.5”	May 22 – Aug. ~~31~~ 26	2 fish/day
		~~Sept. 1~~ Aug. 27 – Dec. 31	3 fish/day
Party/Charter	~~16”~~ 16.5”	June 18 – Aug. 31	2 fish/day
		Sept. 1 – Dec. 31	3 fish/day

- Public comment:
  - 7 comments in support of proposal #2
  - RIPCBA in support of proposal #2
  - RISAA in support of proposal #4
  - 4 comments in support of proposal #4
  - 2 comments in support of status quo

The noticed proposals for black sea bass were created prior to completion of the ASMFC process, wherein states selected lists of potential recreational regulations for black sea bass and scup. The ASMFC process entailed running potential proposals through a statistical model developed by NOAA Fisheries to calculate the reduction in harvest expected under these alternative measures. Because noticed proposals 1 and 2 exceeded the required 10% reduction for black sea bass, RI DMF staff worked via the ASMFC process to modify these proposals and get closer to the 10% reduction. The modifications were informed by RI Proposals 3 and 4, which specify how each mode might achieve a 10% reduction on its own. Because Proposals 3 and 4 were not complete recreational fishery proposals individually and were incorporated into Proposals 1 and 2, it is recommended that they no longer be considered as viable proposals for consideration, and that proposals 1 and 2 be modified as

follows:

Proposal #1 recommended modification (alter season dates to get closer to 10% reduction):

Mode	Min. Size	Season	Poss. limit
General Recreational	~~16"~~ 16.5"	May 22 – Aug. ~~31~~ 26	2 fish/day
		~~Sept. 1~~ Aug. 27 – Dec. 31	3 fish/day
Party/Charter	~~16"~~ 16.5"	June ~~18~~ 17 – Aug. 31	2 fish/day
		Sept. 1 – Dec. 31	3 fish/day

Proposal #2 recommended modification (alter private mode only: change season dates to get closer to 10% reduction):

Mode	Min. Size	Season	Poss. limit
General Recreational	~~16"~~ 16.5"	May 22 – Aug. ~~31~~ 26	2 fish/day
		~~Sept. 1~~ Aug. 27 – Dec. 31	3 fish/day
Party/Charter	16"	June 18 – Aug. 31	2 fish/day
		Sept. 1 – Dec. 31	3 fish/day

Please also note that support for original proposals 3 and 4 does not indicate explicit support for modified Proposals 1 or 2. The main difference between these proposals is whether the 10% reduction should be achieved by a change for both modes or only the private mode.

- RIMFC: 7-0 in support of recommending adoption of modified proposal 2.
- Marine Fisheries: Support for either modified proposals 1 or 2 as manageable for the Division.

3. **2023 recreational scup management (Part 3 "Finfish"):**

- Background: Annual review of management. A workshop was held on January 31st to solicit proposals from the public. The MAFMC is requiring a 10% harvest reduction in black sea bass for 2023 compared with expected harvest under status quo regulations.
- Proposal: Two proposals were noticed:

Proposal 1 (Regional proposal (CT, NY, MA, RI):

Mode	Min. Size	Season	Poss. limit
~~Gen. Rec.~~ Private and Rental Mode	~~10"~~ 10.5"	~~Jan. 1~~ May 1 – Dec. 31	30 fish/day
Party/Charter	~~10"~~ 10.5"	~~Jan. 1~~ May 1 – Dec. 31	30 fish/day
		Sept. 1 – Oct. 31	40 fish/day
		Nov. 1 – Dec. 31	30fish/day
~~Special Shore~~ Shore Mode	~~9"~~ 9.5"	~~Jan. 1~~ May 1 – Dec. 31	30 fish/day

Proposal 2 (Industry proposal:

Mode	Min. Size	Season	Poss. limit
Gen. Rec.	~~10"~~ 10.5"	Jan. 1 – Dec. 31	30 fish/day
Party/Charter	~~10"~~ 10.5"	Jan. 1 – Dec. 31	30 fish/day
		Sept. 1 – Oct. 31	40 fish/day
		Nov. 1 – Dec. 31	30fish/day
Special Shore	~~9"~~ 9.5"	Jan. 1 – Dec. 31	30 fish/day

- Public comment:
  - RISAA in support of proposal # 1
  - RIPCBA in support of proposal #1
  - Four comments in support of proposal #1
  - 1 comment in support of proposal # 2
- RIMFC: 7 – 0 in support of recommending adoption of proposal #1 as noticed.
- Marine Fisheries: Support for proposal #1 to meet the reduction requirement with the least impact to Rhode Island.

4. **Striped Bass Dealer Reporting (Part 7 "Dealers"):**

- Background: Late dealer reporting of striped bass landings has been an issue for several years. The late reporting coupled with a large increase in participation in the fishery in 2022 has resulted in challenges for the Division to effectively manage the fishery and avoid sub-period and annual quota overages. Specifically, consistent overharvest in the first sub-period has resulted in a reduced allocation in the second sub-period and annual allocation overages must be subtracted from the subsequent years allocation.
- Proposal: Division proposal to amend the frequency of required dealer reporting of striped bass landings to increase availability and timeliness of data. This change will enhance the Division's ability to monitor in-season quotas and improve management, resulting in lower or elimination of overages.
- Public comment: Three comments in support of the proposed rule as noticed
- RIMFC: 6 - 1 in support of adopting the rule as noticed.
- Marine Fisheries: Support to adopt as noticed.

5. **2023 commercial general category striped bass management (Part 3 "Finfish"):**

- Background: Annual review of management. A workshop was held on January 31st to solicit proposals from the public. Additional closed days proposed to slow weekly catch rates which were significantly higher in 2022.
- Proposal: Five proposals were noticed for consideration:

Proposal 1 (Division proposal):

Min. size	Season	Allocation	Poss. limit	Closed Days
34”	~~6/1~~ 5/29 – 7/5	50%	5 fish/person/day	Thurs, Fri, Sat & Sun
	7/6 – 12/31	50%	5 fish/person/day	Thurs, Fri, Sat & Sun

Proposal 2 (Industry proposal):

Min. size	Season	Allocation	Poss. limit	Closed Days
34”	6/1 – ~~7/5~~ 12/31	~~50~~ 100%	5 fish/person/day	Tues, Thu, Fri, Sat & Sun
	~~7/6 – 12/31~~	~~50%~~	~~5 fish/person/day~~	~~Fri, Sat & Sun~~

Proposal 3 (Industry proposal):

Min. size	Season	Allocation	Poss. limit	Closed Days
34”	6/1 – ~~7/5~~ 7/3	50%	5 fish/person/day	Wed, Fri, Sat & Sun
	~~7/6~~ 7/4 – 12/31	50%	5 fish/person/day	Wed, Fri, Sat & Sun

Proposal 4 (Industry proposal):

Min. size	Season	Allocation	Poss. limit	Closed Days
34”	~~6/1~~ 5/22 – 7/5	50%	5 fish/person/day	Thu, Fri, Sat & Sun
	7/6 – 12/31	50%	5 fish/person/day	Thu, Fri, Sat & Sun

Proposal 5 (Industry proposal):

Min. size	Season	Allocation	Poss. limit	Closed Days
34”	~~6/1 – 7/5~~ 5/22 – 12/31	50%	5 fish/person/day	Thu, Fri, Sat & Sun
	~~7/6 – 12/31~~	~~50%~~	~~5 fish/person/day~~	~~Fri, Sat & Sun~~

- Public comment:
  - 7 comments in support of proposal #1
  - 2 comment in support of proposal # 2
  - 8 comments in support of proposal # 3
  - 1 comment opposed to closed days not in continuity (i.e., alternating closed and open days)
  - 1 comment that “there be timely and meaningful negative consequences

instituted for report timing noncompliance to avoid a reoccurrence of 2022's Striped Bass fishery management failure"
    - RIPCBA in support of status quo
    - 2 comments in support of status quo
    - 1 comment in support of either proposal #4 or #5
- RIMFC: 7 - 0 in support of adopting proposal #1 as noticed.
- Marine Fisheries: Support for proposals that include consecutive days open to harvest, as non-consecutive days can induce nighttime harvesters to either be actively fishing or be in possession of fish on a closed day.

6. **Commercial Menhaden Management:**

- Background: The Total Allowable Catch (TAC) increased to 233,550 mt, ~20% increase from 2021-2022 TAC; RI allocation increased to 0.81%. This results in a RI quota of ~ 4.1 million pounds for 2023
- Proposal: Two proposals were noticed independent of each other:

  Proposal 1 – Division Proposal:
    - Clarify that Incidental Catch /Small Scale Fishery starts when the state quota is reached; and
    - Remove trammel nets from Incidental Catch small-scale gear types (FMP compliance measure).

  Proposal 2 – Industry Proposal: Adopt a weekly possession limit of 120,000 lbs/vessel regardless of the status (i.e., open or closed) of the Menhaden Management Area.
- Public comment:
    - 4 comments in support of proposal # 1
    - 6 comments opposed to proposal # 2
    - Save the Bay opposed to proposal # 2
    - ARC Bait in support of the following:
        - Move the east and west passage's most southern menhaden management area boundary lines north to the Sakonnet and Jamestown bridge after September 1st; in conjunction with that the landing limit would be 120,000 lbs per vessel per day from the new boundary lines south if the management area was closed.
        - After the spring migration of fish leave Narragansett bay, we would like the TAC to reset in the management area if fish return in the fall.
        - During the instance that the management area is closed we believe you should consider going to a 40,000lbs weekly limit rather than a 120,000lbs limit.
    - 1 comment in support of eliminating the MMA and biomass triggers
    - 4 comments in support of proposal #2
    - 1 comment in support of proposal # 2, with support for a lower possession limit of 50,000 lbs/vsl/week if 120,000 lbs/vsl/week is not

supported
    - 1 comment in support of management that supports full utilization of quota
    - RIPCBA in support of proposal #1 and opposed to proposal #2
- RIMFC: 7 - 0 in support of recommending adoption of proposal #1 as noticed; 4 – 3 in support of recommending adoption of proposal #2 with a possession limit of 50,000 lbs/vsl/week.
- Marine Fisheries: Support for adoption of proposal #1 as noticed as an ASMFC compliance measure. The Division does not support adoption of proposal #2 as noticed with a possession limit of 120,000 lbs/vsl/week as the Division believes this rule would largely negate the intention of the MMA, which was established after years of stakeholder engagement across sectors working with fisheries scientists and managers. A lower weekly possession limit may be acceptable, but the level of effort that would now be introduced from both instate and out of state harvesters based on this opportunity is unclear. In general, the Division does not support significant alterations to the MMA without thoughtful consideration and analysis on the prospective biological and socio-economic outcomes.

7. **Other non-substantive proposed amendments to Part 3 – Finfish:**

- Background: Minor clarifications only.
- Proposal: Division proposal to clarify rule language.
- Public comment: Division of Law Enforcement opposed to the removal of the word "possession" on striped bass closed days.
- RIMFC: Approved by consent to recommend adoption as noticed, with the exception of the clarification proposed for striped bass harvest and possession.
- Marine Fisheries: Support for the noticed rule with the exception of the striped bass language clarification, which inadvertently removed the word "possession". The Division therefore recommends status quo for this language.

8. **Aggregate Program for Summer Flounder and Black Sea Bass:**

- Background: A pilot program (Part 12 – Research Pilot Aggregate Program for Summer Flounder and Black Sea Bass) was initially adopted Jan. 1, 2019 for the purpose of assessing the effectiveness and viability of an aggregate landings approach as an alternative to traditional daily possession limit quota management in the commercial summer flounder and black sea bass fisheries from May 1 through Dec. 31 (i.e., outside of Winter I (Jan. 1 – April 30) season). The program was expanded twice to include more participants to further study the program's impact on quota consumption rates and individual fishing habits. The program is currently expired and action would be required to continue it into the future.
- Proposal: Two proposals were noticed for consideration:
    - Adopt new rule "Part 23 - Aggregate Program for Summer Flounder and Black Sea Bass" in conjunction with allowing the pilot program rule to

remain expired. Key components of the proposed program rule include:

- Vessel monitoring device (VMS) required for all participants (no change from pilot program).
- Electronic Reporting requirement for all participants, trip level data must be documented in an electronic device prior to offload.
- Season: May 1 through Dec. 31 (no change from pilot program).
- General eligibility: Vessel operator must not have been assessed a criminal or administrative penalty for violations of state or federal commercial fishing regulations or laws within the past three (3) years (this provision was not part of the pilot program due to the desire to seek as many applicants as possible, but is a provision consistent with other opt-in programs managed by the Division).
- Program closure trigger: Proposed adoption of a 90% program closure trigger (pilot program = 80%).
- Black Sea Bass possession limit: Equal to five times the daily limit (no change from pilot program)
- Summer flounder specific provisions:
    - Possession limit: Equal to seven times the daily limit (no change from pilot program)
    - Allow Winter I program participants to also participate in the Summer/Fall program (no change from pilot program)
    - Summer Flounder Exemption Certificate: Not required to participate in the program, but required to possess/land > the daily possession as specified in the Summer Flounder Exemption Certificate program rule (currently 200 lbs/vsl/day; proposed 300 lbs/vsl/day). The pilot program did not require an Exemption Certificate to possess/land > the daily possession as specified in the Summer Flounder Exemption Certificate program rule).

- Also proposed was an amendment to the pilot program rule to extend the term of the program for an additional year in the event that the proposed adoption of the new rule does not move forward and the pilot program is to continue.

- Public comment:
    - 1 comment in support of the rule as noticed (division proposal)
    - Town Dock in support of the proposed rule as noticed (Division proposal)
        - Support participation in both the winter and summer subperiods (i.e., not one or the other)
        - Opposed to 7X daily possession limit for black sea bass
        - Opposed to small mesh gear restrictions while participating in the aggregate program.
    - 2 comments opposed to requiring a Summer Flounder Exemption Certificate for participants in the summer/fall subperiod to land >300 lbs/vsl/day
    - 1 comment in support of the industry proposal which would provide

50% of the weekly possession for vessels without a Summer Flounder Exemption Certificate
    - 1 comment in support of requiring a Summer Flounder Exemption Certificate for the summer/fall season
    - 2 comments opposed to allowing participating in both the Winter and Summer/Fall subperiods
    - 1 comment in support of 7X daily possession limit for black sea bass
    - 1 comment in support of maintaining 5X daily possession limit for black sea bass
    - 1 comment in support of X daily possession limit for black sea bass from May 1 – Aug. 15 and 5X the daily possession limit from Aug. 16 – Dec. 31
    - 1 comment in support of an 80% closure trigger
    - 1 comment in support of a 90% closure trigger
    - 2 comments opposed to all proposals
    - 1 comment in support of continuing as a pilot program for an additional year
- RIMFC: The Council deliberated and voted on the various elements of the program as proposed Part 23 individually as follows:
    - General Eligibility: 7 – 0 in support of recommending adoption of the proposed rules as noticed.
    - General Permit Conditions: 5 - 2 in support of recommending adoption of the proposed rules as noticed, however with the proposed 90% trigger for the Summer/Fall program modified to 80% (Winter I trigger would remain at 90%).
    - Winter I Program: 6-0-1 in support of recommending adoption of the Winter I program as noticed
    - Summer/Fall Program Eligibility and Season: 4 – 3 in support of recommending adoption of the proposed rules as noticed.
    - Summer/Fall Program Permit Conditions: 4 – 3 in support of recommending adoption of the proposed rules as noticed.
    - Black Sea Bass Possession Limit: 5 – 2 in support of recommending adoption of the proposed rule as noticed (i.e., 5 times the daily limit).
    - Upon consideration of the multiple elements of the program, the Council then considered exclusion of summer flounder from the summer/fall program (i.e., summer/fall program to include black sea bass only): 4 - 3 in support of delaying inclusion of summer flounder from the summer/fall programs.
    - 7-0 supporting for recommending to the Director adoption of the Part 23 – Aggregate Program for Summer Flounder and Black Sea Bass as modified by the Council.
- Marine Fisheries: The Division supports adopting an aggregate program for summer flounder and black sea bass for the months May through December. The noticed Division proposal seeks to implement the current pilot program in its current form, with the exception of now requiring a fluke exemption certificate to land summer flounder possession limits over 200 lbs, which as

exempted in the pilot program. The Division put forth an additional proposal (below) that would increase the exemption certification possession limit from 200 lbs. to 300 lbs/vsl/day in an attempt to mitigate concerns regarding the certificate making summer participation too restrictive.

9. **Summer Flounder Exemption Certificate Program Possession Limit (Part 14 "Summer Flounder Exemption Certificate Program"):**

- Background: Rule initially adopted 1995 intended to preserve quota for certificate holding vessels by limiting issuance to vessels with historic landings and limiting daily limit of vessels w/o Exemption Cert. (i.e., 200 lbs/day). Certificate required to participate in the Winter I (1/1 – 4/30) Aggregate Program for Summer Flounder.
- Proposal: Division proposal to increase the daily possession limit from 200 lbs/vsl/day to 300 lbs/vsl/day for vessels that do not hold a Summer Flounder Exemption Certificate as a means to fully utilize available quota.
- Public comment:
  - 1 comment in support of the proposed rule
  - Town Dock in support of the proposed rule
  - 1 comment that the proposed possession limit increase is not enough
  - 1 comment in support of increasing the possession limit to unlimited
  - 1 comment opposed to the proposed rule
  - 1 comment in support of increasing the possession limit from 200 lbs/vsl/day to 400-500 lbs/vsl/day
- RIMFC: No action was taken by the Council.
- Marine Fisheries: Support for the proposed amendment provided that summer flounder is maintained in the Summer/Fall Aggregate program. If summer flounder is removed from the aggregate program, the Division would not support this amendment.

10. **Modification to terms and species list (Part 1 – Definitions and General Provisions):**

- Background: Review of terms and species list
- Proposal: Division proposal to clarify modify terms consistent with statute; remove terms not used in rules; add finfish species used in rules.
- Public comment: One written comment received regarding the proposed definition of "medical hardship" that it "potentially significantly narrows the circumstances that constitute a "medical hardship," and more concerningly, it would eliminate any medical condition that is not physical in nature. It would thus appear to exclude a person from qualifying for a temporary operator's permit if their medical condition involves mental, rather than physical, illness." No other comments were received regarding other proposed changes.
- RIMFC: 7 – 0 in support of recommending adoption of amendments as noticed.
- Marine Fisheries: Support as noticed.