CONCISE EXPLANATORY STATEMENT

In accordance with the Administrative Procedures Act, Section §42-35-2.6 of the General Laws of Rhode Island, following is a concise explanatory statement for the below identified regulation.

AGENCY: Department of Environmental Management

DIVISION: Marine Fisheries

RULE TITLE: Part 23 – Aggregate Program for Summer Flounder and Black Sea Bass

RULE IDENTIFIER: 250-RICR-90-00-23

REASONS FOR NOT ACCEPTING ARGUMENTS MADE IN TESTIMONY AND COMMENTS:

- Section 23.11(E)(3): The proposed rule change to add tautog to the program was not adopted. This proposal received a mix of support and opposition via public comment. The RI Marine Fisheries Council motion to recommend adoption of the rule failed on a vote of 2-2.
- Section 23.12 (A)(3): The proposed non-compliance provision was not adopted. There were no public comments provided on this matter. The RI Marine Fisheries Council voted 4-0 to modify the final rule to provide for a different time period than what was noticed for which the provision would apply: *"Non-compliance with the provisions of these Regulations or the permit agreement may result in the vessel not being eligible for participation for the ~~remainder of the calendar year~~ following three years."* The Division, in consultation with legal counsel, has determined this change as recommended by the Council is significantly different and not a logical outgrowth of the public comment period, and therefore warrants additional noticing and opportunity for public comment. The Division will look to re-notice the proposed rule at the next regulatory cycle in early 2025.
- The Director's Decision memo dated December 17, 2024 provides a full explanation and rationale for these decisions. This memo is included as a supplemental document at the time of filing.

CHANGE TO TEXT FROM PROPOSED TO FINAL RULE (identify any changes between the text of the rule as proposed and the text of the final rule and explain why these changes were made to the final text):

- Section 23.1: The inclusion of tautog into the program was not adopted
- Section 23.12 (A)(3): The proposed non-compliance provision was not adopted; this proposed section was therefore deleted from the final rule.
- The Director's Decision memo dated December X, 2024 provides a full explanation and rationale for these decisions. This memo is included as a supplemental document at the time of filing.

REGULATORY ANALYSIS: In the development of the proposed amendment consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.