

**OUTLINE OF POTENTIAL ELEMENTS FOR COMMUNITY FISHING
ASSOCIATION (CFA) PROVISIONS**

At the March 2009 meeting, the Council tasked staff with presenting options for defining a Community Fishing Association (CFA) using the NOAA Technical Guidance Memorandum called the Design and Use of Limited Access Privilege Programs ((F.4.a, Attachment 1) and The Nature Conservancy's public comment letter (F.4.a, Attachment 2) and as a starting point. The NOAA Technical Guidance Memorandum referred the reader to language in the Magnuson-Stevens Act which describes eligibility and establishing criteria for Fishing Communities and Regional Fishing Associations. Those requirements are listed in Tables 1 and 2 below.

Table 1. Requirements of the MSA with respect to eligibility and CFAs and Regional Fishing Associations (RFA).

Eligibility Requirement	303A Reference	
	Fishing Communities	RFA
<i>A fishing community/RFA shall</i>		
Be located within a community	(3)(A)(i)(I)	(4)(A)(i)
Meet other Council criteria	(3)(A)(i)(II)	(4)(A)(ii)
Be a voluntary association with bylaws and operating procedures		(4)(A)(iii)
Consist of harvesters, processors, support businesses and communities	Residents within the area: (3)(A)(i)(III)	Those who hold QS (4)(A)(iv)
Not be eligible to receive QS		(4)(A)(v)
Provide a plan	(3)(A)(i)(IV)	(4)(A)(iv)

Table 2. Requirements of the MSA with respect to factors the Council is required to consider in establishing criteria for Fishing Communities and RFAs.

Participation Criteria	303A Reference	
	Fishing Communities	RFA
<i>The Council shall consider</i>		
traditional fishing or processing practices in and dependence on the fishery	(3)(B)(i)	(4)(B)(i)
the cultural and social framework	(3)(B)(ii)	(4)(B)(ii)
economic barriers to access the fishery	(3)(B)(iii)	(4)(B)(iii)
existence and severity of projected impacts	(3)(B)(iv)	(4)(B)(iv)
administrative and fiduciary soundness of the association		(4)(A)(v)
effectiveness, transparency and equitability	(3)(B)(v)	(4)(A)(vi)
potential for helping remote communities lacking resources	(3)(B)(vi)	

In addition to the MSA requirements, The Nature Conservancy and the Pacific Coast Federation of Fishermen’s Associations (PCFFA) submitted public comment letters regarding the definition, structure and guidelines of Community Fishing Associations (CFA). The following text is a “strawman” description of a Community Fishing Association developed using the MSA, The Nature Conservancy, and including a proposed definition, qualification criteria, and other requirements and standards. Text and concepts from the MSA, TNC and PCFFA were used in developing this “strawman” proposal. Please note that in the short amount of time available prior to the April Briefing Book deadline dictated that only a limited, rough presentation on possible elements be included. Additional analysis will be presented by Council staff at the April Council meeting. Council staff does not endorse any of the descriptive elements or associated language, but rather presents it here in the spirit of facilitating further development.

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Definition of a CFA

An association that acquires QS/QP and distributes QP for delivery within the geographic community that the CFA represents. CFAs receive special considerations that are not made available to other participants in the trawl rationalization program.

Qualification as a CFA

To be recognized as a CFA, an entity must

1. Meet the geographic designation and membership requirements.
2. Have the support of local governing entities (county, city or port district).
3. Meet the organizational standards.
4. Develop an adequate community sustainability plan (MSA 303A(c)(3)(i)(I) and (IV)).

Geographic Designations and Community Affiliations

CFAs must be located within the management area of the Council ((Based on MSA 303A(c)(3)).

Geographic Designation Option 1: The geographic areas served by a CFA may not overlap. (i.e. a community may be represented by only one CFA)

Geographic Designation Option 2: The geographic areas served by a CFA may overlap.

Community Affiliations Option 1: A CFA may only represent one community. A single management company **may/may not** administer multiple CFAs.

Community Affiliations Option 2: A CFA may represent multiple communities. The geographic area covered by a CFA may not exceed (X miles of the coast, X adjacent counties, X adjacent port districts).

Community Affiliations Option 3: A CFA may represent multiple communities. There will be no restriction on the geographic size of the CFA.

Community Support. A CFA must demonstrate substantial community support of community members and governing jurisdictions in the area it seeks to represent.

Membership Requirements

Members of the CFAs must be community residents that join together voluntarily.

Option 1 (Based on MSA 303A(c)(3)). Only community residents who conduct commercial fishing, processing businesses, or fishery dependent support businesses may be members of the CFA. Association members may include those who will directly benefit from the distribution of QS/QP. Direct benefits means they will either catch or receive fish in association with the QS/QP provided by the CFA.

Option 2. Only community residents may be members of the CFA. Association member may not include those who will directly benefit from the distribution of CFA QS/QP (“direct benefit” is defined in Option 1).¹

Note: In further developing membership requirements, one might use a worksheet like the following to delineate the types of entities that must/may/may not participate in a CFA.

Type of Entity	Must Include	May Include	May Not Include
Governing Authorities (counties, cities, port districts)			
Harvesters	(e.g. at least two)		
Processors	(e.g. at least one)		
Industry Associations			
Other Public Interest Groups			
Corporations			
Partnerships			
Individuals			

Organization and Operational Standards

A CFA must be organized as a corporation under the laws of the United States.

Beneficiaries: CFAs

Must only distribute QP to their own members.

May distribute to their members as well as nonmembers.

Must offer those outside the association the same opportunity to qualify as a member in a reasonable timeframe.

Community Sustainability Plan

The CFA should develop a community sustainability plan that includes the following:

¹ For example, the CFA might distribute QP via auction using contracts that require the recipient to deliver to buyers within the community the QS and a certain amount of matching QS

1. Specification of the organizations goals and objectives and the means by which it intends to meet those goals and objectives.
2. Description of how the CFA will contribute to the social, economic development, and conservation and monitoring needs of the fishery locally, including the needs of entry-level and small vessel owner-operators, captains, and crew. The description shall include anticipated efforts to address the following as necessary to maintain the characteristic of the community or support its economic development:
 - a. sustaining effort by trawl and other groundfish fisheries;
 - b. maintaining crew, processing and seasonal employment opportunities;
 - c. maintaining local processing activity;
 - d. meeting local community and municipality needs;
 - e. investing in local infrastructure; and
 - f. addressing potential adverse impacts on the nontrawl sector.

Application for Status as a CFA

Applications will include:

1. Articles of incorporation and bylaws.
2. A list of members of the CFA and the nature of their involvement/interest in the fishery.
3. Organization chart and explanation of management structure.
4. A sustainability plan.
5. All information needed for NMFS to assess compliance with control limits.
6. Operating procedures including description of
 - a. roles and responsibilities of members of the association, staff, and contractors;
 - b. the process and criteria by which QP will be distributed; and
 - c. dispute resolution processes.
7. Documentation that shows that all other CFA eligibility requirements have been met.

Criteria for Evaluating Applications and Approval Process

CFAs will be approved provided

A complete application has been provided.

All requirements listed above are met and approved by the Council, including those pertaining to geographic representation and community support.

Approval will include specification of special responsibilities and considerations being afforded the CFA (e.g. the level of QS control that will be afforded the CFA).

General Participation and Special Considerations

CFAs will participate in common with all other participants in the IFQ program and have the same rights and responsibilities, except with respect to special responsibilities and considerations provided for by the Council and through NMFS regulations. General participation includes such things as the obligation to transfer QP to vessel accounts each year and the opportunity for those vessels to use nontrawl gears to harvest their QP under terms identical to those which apply to all other participants.

The special considerations provided may include, but not be limited to, higher accumulation limits than provided for other entities and a higher priority for the allocation of QP under an adaptive management program.

Special Consideration - Accumulation Limits

Accumulation limits may be different (higher) for CFAs than for other entities that are eligible to own quota shares.

Accumulation limits will be on the June 2009 Council agenda.

Special Consideration – Acquisition of QS During the Transfer Moratorium

Transfers of QS to CFAs during the first two years of the trawl rationalization program would not be approved, while all other transfers would be prohibited.

Special Consideration – Acquisition of QS During the Divestment Period

If the Council chooses to allow a divestiture period, CFAs could be the intended recipient or buyer of those QS.

Special Responsibility - Reporting Requirement

CFAs would be required to report on specific aspects of participants, CFA performance measures, etc.