

**Proposed RIMFC Action:**  
Approval of the  
Rhode Island Fluke Conservation Cooperative  
Sector Allocation Pilot Program

**Type of Statement:**  
**An Experimental Rights Based**  
**Community Co-managed**  
**Sustainable Fishery**

**Lead Agency:**  
**Rhode Island Division of Environmental Management**  
**Division of Fish and Wildlife**

**In Consultation with the:**  
**Rhode Island Commercial Fisherman's Association &**  
**Rhode Island Fluke Conservation Cooperative**

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## **1.0 CONTENTS**

<b>1.0 CONTENTS.....</b>	<b>2</b>
<b>1.1 List of Acronyms .....</b>	<b>3</b>
<b>2.0 Summary.....</b>	<b>4</b>
<b>3.0 Introduction and Background .....</b>	<b>4</b>
<b>4.0 Need for Action.....</b>	<b>5</b>
<b>5.0 Proposal.....</b>	<b>6</b>
5.1 Objectives of Proposal .....	6
<b>6.0 Purpose and Goals .....</b>	<b>7</b>
6.1 Goals of the RIFCC .....	7
6.2 Minimizing Bycatch.....	8
6.3 Ending Overfishing.....	8
6.4 Maximize Economic Benefit .....	9
6.5 Tailor Regulations to Suit Social Needs .....	10
<b>7.0 Summary of Operations for 2009 .....</b>	<b>10</b>
<b>8.0 Sector Membership.....</b>	<b>11</b>
<b>9.0 Justification for the Transition into Sector Management.....</b>	<b>11</b>

## **1.1 List of Acronyms**

ACL- Annual Catch Limit

ASMFC – Atlantic States Marine Fisheries Commission

DAS- Days at Sea

MAMFC – Mid Atlantic Marine Fisheries Council

NEFMC – New England Marine Fisheries Council

NMFS- National Marine Fisheries Service

RICFA- Rhode Island Commercial Fishermen's Association

RIDEM- Rhode Island Department of Environmental Management

RIFCC- Rhode Island Fluke Conservation Cooperative

TAC- Total Allowable Catch

## **2.0 Summary**

A group of fishermen from the Rhode Island Commercial Fishermen's Association (RICFA) propose to work with the State of Rhode Island Division of Environmental Management (DEM) to develop, establish and manage a rights based management solution to a well documented regional bycatch problem. The solution that we have recommended is a community co-managed Sector Allocation plan. We feel that a small pilot program is a prudent first step in transitioning away from Quota Management. This small fleet of mid-sized trawlers and 1 small gillnet vessel expects to meet the following social and conservation objectives with this new approach to Fisheries Management in the State of Rhode Island.

1. Contribute to the end of overfishing and the continued rebuilding of the Fluke stock.
2. Reduce bycatch of Fluke and all interrelated stocks by implementing a full retention strategy and a wide range of gear modifications.
3. Generate economic stability and increase efficiency.
4. Develop an ecosystem based approach to managing local stocks.

This group of fishermen, the Rhode Island Fluke Conservation Cooperative (RIFCC) will base the development of the Fluke Sector on the knowledge gained through an average members 30+ years experience in the near shore mobile gear and gillnet fisheries in Southern New England.

The RICFA and RIFCC request that a pilot program be implemented beginning on January 1, 2009 and run for at least a period of one year. It is our intention to serve as a model and incentive for others to form similar groups, capable of duplicating our results.

## **3.0 Introduction and Background**

The State of Rhode Island has managed the fluke fishery through seasonally adjusted daily possession limits, a system known as quota management, since the early 1990's. Quota management has produced a long list of unintended outcomes that were unforeseen at its inception. These include a huge discard problem, lengthy closures, and a hostile regulatory climate that has not given adequate consideration to stock health in its decision making process. Quota management has unintentionally encouraged permit holders and regulators to focus on the greatest dollar value that can be derived from a set quantity of fluke. As a stand alone conservation measure, this has inversely manifested itself in a culture of disregard for the overall health of the resource. The tenor of the MSA clearly states the value of live, uncaught wild stocks and outlines its intention to maintain them.

We have exhausted all possibilities of satisfying the rebuilding schedules imposed by MSA in our current approach and are close to forcing a reconsideration of the biomass target. Unreported discards have artificially suppressed the commonly held scientific perception of abundance. In the event of a permanent lowering of the target biomass we would be locked in at a coast wide quota of no more than 15 million pounds for a very long period of time. This would be a tragedy in light of the fact that a 40 million pound fishery is ours for the taking.

In recent years, there has been a convergence of events that if "unacknowledged and ignored" threaten to close the Rhode Island Commercial and Recreational Fluke Fisheries in the not too distant future. Specifically, the fluke biomass has continued to grow and occupy regions beyond its commonly assumed and traditional range. This event has precipitated a deepening bycatch problem that quota management has failed to deal with. The most recent stock assessment for fluke has picked on this problem and the newly reauthorized Magnuson-Stevens Fishery Conservation and Management Act will undoubtedly take dramatic steps to ensure that overfishing is ended, once a trend is detected.

The documented failures of Quota Management and the potential for dire regulatory consequences and the financial hardships that accompany them has made it clear to the RICFA that a new approach to management is necessary.

#### **4.0 Need for Action**

The Point Judith near shore fleet consist of small to midsized vessels (45-70 ft) that are owned and operated by independent small businessmen. Our financial success is heavily dependent upon utilizing our full legal access to Winter Flounder, Yellowtail, Monkfish, and Fluke. The vast majority of these vessels holds Federal Groundfish Permits and correspondingly operates under a Days at Sea (DAS) system when targeting flounder, yellowtail and monkfish. In the pursuit of these species it is common to catch significant quantities of fluke. This was not the case 20+ years ago. In recent years, fluke have expanded their range and population dramatically. So much so in fact that within the current pressurized business climate, created by a maze of overlapping regulatory authority, we now throw back as many fluke as are landed in order to maximize our access to groundfish. The fluke fishery is currently regulated independently of the groundfish fishery. Neither council can legally consider the consequences of their action on a stock that they do not manage. Given that the annual dollar value of the ground fish fishery dwarfs the value of the fluke fishery, this situation is unlikely to change without consideration being given to the relationship and the interconnectedness of the two fisheries. Currently there is no Federal or State regulatory body or authority that is capable of overseeing these two fisheries simultaneously.

The ill effects of a non-integrated management approach have manifested itself in two distinctly harmful ways. First it has effectively devalued a typical DAS for Rhode Island fishermen and contributed disproportionately to a spiraling discard problem that has run us

a foul of the Magnuson Act. Both of these events have and contribute to the growing financial hardships that are being felt throughout the commercial fishing community today.

The RIFCC Pilot Program will provide a viable opportunity for sector vessels to optimize their economic potential through the establishment of a management system that will integrate the two main components of the Southern New England Bottom Trawl Fishery. In the absence of arbitrary daily possession limits and the safeguard of a Hard Total Allowable Catch (TAC) fisherman will be allowed the discretion to manage their effort (DAS) and allocation (fluke) both profitably and sustainably. Maximizing the value of the fluke resource in this dollar value-added manner, ensures that the cost of production does not compete unfavorably with the value of catch and that the greatest net profit is achieved throughout the year.

## **5.0 Proposal**

The RICFA proposes to establish a single species community based fisheries management system through the RIDEM. This proposal requires the allocation of a percentage of the State fluke quota to a small sector of the fleet. This fleet will be managed by the RIFCC. The allocation will be determined according to historical landings, generated over the course of a 5 year period. In this proposed Pilot Program, the sector fleet expects to meet the following social and conservation objectives through a transparent exploration of a new approach to fisheries management.

### *5.1 Objectives of Proposal*

1. Contribute to the end of overfishing and to the continued rebuilding of the Fluke Resource.
2. Reduce bycatch by implementing and enforcing a full retention approach to Fluke Management.
3. Generate economic stability and increased efficiency.
4. Tailor regulations to local social needs.
5. Secure the viability of the local fishing industry and shore side infrastructure.
6. Facilitate the entry of fishermen into the fishery through a system of shared windfalls.

The RIFCC is a group of self selecting fishermen coming together voluntarily and cooperatively for the purpose of efficiently prosecuting a bottom trawl fishery in Southern New England. Under this proposal our sector will operate under a Hard-TAC for fluke. In doing so, we will immediately satisfy the overfishing mandates of the Magnuson Act. In addition, the Sector is a means of implementing stake holder involvement in management, monitoring and enforcement that will serve as a model for future sustainable fluke fisheries in all of New England.

Implementation of this proposal will mitigate the harmful economic impacts that are expected as a result of a stalled recovery and the obligatory response to Magnuson that we fully expect from NMFS. Recently fluke was declared overfished and in that state, NMFS, will no longer be obligated to share in the determination of our fate.

It is anticipated that this pilot program will demonstrate environmental, economic and social benefits to the sector members and the surrounding community. It is our hope that our success will create a working model for others to develop and implement sectors in Rhode Island.

## **6.0 Purpose and Goals**

Although the purpose of the Fluke Sector Pilot Program are diverse, the main purpose of this action is to request that the State of Rhode Island initiate a process to authorize the RIFCC the right and authority to manage its members through rules that will meet the biological objectives set forth in the fisheries laws of the State of Rhode Island and Federal FMPs and alleviate to the greatest extent possible the economic hardships of future corrective actions. In the exploration and development of this program a format will emerge that will facilitate others to follow in the development of future sectors.

In the immediate future it will become very attractive for a state to declare that they did not contribute to overfishing through the development and administration of an advanced management program. Efforts are underway in the MAMFC to develop a more regional approach to by catch solutions

Our fluke fishery is in a national state of mismanagement. Spiraling discards have stunted the growth of the recovery and on January 2, 2007 fluke was declared overfished. An unwillingness to respond to a significant stock shift by the Mid Atlantic Counsel has instead manifested itself in the emergence of solution that is framed around regional by catch quotas. In this scenario, our regional by catch problem will close our fisheries. We are confident that integrating our groundfish fishery with a sector managed fluke fishery will contribute significantly to the elimination of a regional problem. Modern management, flexible catch limits, improved enter-vessel communication, innovative gear technology and increased observer coverage will all contribute to create an environment in which our fishermen will again flourish and prosper.

We have spoken openly and honestly about the problems of the fluke fishery. In response a local group of fishermen have developed a plan that will protect our local resource and industry. It is our belief that connecting the resource to the community will ultimately provide the key to conservation in Rhode Island. That is our purpose.

### *6.1 Goals of the RIFCC*

1. Have implemented in the State of Rhode Island laws and programs that are consistent with the National Standards and other provisions of the Magnuson Act and other applicable laws, facilitating the management of the fluke resource at sustainable levels.
2. Promote stewardship within the fishery.
3. Maintain a commercial and recreational fishery for fluke in the State of Rhode Island.
4. Create a management system so that fleet capacity will be commensurate with resource status so as to achieve goals of economic efficiency and biological conservation.
5. Minimize to the extent practicable adverse impacts on fishing communities and shore side infrastructure.
6. Contribute to the end of overfishing and rebuilding of the fluke biomass.
7. Increase the potential to realize OY of the fluke resource...
8. Promote safer fishing practices.
9. Generate economic stability for fishing vessels and fishing communities including businesses that support fishing.
10. Implement stake holder co-management in Rhode Island in such a way as to realign the interests of industry with that of government.

## *6.2 Minimizing Bycatch*

The RIFCC will reduce bycatch by eliminating daily catch limits and utilizing a wide range of selectivity strategies. While engaged in small mesh fisheries, sector members will utilize alternative sweep configurations and innovating trawl designs to avoid fluke. Our ability to successfully avoid fluke in small mesh fisheries is a direct result of our significant efforts in co-operative research and a well documented history of conservation engineering through out the years. In the process of utilizing eco-friendly harvesting technology, we will extend the associated benefits to many interrelated local stocks. These include winter flounder, yellowtail, monkfish, lobster, brills and skate. All of these stocks are considered either over fished or stocks of concern within their respective FMP.

In the directed bottom trawl fishery for fluke and groundfish a sector participant will be required to land all legal sized fluke. The sector will monitor the fleet in such a way as to provide single boat resolution throughout the course of the program. This will include size stratification of all fluke landed. This level of accountability when placed on the fishermen will promote stewardship and force fishermen to fish in a very conservation minded way.

## *6.3 Ending Overfishing*

Implementation of the RIFCC Pilot Program will immediately contribute to ending overfishing in Rhode Island by complimenting existing efforts underway by NMFS, MAMFC, and ASMFC with a Hard-TAC Limit for fluke. The creation of this sector will

positively impact the transition from the failing quota management regime to a more accountable system of catch limits.

Reauthorization of MSA requires catches of all federally managed species to be constrained to below Annual Catch Limits (ACL's) in the near future. We anticipate that also in the near future, that states will be instructed to incorporate some form of TAC management in their management plans. The sector's voluntary acceptance of Hard-TAC's is consistent with the future direction of fishery management and should assist fishery managers in moving toward the goal of constraining catches to ACL's.

#### *6.4 Maximize Economic Benefit*

The RIFCC will generate economic stability and efficiency by allowing its members to better manage the costs of production and overhead of their businesses. Any business that is severely limited in its ability to do so will neither flourish to its greatest potential under favorable conditions nor be able to survive when times are poorer. With a commercial fishing vessel it is much more profitable to exercise your harvesting potential in short discreet effective bursts than it is to go out each and every day, predictably expecting less than satisfactory margin of return. All of this is easily recognizable, but what often eludes fishermen and managers alike is the cost to businesses associated with catching a fish and then throwing it back. Tangibly, one has squandered a small sum of money to buy the fuel, without return. Intangibly, one has diminished their future profitability somewhat by wasting a valuable resource and reducing the probability of achieving optimum yield in the fishery. This represents a two fold hit to the small fishing business man each and every day he prosecutes his business in a regulatory environment that is largely tolerant of discards.

Through the establishment of a sector management system and the elimination of daily catch limits, a fisherman would be able to target groundfish (already a profitable day) and subsequently add value to each of his groundfish days through the addition of previously discarded fluke. Full retention fishing practices produce a short term effect of greater profit margins and extend the promise of greater profitability into the future. Both the resource and the fisherman have been bettered by reason of their partnership. This is a concept that arises from ethical land management.

“When land does well for its owner and the owner does well by his land, when both are better by reason of their partnership, we have conservation.

When one or the other grows poorer. We do not”

Aldo Leopold

The establishment of the RIFCC will allow its members the option of harvesting cooperatively with other sector vessels in order to further minimize their overhead, promote safety or compensate for unforeseen and unexpected injury, sickness or

mechanical breakdowns. In short, participants willing to abide by all sector rules and operate under a Hard-TAC do so in the presence of a number of defensive strategies that would otherwise be unavailable.

### *6.5 Tailor Regulations to Suit Social Needs*

The RIFCC will tailor regulations to suit social needs. The fishermen of the RIFCC are well versed in working together to achieve local goals and objectives. Our willingness to tailor rules to suit the needs of others is evidenced by our willingness to avoid areas of concern to the recreational and rod and reel communities. This was done in response to fears that we would have a negative impact on the quality of their lives and livelihood for those two groups. Localized depletion was a concern shared by these groups in our interviews and individual discussions. Therefore it became apparent that we would be wise to construct "side boards" within the sector plan that would ensure that our existence did not represent a threat to these groups. We will continue to fish in these areas seasonally for squid, as we have always done, but in this fishery fluke are avoided through gear technology. This flexibility is only capable within the realm of sector management. Such restrictions would be virtually impossible to negotiate with a greater degree of public input in our current process. It is much better to have laws arise out of mutual respect than out of political or regulatory force. We have realized that reliance on regulation-driven environmental compliance does not foster voluntary action and will not provide sufficient protection of our collective heritage.

## **7.0 Summary of Operations for 2009**

The Sector Manager will oversee day to day operation of the sector. The sector will request an allocation of fluke for the year 2009, while agreeing to live under a Hard-TAC. The sector will seek an exemption from daily possession limits and time closures. The sector will land and tally against a Hard-TAC allocation, all legal sized fish. If or when the sector achieves its Hard-TAC on fluke, the sector will cease to fish for the balance of the year. Sector members will operate under the same mesh size laws and trigger mechanisms that all other fishermen do. The members of the sector will largely forgo the directed fluke fishery and utilize the bulk of their quota to eliminate discards of fluke in the groundfish fishery. Sector members will agree to not target fluke in any of the specified or previously agreed to areas for the duration of the pilot. These areas are marked on the chart. Immediate south shore-Pt. Judith→ Watch Hill, Narragansett Bay, Sakonnet River and the 1<sup>st</sup> and 2<sup>nd</sup> Beach Area.

All discards will be deducted from the Hard-TAC. Transferability of quota within the sector is allowed within the duration of the pilot. Real time landings data will be used to ensure compliance with the Hard-TAC. The sector will report to the State with single vessel resolution in any way that pleases the State.

## **8.0 Sector Membership**

Given that this is a proposal for a pilot program, the number of participants was kept initially small. To qualify for participation in the pilot program a member must have a valid Rhode Island Multipurpose License and/or a valid Federal Fluke and Groundfish Permit. In addition a valid Rhode Island Fluke Exemption Certificate must also be held.

Sectors are self selecting business partnerships. In that, all who have applied have to be voted in. A unanimous vote is required for acceptance into the sector.

Under A-13, the NEFMC established the sector qualifying period for which sector allocations are based as the last 5 years before the sector is formed. For this pilot program allocation will be based on landings from years 2002-2006. Sector members will be required to declare their intention to participate in the pilot program in writing, to the Director of the DEM and be subject to an enforcement review process. Members will be legally bound by a membership agreement that outlines expectations of members as well as a schedule of penalties for violations of sector rules.

The sector at this time includes members primarily from Point Judith, with possibly 1 or 2 exceptions. It is not the intention of the program to facilitate the needs of one port over another. All but 1 vessel fishes with mobile gear. For the purpose of the pilot program expansion to include other gear types may be considered. This group of fishermen is brought together by a common belief that they can improve the stewardship of the fishery and their economic performance by taking a greater responsibility for managing their own fishing activities under a Hard-TAC for fluke.

## **9.0 Justification for the Transition into Sector Management**

Significant support for the establishment of a sector pilot program can be found in the Marine Fisheries Laws of the State of Rhode Island.

### **Management Plans**

6.2-1: The management controls set forth in 6.1 must be based on fishery management plans that have been adopted by the department or by a federal agency or regional body of competent jurisdiction. Such plans may be species or fisheries specific, or apply to whole endorsement categories.

### **6.2-2: Purpose and Content**

a.) The central objectives of all fishery management plans shall be (1) to prevent overfishing, while achieving on a continuous basis the MSY from each

fishery; and (2) to restore overfished stocks to sustainable levels.

- b.) Management plans shall be responsive to and reflective of changing stock and fishery conditions and there by support an adaptive management process.
- C.) Management plans shall seek to achieve the objectives set forth in subsection (a) above by establishing management measures that may include a mix of input and output controls, such as limitations or restrictions on effort, gear, catch, areas, time and/or season.

In response (to 6.2-1) the NEFMC has already recognized a need for change and so facilitated the establishment of sectors within the groundfish fishery. Recently they have begun a process that will allow for the formation of as many as 19 new sectors. This is in response to the cries from fishermen that the currently used Days at Sea System is producing and unlawful and unmanageable discard problem. This would seemingly open the door for the State of RI to model a response after this Federal plan.

6.2-2 identifies the central objective of a management plan in the State of Rhode Island as one intended to prevent overfishing. Given that fluke are currently overfished and that discards are to blame, places the current management strategy potentially at odds with Rhode Island Law. At best we have been negligent, further evidenced by the fact that it [quota management] has failed to produce the required results after a period of 10 years. This would seem to invite careful reconsideration of our direction. In this reconsideration we have proposed an alternative that promises to better satisfy Rhode Island law in its ability to thrive under a Hard-TAC.

6.2-2b recognizes the importance of crafting fisheries laws that are subservient to the greater, ever changing needs of natural authority. We have tried and failed for a decade to wrap a management plan around our perception and limited knowledge of a stocks potential for movement and growth .By all accounts, the fishery no longer resembles the one of the 1980's, the essence of which our management strategy serves. Our reluctance to accept and adapt to significant environmental changes and the challenges they represent continues to depress the stock and deprive the dependant community of the long term benefits that are associated with the partnering of responsive management and stewardship.

The RIFCC sees great parallels in the plight of the ground fish fishery to that of the fluke fishery. Both of these fisheries are overregulated and producing levels of regulatory discards that have forced them into various states of non-compliance. It is clearly evident that there is no great feature in throwing back dead fish in the name of conservation. With the implantation of the RIFCC recommended pilot program and its subsequent integration into the groundfish fishery we will have successfully achieved as a community that which we have been unable to achieve as a state. Less fish will be killed and we will arrive at the dock each time with more to show for our efforts.