



Proceedings of the

***Catch Shares &
Commercial Fishing
Communities
Workshop***

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Cover photo: Florida Commercial Fishermen's Memorial, courtesy of Karen Bell, Cortez, Florida

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Introduction

The National Oceanic and Atmospheric Administration's (NOAA) National Marine Fisheries Service (NMFS) Policy Office organized a small workshop to explore issues and experiences associated with commercial fishing communities and catch shares. The purpose of the workshop was to discuss the role and function of fishing communities in current and future catch share programs, including Fishing Communities (FCs) and Regional Fishing Associations (RFAs) established under Limited Access Privilege Programs as defined in Section 303A of the Magnuson-Stevens Fishery Conservation and Management Act (MSA). The 25 workshop participants included members and staff of the Regional Fishery Management Councils; NMFS staff; NOAA General Counsel; fishermen; and community and fishery-based association experts with experience in organizing and managing fishermen. On the third day of the workshop, Regional Council Directors and Council member leadership who attended the MSA Council Coordination Committee meeting of January 9–10 joined the workshop for part or all of the day.

During the workshop, the participants discussed nine core topics covering a range of social, economic, technical, and environmental issues. These discussions led to a set of themes and several requests for further guidance from NOAA. The outcomes of the workshop do not fully capture every perspective across or within fishing communities, and do not represent official positions of NOAA or the U.S. Government. However, they do provide a valuable starting point for thinking about ways to support communities as they adjust to current and future catch share programs to ensure sustainable fisheries. The intent of this report is to provide a written account of the discussions that took place during the workshop, including documenting ideas and questions and suggestions for further guidance or research.

Structure of the Workshop

To promote effective participant interaction and outcomes, attendance at the workshop was limited. Short briefing papers and presentations on the nine discussion topics, including potential trigger questions for discussion, were prepared to set the background and context for multiple breakout sessions of small facilitated working groups of 4 to 6 participants. Copies of the briefing papers are included as Appendices 1-9.

Each of the discussion topics was allotted 75 minutes, except for Topic 6 (Getting and Holding Quota), which was allotted 120 minutes and was split into two sub-sessions. Each session began with a presentation (10-15 minutes) by the session facilitator, who gave some brief context to the topic. Participants then moved to the breakout portion of the agenda where multiple groups of participants discussed the topic and responded to the trigger questions.

Each participant was given the list of trigger questions and a response sheet to fill out. In addition, a staff member was seated at each table to record notes and ideas discussed, and to help generate the report-out for a table spokesperson to present to the full group. For the table report, each group was asked to list up to three of the most important outcomes from the table's discussion. These included main ideas, points, questions and/or answers, good ideas, proposed actions, etc. and were recorded by a rapporteur. Collectively, this information was used to compile this report.

In addition to the nine topics, representatives from five fishing communities provided brief overviews of their fishing history and current status of community experiences in sustainable fisheries management. These case studies are highlighted in text boxes throughout this report.

Major Topics Discussed

The following nine topics were addressed during breakout sessions:

1. MSA: Communities in Fisheries Management.
2. MSA 303A Limited Access Privilege Programs & Communities.
3. Non-303A Community Pathways for Councils- CFAs, Sectors.
4. Sustainability Plans and RFA Plans.
5. Monitoring and Evaluating Community Objectives/Outcomes.
6. Communities Getting and Holding Quota: (Initial Allocation, Transferability, Accumulation Limits, Permit Banks, Fisheries Loan Fund, Catch Accounting).
7. Facilitating Community Organization Efforts.
8. Current FMP Goals and Objectives Affecting Communities; Threats and Opportunities; Future Vision Relative to Communities.
9. Transferring Knowledge – Future Communication and Engagement Strategies with Communities.

Trigger questions for each topic were used to stimulate discussion. The detailed observations and comments made during each session were organized into a narrative and are presented below.

Topic 1 – MSA: Communities in Fisheries Management

Dr. Susan Abbott-Jamieson (NMFS Office of Science and Technology) organized a session titled *MSA: Communities in Fisheries Management*. Her presentation (Appendix 1) reviewed where and how the term “fishing community” appears in the MSA, and provided context for a discussion on several trigger questions about the boundaries, complexity, and scope of communities.

The MSA legal definition of “fishing community” is:

... a community which is substantially dependent or substantially engaged in the harvest or processing of fishery resources to meet social and economic needs, and includes fishing vessel owners, operators, and crew and United States fish processors that are based in such a community. [16 U.S.C. 1802 Sec.3. Definitions (17)]

However, the general prescriptions in the MSA regarding the assessment of social impacts (see Sections 303(b)(6) and 303(a)(9)) allow examination of both communities of place and communities of interest. *Communities of place* are communities defined by political boundaries; for example, a town or city boundary line, or some other subdivision based on location in space like a neighborhood in a larger metropolitan area, or a subdivision of a township. *Communities of interest* are categories, groups, or social networks of people associated by some common interest or characteristic (e.g., by gear type, target species, or ethnicity).

The following trigger questions were used to guide the discussion:

1. *Who defines the boundaries of the fishing community or fishing related community and the inclusion of varying relations to multiple seascapes?*
2. *Is community resilience always the same as fishing community resilience, and who decides?*
3. *“...sustained participation of fishing communities...” -- how do we define and measure it?*

The trigger questions spurred multiple interconnected discussions:

The Challenge with Defining Community: Throughout the workshop, participants discussed the challenges associated with defining the term “community.” They noted that communities span a wide range of areas and interests, and these characteristics change with time. These factors make it extremely difficult to specify parameters that are equitable, yet restrictive enough to target the desired groups intended by the regulations.

The boundaries of a fishing community can be difficult to define because of their temporal and geographic diversity. Both place-based communities (e.g., Kodiak, Alaska, and Port Orford, Oregon) and interest-based communities (e.g., Bering Sea Crabbers’ Association or the American Albacore Fishing Association) change with time as they adapt to dynamic social, regulatory, environmental, and economic conditions. This means that the definition of “community” should be sensitive to evolution of groups through time. Scale also poses a challenge in defining the boundaries of communities because groups often overlap or are nested geographically. Workshop participants pointed to places such as Kodiak, Seattle, and downeast Maine, as well as the four or five communities on the mouth of the Columbia River to highlight different types of community and underscore the difficulty in defining the boundaries.

From the Top or Bottom¹ – An Ongoing Debate: Workshop participants suggested that the term “community” needs to be defined in light of the fishery challenges that exist. However, for communities to best participate in Limited Access Privilege Programs (LAPPs) the group disagreed about whether it is better to charge Councils or stakeholders with the responsibility of defining the term.

Defining the parameters of “community” is important; however, there was disagreement about who should be empowered with the decision. Some believed a top-down approach—in which Councils define criteria—is necessary, while others felt that a bottom-up approach—in which self-defined groups establish their own parameters—would be better. One disadvantage of a top-down approach is that it could marginalize less visible stakeholders that do not have the political or economic capital to engage in the Council process. Though this limitation could be overcome by a bottom-up approach, a community-based approach is not without drawbacks, one of which

¹ One participant thoughtfully noted that the use of the terms “top-down” and “bottom-up” “forward the notion that communities are somehow on the “bottom.” The participant stated, “If in 10 years we look around and public servants are no longer saying top-down, bottom-up,’ but rather ‘community driven,’ then NMFS and the Councils will no longer be fending off criticism that they are the bane of coastal communities.” While this comment deserves consideration, the words “top-down” and “bottom-up” are used here because they more accurately reflect the content of the discussions at the workshop.

is that one group's vision of community may not represent another group's vision, and as such competing definitions of community will likely emerge. For example, if a place-based community such as Kodiak, Alaska, defined "community," their definition would likely look a lot like Kodiak itself and as such it would exclude smaller and/or larger communities as well as interest-based groups. Also a bottom-up effort may not have the organizational acumen or resources to be successful without external support.

Predictably, a blend of the two approaches was seen as a viable solution, with NOAA/Councils providing some top-down legal and program definitions via outreach and education, while still allowing communities flexibility to organize and define themselves. This blend opens the door for NOAA, Council, and/or third-party provision of analytical tools and processes for communities to examine and evaluate their common objectives and the means to organize themselves based on case examples and best practices employed elsewhere.

Regardless of which approach is utilized, it is important that the definition of community and the framework for defining it is flexible, providing space for multiple groups to participate and/or definitions to change through time. For example, the workshop indicated that during a fish stock rebuilding phase the initial community objectives may be simple survival of existing entities, whereas in a later phase—when stocks are rebuilt and quotas have increased—the community goals may get refocused on opportunities for new access or expanded port or market development.

The Meaning of Community: Several workshop participants commented that the term "community," within the context of fisheries management, is perceived differently by different stakeholders (e.g., among harvesters, processors, and supporting fishing infrastructure businesses and between the rest of the community's social and economic structure). The different/divergent definitions of community illustrate the need for thoughtful consideration of how terms are used and translated.

The term "community" is perceived differently by different stakeholders. Some view the inclusion of community in Section 303A of the MSA as a much-needed paradigm shift, while others see it as a form of "social engineering" that will erode well-established social systems. Some stakeholders in the fishing industry in New England feel that they are being forced into FCs and are therefore resistant to them. Groups in the Mid-Atlantic are also struggling with the term; it does not resonate with them because they do not identify themselves as being part of any so-called community (e.g., "it isn't part of the cultural landscape"). Ultimately, the different interpretations of the term highlight the need for continual communication between NOAA, Councils, and stakeholders.

Furthermore, the needs and wants of a fishing community within a larger place-based community could be at odds, suggesting that fishing community resilience is not necessarily always the same thing as overall community resilience. Some participants suggested it is important to understand the distinctions between historic relationships and sustained participation (what communities looked like in the past) versus where we want to end up in a "modern" or future fishery, and then determine what structures are necessary to take us there.

Designing for Community: Workshop participants felt that mechanisms that protect, support, and enhance the function and viability of communities need to be integrated into the initial design of LAPPs, rather than left for discussion after a plan is implemented.

A range of mechanisms has been used to foster communities' participation in LAPPs, including: individual quota limits, cooperative risk pools, owner-on-board requirements, and geographic covenants. To mitigate unforeseen shortcomings, several catch share programs have set-aside or retained a portion of the quota for future allocation. In the Pacific Trawl Rationalization program, for example, 10 percent of the quota has been set aside for adaptive management. This quota, though not earmarked for specific individuals or groups, could eventually be used for communities that have borne unintended consequences of the ITQ program. In addition to quota set-asides, Councils also have the authority to capture resource rents from quotas, and this fee could be redistributed to support community goals such as supporting new entrants. Ultimately, whether mechanisms such as risk pools, quota set-asides, or rents are utilized, Councils should consider communities when initially establishing the program as well as during subsequent reviews.

The key points from the breakout discussion were:

- 1. The term “community,” though widely used, has different meaning to different stakeholders. Using the term without adequate clarification may lead to unintended outcomes or confusion.**
- 2. The definition of “community” with respect to §303A should be based on the goals and objectives of the fishery management plan. That is, a §303A FC or RFA ought to be organized around fulfillment of the plan’s specific goals and objectives for a community. However, lacking clear community goal statements will make it impossible to evaluate continuity or change in the traditional distribution of catch and conduct of the fishery being managed, and thus how either the status quo or proposed changes impact individuals and their communities.**
- 3. The definition of community should allow space for communities to change with time as they react to and/or anticipate social, political, economic, and environmental shifts.**
- 4. There is disagreement about whether a top-down (Council) or bottom-up (community) approach to defining “community” is more equitable, accurate, and/or effective.**
- 5. To the extent practicable, measures to protect the integrity of communities (or promote change) should be built into the initial design of catch share programs, and adaptive management actions taken whenever necessary.**

The above trigger questions also raised several potential research topics and unanswered questions:

- Mapping Relationships between Stakeholders: What have past and present relationships (i.e., connections based on economic, infrastructure, or social parameters) looked like and how are they apt to change in the future? Addressing these questions would provide

valuable, high-resolution social, political, and economic information about baseline conditions and community dynamics.

- Looking Back to Move Forward: Retrospective analyses of fishing communities are needed, to document “what was there.” Mining historical data sources (both qualitative and quantitative) would help Councils develop management strategies that are locally and cultural sensitive, and help evaluate the effects of different alternatives to the status quo.
- Understanding the Limitation: How are place-based and interest-based groups currently restricted by the MSA’s current definitions of “community?” This information would assist Councils in defining regionally relevant criteria for communities.

Case Study 1: Building Capacity through Stability – The Port Clyde Community Groundfish Sector

Jennifer Litteral, Policy Director of the Island Institute, provided an overview of New England’s groundfish industry, narrowing in on the Port Clyde Community Groundfish Sector. The following is a short summary of her presentation.



Photo courtesy of Jennifer Litteral

The Island Institute, a 501(c)3 organization based in Rockland, Maine, works with coastal communities in Maine to build capacity and protect the health and function of the region's marine resources. The organization has seven core focus areas, including GIS mapping, fisheries, and education, and it publishes a number of journals including *The Working Waterfront*. Historically, cod was the most abundant fish species in the Gulf of Maine. In the mid-1800s more cod was caught off the coast of Mount Desert Island alone than exist in all of the Gulf of Maine today. The decline of cod has had a substantial impact on the coastal communities that depend on the fishery. Today, there are just 70 groundfish boats remaining and only two active permits between Port Clyde, Maine and the Canadian border.

In 2010, the Northeast Fisheries Management Council approved Amendment 16 to the Northeast multispecies fishery management plan (which includes cod) in an effort to prevent further decline. The Amendment created an alternative to days-at-sea, allowing groups of fishermen to participate in a catch share program by forming "sectors" that received quota based on catch history.

Today, 99 percent of the Port Clyde groundfish fishermen are part of the catch share program. Though participation is high, it has been a steep learning curve for all stakeholders in New England. Blending top-down, federally mandated regulations with bottom-up, fishermen-created sector-specific rules is a major challenge.

The new management system has advantages and disadvantages. Many communities are benefiting from the added stability provided by the catch share program. This is true for the Port Clyde Community Groundfish Sector, one of the 17 sectors in the Northeast multispecies fishery. Unlike the traditional management system that was based on days-at-sea, the catch share program lets fishermen fish whenever they want as long as the sector does not exceed its quota. By increasing stability, fishermen have been able to provide a more reliable supply of seafood, which has improved the price of their catch and made it possible to use creative marketing strategies (e.g., community-supported fishery (CSF)). The Port Clyde Community Groundfish Sector has been particularly successful at leveraging the newly obtained stability to build capacity within the community. With support from the Island Institute and others, fishermen have been able to secure waterfront access and a facility to process their catch,. They have also successfully branded their product through use of the "Port Clyde Fresh Catch" label.

Topic 2: MSA 303A Limited Access Privilege Programs & Communities

Constance Sathre (NOAA General Counsel for Fisheries) organized a session titled MSA §303A Limited Access Privilege Programs & Communities. Her presentation (Appendix 2) expanded on the general definition of fishing community in Topic 1 by covering the Limited Access Privilege Program (LAPP) provisions of Section 303A of the Magnuson-Stevens Act, in particular the "fishing communities" and "regional fishery associations" provisions.

The following trigger questions were used to guide the discussion:

1. *How could a Council use §303A, including the “fishing communities” and “regional fishery association” provisions, to meet its goals for communities?*
2. *What are “fishing communities” and “regional fishery associations?” How do they differ from other governmental, non-governmental, or non-profit entities?*
3. *What types of participation criteria could be established?*
4. *How would these ideas comply with National Standard 4, which states that conservation and management measures shall not discriminate between residents of different states?*

The trigger questions spurred multiple interconnected discussions:

Using Section 303A of MSA to Achieve Management Goals: Workshop participants identified several ways Section 303A could be used to achieve community-focused management goals. Section 303A can be used to anchor quota in geographic areas or to an interest-based group, and it can be used to stimulate local employment opportunities.

Councils may be able to use provisions in Section 303A to achieve community-related goals. If countervailing design features are not planned for, one downside of catch share programs from a community perspective is that they tend to consolidate the industry, thereby reducing the number of active stakeholders. Councils can utilize FCs and RFAs to “buffer” or counteract the effects of consolidation by anchoring quota in geographic areas or to interest-based groups. For example, Councils could restrict quota to owner/operators or they could require stakeholders to land catch in specific ports. Although Councils trade off economic efficiency by anchoring quota to geographic areas or interest-based groups, these decisions can be beneficial to communities in several ways. Most obviously, anchoring quota in an area or interest-based group will ensure that these historical or traditional areas/groups will have (or continue to have) access to the fishery. By grounding quota in communities, groups are also able to take economic advantage of a steady supply of fish by focusing on value-added products and other supply chain advantages, such as direct marketing through entities such as community-supported fisheries (CSFs).

Responsibility & Recognition: Most, if not all, of the participants observed that FCs and RFAs are more cumbersome than non-Section 303A entities because there are explicit eligibility and accountability measures. While this was defined as a problem by some, several participants noted that it could also be viewed as an advantage because it could give communities more political visibility, legitimacy, and protection.

To become an FC or RFA, communities are obligated to a higher level of accountability than other entities receiving a catch share privilege. It is unclear whether these requirements are seen as an incentive or disincentive for communities to attain RFA status. On the one hand, the requirements create an obvious financial cost and logistical challenge. The prohibition on RFAs receiving an initial allocation of the total allowable catch was seen as a disadvantage to their adoption. On the other hand, both FCs and RFAs can give communities legitimacy, provide a means to keep quota grounded in communities in the long term, and promote participation in the management process for a higher proportion of the fishing community’s members.

A Conflict with National Standard 4: Workshop participants were asked to consider the extent to which community-focused policies might conflict with National Standard 4 by unfairly favoring one state over another. The feedback was consistent that these policies would not conflict with the Standard as long as communities within all states in a region were eligible.

National Standard 4 of the MSA states that fisheries policy cannot discriminate between residents of different states. To comply with the Standard, Councils will need to define eligibility criteria for an RFA and FC that does not unfairly favor fishermen based solely on residency. This can be easily avoided by allowing RFAs and FCs across the region. Even in instances where a state buys quota for a permit bank, as is the case in Maine, the Standard is not violated because any state could do the same. This underscores an important distinction: a disadvantage between states that comes about as the result of action (or inaction) by a state is not the same as a disadvantage that comes about as the result of biased policy.

On the Issue of Quota Accumulation & Misuse: More advantages than disadvantages were identified by participants regarding allowing RFAs and FCs to benefit from being allowed to acquire quota in excess of existing accumulation caps relative to individual catch share privilege holders. However, it should only happen if RFAs and FCs can demonstrate and monitor to show how the higher limits are benefiting the community at large.

The emergence of RFAs and FCs will require Councils to rethink current quota caps that are intended to prevent any entity from acquiring an excessive share of privileges that could unfairly control prices or supply of fish or quota. For RFAs and FCs to work, Councils may need to develop “community” caps that exceed existing individual fisherman limits. Besides the practical aspect of allowing higher levels for groups of fishermen in a RFA or FC, one reason RFAs and FCs would benefit from having a higher accumulation cap is that it would allow them to accrue “excess” quota that could then be used to recruit new entrants into the fishery or support small vessel owners in acquiring quota (i.e., goals that benefit the sustainability of the entire community).

There was a concern discussed regarding how to ensure that local community associations are not simply “fronts” for industry to capture excessive market share. Before raising the quota cap, Councils need to clearly define a standard for public/community interest so that RFAs and FCs do not misuse quota (e.g., “game” the system). These standards could be required to be defined in an entity’s bylaws and they should include periodic evaluation. This was seen as one of the benefits of a Council adopting a FC or RFA in lieu of an allocation to a community entity that was undefined in the Act. Both RFAs and FCs enforce eligibility standards, and require sustainability plans and reporting and documentation requirements that more informal Council community privilege allocation schemes may not require. Several participants endorsed the use of Internal Revenue Service 501(c)4 status and its associated requirements as a practical means to achieve community interests through the legal requirements necessary for designation as a non-profit entity.

This discussion led to a debate about whether a for-profit or non-profit entity is the more appropriate structure for an RFA or FC. On one hand, stakeholders in the fishing industry may be more familiar and/or comfortable with for-profit entities so they may be more inclined to participate. On the other hand, for-profit entities are profit-driven, unlike non-profits which are intended to be mission-driven, so they could prioritize profit margins over community goals.

Some Alaska region participants noted that they have been successful in focusing on community objectives without RFAs and FCs by implementing cooperatives, Community Development Quotas, and Community Quota Entities. Not all Councils have such options as part of their flexibility under the current Act. Other participants noted that making direct allocations to communities/cooperatives had been difficult and the Alaska experience of Congressional intervention and special legislation may not be replicable elsewhere.

Whatever pathway is chosen, several participants emphasized the value of a good administrative record and the need to justify and document the decision-making process leading up to the final policy choice, since the decision could become the subject of judicial review.

Reasons Why Groups are not Participating in RFAs or FCs: Workshop members identified several reasons why groups have not established RFAs or FCs. Chief among them was the absence of any precedent, template, or guidance on how to organize and implement a FC or RFA. As is customary, the first attempt at creating something groundbreaking is often the longest and hardest compared to subsequent iterations, and technical support for communities to undertake this activity was recommended.

There are several reasons why groups are not becoming RFAs or FCs. For one, neither communities nor community development entities may fully understand how the provisions in Section 303A will be beneficial and therefore are unwilling to undertake the risk and expense. Second, while many fishing groups are already organizing as a means of self-preservation, they seem to be confused about how to engage with the Councils so they are opting to become non-Section 303A entities instead. As one participant noted, “RFAs are such an unknown animal in your world. We don’t know where to start.” Several workshop participants noted that current rules prevent RFAs from receiving initial quota allocation. Unless this rule changes, it is unlikely that RFAs will be widely utilized because it is difficult for groups to generate enough capital to buy their way into the fishery. If NOAA wants to encourage groups to utilize RFAs and FCs, it will need to: (a) provide guidance as to how communities can go about becoming a RFA or FC and (b) more clearly define the advantages for working within the Section 303A framework.

Using Existing Entities as the Foundation for RFAs & FCs: Workshop participants suggested that RFAs and FCs could stem from existing non-Section 303A entities. This topic would be the focus of much discussion in later sessions, but it was recognized here first that RFAs and FCs were not the only tools in the box to promote and achieve community objectives.

A number of community entities and allocation structures exist outside the bounds of Section 303A, including: pending community fishing associations (CFA) in the Pacific groundfish fishery, community quota entities (CQEs) and community development quota (CDQ) in Alaska, sectors in New England multispecies; and many port-specific or regional community fishing trusts. In addition, there are a range of for-profit and non-profit umbrella associations and cooperatives whose members hold quota. These entities could become formal RFAs and FCs in the future and/or they could serve as a model to design these entities. Providing access to profiles of these entities and referrals or points of contacts for potential entities to use and learn from existing examples was cited as a useful follow-up action.

The key points from the breakout session were:

- 1. Section 303A entities (i.e., FCs and RFAs) provide an opportunity for new or existing communities to gain political recognition and legitimacy.**
- 2. FCs and RFAs will not conflict with National Standard 4 as long as communities across a region are eligible (as opposed to only communities from one state).**
- 3. Intrinsically, FCs and RFAs should have a higher quota accumulation cap than non-Section 303A entities; however, to ensure that quota is not misused, it is important that oversight processes and transparent accounting systems are in place.**
- 4. NOAA and/or Councils need to more clearly define the benefit(s) and cost(s) of FCs and RFAs to encourage participation, and provide support to help organize and implement them.**
- 5. Existing non-Section 303A entities could become and/or serve as a model for communities that want to become FCs or RFAs.**

The trigger questions also raised one potential research topic:

- Tracking Quota Transfer: During the discussion of accumulation caps the question was raised of how much, how often, and where quota is being transferred. Understanding the flow of quota would help Councils make informed decisions about allocations and quota caps. Such transparency would also help stakeholders and privilege holders better understand the market place for quota shares. There is no current registry providing public access to such information.

Case Study 2: Making Strategic Investments to Ensure Success – The Cape Cod Fisheries Trust

Paul Parker, Director of the Cape Cod Fisheries Trust, and Allison Duncan, CEO of Amplifier Strategies, described the evolution of the Cape Cod Fisheries Trust. The following is a short summary of their presentation.



Photos courtesy of David Bell

The Cape Cod Fisheries Trust, a collaboration between the Cape Cod Commercial Hook Fishermen's Association and the Community Development Partnership, leases subsidized groundfish and scallop quota to qualified members of Cape Cod's small-boat fishing fleet. Like other quota banks, the Trust is designed to retain quota in the community and counteract fleet consolidation incentives brought about by catch share programs.

During the Trust's first year of operation, the success of its investments in the Atlantic scallop ITQ varied. While some fishermen used the quota they leased from the Trust effectively, others struggled and in some cases left the fishery altogether. The equivocal results prompted the Trust to rethink its operational strategy and more clearly articulate its overarching mission. As a result, the Trust identified four objectives:

- (1) Strengthen local Cape Cod fishing businesses;
- (2) Protect Cape Cod's fishing resources;
- (3) Maintain fishing as a way of life on Cape Cod;
- (4) Develop a sustainable community-based model.

By honing in on these objectives, the Trust has changed its investment strategy by actively recruiting fishermen that will be successful and further the organization's objectives, rather than leasing quota to anyone that applies. By being more proactive and business-oriented, the Trust believes its investments will be more effective and its objectives more likely to be met.

Topic 3: Non-303A Community Pathways for Councils—CFAs, Sectors

Jim Seger (Pacific Fishery Management Council) organized a session titled *Non-303A Community Pathways for Councils—CFAs, Sectors*. His presentation (Appendix 3) helped the group to: (1) explore the advantages and disadvantages of using the §303A(c)(3)-(4) provisions to provide for community-oriented entities, in comparison with providing for such entities independent of §303A(c)(3)-(4); and (2) identify legal constraints and policy issues to be considered in creating special provisions for community-oriented entities.

The following trigger questions were used to guide the discussion:

1. *Are there any particular conditions under which there is an advantage in following 303A(c)(3)/(4)?*
2. *What are the advantages and disadvantages of providing for a community-oriented entity without going through the 303A(c)(3)/(4) criteria?*
3. *If community-oriented entities are recognized for special provisions without going through 303A(c)(3)/(4), what restrictions and criteria apply to those special provisions?*
4. *What other legal constraints and policy considerations need to be taken into account in creating special provisions for community-oriented entities which are not organized in conformance with 303A(c)(3)/(4) provisions?*
5. *How will it be determined whether or not the 303A(c)(3)/(4) criteria will be used in evaluating the approvability of a Council recommendation?*
6. *Are there any particular conditions under which 303A(c)(3)/(4) must be followed?*

The trigger questions above spurred multiple interconnected discussions, many of which overlapped with those covered in Topic 2:

Defining the Purpose: *The use or non-use of §303A(c)(3)-(4) is likely to be situationally specific, and should be tied directly to the explicit goals of the Council for community development and sustainability.*

There were many pros and cons discussed regarding the use of §303A(c)(3)-(4), although it was noted no Council had yet followed this path. Use of Section 303A(c)(3) may provide an avenue for getting an initial allocation to a community, and provides protection to other allocation holders by promoting what were considered by the participants to be high standards for eligibility. Conversely, there will be times when community objectives of the Council could be met by use of sectors or community fishing associations without the additional time delays and bureaucracy of satisfying §303A(c)(3)-(4) requirements.

Non-§303A entities (such as those in New England's Multispecies Sectors) achieve many of the objectives that legislators intended to achieve through RFAs without the burdens set forth in §303A(c)(3)-(4). As a result, it seems unlikely that groups will go through the process of becoming an RFA. From some participants' perspective, this was a loophole that could be considered a problem. RFAs are more accountable than non-§303A(c)(3)-(4) entities because they are required by statute to provide considerably more oversight and accountability in a

standard framework. The point was made that, if the existing §303A(c)(3)-(4) provisions are not being used or include impediments, then reform of this section of the legislation may be warranted. One participant summarized the discussion by saying that instead of saying no one is using RFAs, we need to ask what we should build in its place to respond to the needs of communities.

Participants who were unfamiliar with the Northeast Multispecies Sector Program and/or the CFAs in the Pacific Trawl Rationalization Program expressed interest in receiving more information about these programs. Some tables reported that much of the discussion period was spent answering questions about sectors and CFAs.

Provide guidance to communities about how to become an RFA. This would encourage groups to become RFAs, and workshop participants thought it would be helpful for NOAA to provide more specific direction.

There are multiple ways NOAA and/or Councils could address the challenges stakeholders face with choosing a §303A or non-§303A entity. One means is by creating incentives for groups to become RFAs (or disincentives to become/remain non-§303A entities). Alternatively, non-§303A entities could be held to the same or comparable standard of accountability of RFAs to level the playing field. This standard framework could take the form of a template for non-§303A plans and incorporate requirements to satisfy environmental, social, and other considerations important to the Council or in support of the National Standards. NOAA could also create guidelines and/or criteria that would help groups understand how the steps and timing of adopting a non-§303 program would work.

NMFS should provide in-depth case studies to help groups better understand the nuances of existing entities (e.g., Cooperatives, Associations, and Sectors). Providing this information would also help assuage fears associated with catch share programs and encourage future participation.

Establishing Criteria that Achieve Community Goals: Workshop participants recommended that Councils define criteria for RFAs that prioritized community well-being over profit maximizing.

Social, economic, and environmental parameters should be thoughtfully integrated into criteria for RFAs. As one participant noted, “community interests are broader than just profit.” Creating strategic criteria that prioritize community over profit will minimize any opportunity to take unfair advantage of their RFA status. NOAA and/or Councils should also mandate periodic evaluation of RFAs to ensure that RFAs remain consistent with the community goals they set out to achieve. As one workshop participant noted, RFAs should be “a means to an end, not an end.”

A Question of Stewardship: The topic of community was discussed far more than conservation; however, several participants questioned the link between RFAs and stewardship.

Stakeholders having a clearly defined allocation of catch privileges (or access to a resource) are often thought to be better stewards than under open access conditions. This raises an important question about the effectiveness of RFAs: does “community” ownership foster the same conservation ethic observed when individuals hold quota? In the New England Multispecies Sector program, sectors have not exceeded their quota. While the program is still in its first year,

this suggests that the conservation ethic associated with community/collective holding of quota share may not differ much from that of individual allocations. Additional experiences with Alaska pollock cooperatives also exhibit similar conservation-oriented decision-making of communities. This may reflect a more general alignment of conservation objectives and economic objectives under catch share programs compared to open access.

The key points from the breakout session were:

- 1. Non-§303A(c)(3)-(4) pathways to allocate privileges to community entities exist. The function, advantage, and appropriate/intended use of FCs and RFAs need to be expressed more clearly.**
- 2. The sustainability plan requirements of FCs and RFAs, and RFA prohibition on receiving initial allocations are a disincentive for communities to become Section 303A(c)(3)-(4) entities.**
- 3. If groups become FCs or RFAs and they are granted access to quota, it is important that they be held accountable so that quota is not misused at the expense of communities' best interest.**
- 4. More research is needed to understand the link between communities and stewardship.**
- 5. Guidance in the form of templates, standard frameworks for organization, rules of operation and conduct, and access to case studies and technical best practices in forming both RFAs/FCs or non-§303A(c)(3)-(4) entities would facilitate their wider consideration and adoption by Councils.**

Case Study 3: Sharing Lessons Learned from Years of Experience – Catch Shares in Alaska

Linda Kozak, a fisheries consultant from Kodiak, Alaska, provided an overview of the lessons learned from catch shares in the Kodiak Island region. The following is a short summary of her presentation.



Photo courtesy of Linda Kozak

Alaska has more than 15 years of experience dealing with catch shares, far more than most other regions in the United States.

Kodiak Island is the largest island in Alaska and one of the oldest fishing ports in the state. One-third of the people who live on the island are involved in fisheries. The island is home port to more than 700 commercial fishing vessels that participate in 30 fisheries. Of the 30 fisheries, a number of them are managed by catch share programs including the Central Gulf of Alaska Rockfish Pilot, the Alaska IFQ Halibut and Sablefish Program, the Bering Sea and Aleutian Islands Crab Rationalization Program, and the Bering Sea and Aleutian Islands American Fisheries Act Pollock Cooperatives. Although many people opposed catch shares when they were first introduced to the region, many in the region are supportive of them now. A number of lessons can be drawn from catch share programs in Alaska and applied elsewhere:

- Special shares for processors are not needed to protect a community because regional landing requirements have proved sufficient.
- Catch shares can be used to create stability, but they should not be overengineered to the point that harvesters leave the fishery.
- Stakeholders who participate in the process from the beginning tend to be more successful than those who do not.
- Catch share programs should be designed to fit the local context.
- When designing a catch share program, managers should consider what the fishery should look like in 20 years and plan for it initially – not after the fact.
- Future Councils will try to “fix” problems with the program, whether they are real or perceived.

Topic 4: Sustainability Plans and RFA Plans

Mark Grant (NMFS Northeast Regional Office) organized a session titled *Sustainability Plans and RFA Plans*. He used the Northeast Multispecies Sectors as a possible analog to FCs/RFAs to stimulate discussion about the planning requirements that would be mandated if an FC received an initial allocation or an RFA was established to manage collective quota for a group of fishermen. His discussion focused on the detailed requirements of New England sector operations plans to stimulate discussion of the possible requirements for FC sustainability plans and RFA plans. His briefing paper is included as Appendix 4.

The following trigger questions were used to guide the discussion:

- *What specific information and planning are needed for RFA and FC sustainability plans?*
- *Should the community have a special need that requires, or justifies, collective quota holding (e.g., to anchor quota in an area)? Who defines 'community'?*
- *Flexibility, responsibility, and administrative burden—How do we balance? We need for groups to have flexibility to design their own rules; we need for the public to review a detailed plan; and we need to satisfy NEPA, confidentiality requirements, and the other administrative responsibilities that come with flexibility.*

The trigger questions above spurred multiple interconnected discussions:

What Goes in a Sustainability Plan? Workshop participants identified a wide range of criteria that could be incorporated into sustainability plans to make them useful to communities and managers alike.

The key message discussed was achieving a balance in sustainability plan content that focused on the essential information (not everything possible or nice to know) with an understanding of the burden and feasibility of respondents to supply the information. Acknowledge that each fishery will have its differences and that a Council may be best served to outline some performance standards (rather than prescriptive details) that the community then works to satisfy, backed up by an independent audit process to verify attainment of the standards.

Sustainability plans should be comprehensive but simple, addressing environmental, social, and economic information. These plans could be broken down into how the body would be organized; performance measures to show it is managing successfully to Council standards; and finer-scale goals and objectives identified by the community for their own measure of success. A sustainability plan could incorporate some or all of the following information:

- a. A mission, goals, and objectives that support the Council's FMP and are consistent with MSA (especially National Standard 8) and that promote community, not just collective individual interests.
- b. A quota management strategy.
- c. A system(s) to sustain participation, attract new entry, and facilitate generational transition and intergenerational transfer of privileges where allowed by the Council.

- d. Evidence of community support from harvesters, processors, and other relevant stakeholders.
- e. Justification as to how the RFA will benefit the greater community and fit into other types of community development, such as tourism and/or seafood processing.
- f. A short-term and medium-term development/business strategy that includes funding to monitor catch and bycatch.
- g. A system to evaluate both biological/harvest and social/economic achievements.
- h. A regularly scheduled third-party audit to ensure that RFA is making progress toward the mission, goals, and objectives.
- i. A standardized system of consequences to address violations of the sustainability plan.

The Cost of Planning: Workshop participants discussed the importance of setting aside funding to help groups write and maintain mandatory sustainability plans.

The costs associated with writing and maintaining a sustainability plan is a major concern as it will be difficult for independent owner-operators to collaborate in the first place, much less have the capacity to supply expertise in contract law, corporate law, information technology, etc. Groups will need financial support and technical assistance from for-profit and non-profit organizations, and government agencies such as NMFS and Sea Grant. Initially, RFAs could be subsidized during an implementation phase or they could be required to apply for competitive grants. In the long run, however, RFAs will need to incorporate the operational costs associated with maintaining their sustainability plan into their business plan. Creating a template for communities to adapt to their regionally relevant social-ecological system would be useful but not universally applicable. Canada's Fisheries Conservation Plans or the sustainability plans in the Northeast Multispecies Sector Program might provide useful information as a starting point.

Defining a Reasonable Timeline: Workshop participants discussed the various reporting requirements associated with existing catch share programs. Though the group did not agree on how often RFAs should submit their reports, they agreed it is important to balance the need for information (management need) with the costs of reporting (community cost).

The key points from the breakout session were:

- 1. Sustainability plans should be as simple and straightforward as possible; however, these plans should include a process of reporting and auditing.**
- 2. If communities are going to utilize FCs and RFAs, NOAA may need to provide technical guidance and financial support to get groups started in developing sustainability and FC/RFA plans.**
- 3. There is disagreement about how often FCs and RFAs should be required to renew their sustainability plans and/or report progress, since reporting is costly yet necessary for effective management. The detail and frequency of reporting may be subject to change over time as experience is gained with what is essential information to the success of the program.**

Case Study 4 – Using Technology to Improve the Durability of a Fishery: Central Coast Fishery Project

Michael Bell, Marine Project Director for The Nature Conservancy in California, gave a presentation about the Central Coast Groundfish project. The following is a short summary of his presentation.



Photo of Morro Bay courtesy of National Scenic Byways Online (www.byways.org)

The Central Coast Trawl fishery has been in decline for 30 years. In an effort to curb the downward trajectory of the fishery and improve its social, economic, and environmental status, the Pacific Fisheries Management Council established the Pacific Groundfish Trawl Rationalization program in January 2011.

The Nature Conservancy (TNC) has played an important role in restructuring the fishery. Unlike many other non-profit entities that work on fisheries-related issues, TNC owns several federal groundfish permits and is leasing them to fishermen. Uniquely positioned, it is leveraging its position to transform the trawl fishery into a sustainable, low-volume, high-value fishery.

To accomplish its objective, TNC is working with the trawl fleet to test low-impact gear and pilot efficient ways to collect and process data using various forms of electronic monitoring. TNC is now developing an electronic application called eCatch to collect and organize information associated with the fishery. By collecting this data electronically, fishermen and managers will be able to gauge performance, identify spatial behaviors that can improve catch and minimize bycatch, and monitor regulatory limits on the fishery. This project underscores the value of technology advancement in catch share programs.

Topic 5: Monitoring and Evaluating Community Objectives/Outcomes

Mike Jepson (NMFS Southeast Regional Office) organized a session titled *Monitoring and Evaluating, and Amending: Responsibilities of Councils/NMFS/Communities*. His presentation, which addressed the issues around monitoring and evaluating a catch share program with §303A community provisions, was the starting point for a discussion about the requirements and the challenges of performance monitoring at the community level. His briefing paper is included as Appendix 5.

The following trigger questions were used to guide the discussion:

- *What are some management goals to which FCs and RFAs would contribute?*
- *What performance metrics could be used to evaluate whether designation of FCs and RFAs are contributing to progress toward management goals?*
- *What existing socioeconomic data collection and monitoring programs could contribute to effective monitoring of FCs/RFAs?*
- *What are some sources of baseline data for community-level metrics?*
- *What responsibility does the FC/RFA hold in collecting and providing data for evaluation and monitoring?*

The trigger questions above spurred multiple interconnected discussions.

Achieving Goals: FCs and RFAs could be used to achieve a number of market and non-market goals set forth by Councils. One of the underlying benefits of FCs and RFAs (and catch share programs in general) is that they provide autonomy and flexibility so that “local communities can address local challenges.”

The work that communities in the Northwest are doing to address bycatch issues reflects the way that local communities can use regional associations to address local issues. Fishing communities in the Pacific Trawl Rationalization program are working with The Nature Conservancy to create risk pools to manage “choke” species (i.e., constraining bycatch quotas). By assigning their individual quotas into a community risk pool, the industry is working cooperatively to manage bycatch quota, thereby increasing their fishing season and the profitability of the fishery overall.

Defining Metrics of Success: Workshop participants identified a number of social, economic, and environmental metrics that could be used to gauge the effect of FCs and RFAs.

Research by social scientists is underway in NOAA to formulate performance measures for catch shares. Participants noted that such metrics were equally necessary for evaluation of non-catch share management approaches. Some of the metrics discussed in the breakout session included:

- a. Change in biological uncertainty as the result of better/worse data collection.
- b. Change in monitoring efforts (e.g., number or percent observer coverage).
- c. Change in Total Allowable Catch.
- d. Number of active vessel permits.
- e. Number of fishing-related jobs.

- f. Changes in number and type of employment (e.g., number of crew).
- g. Change in “social capital” within a community (e.g., domestic violence, alcoholism, crime).
- h. Change in census/demographic data.
- i. Change in ex-vessel values and profits.
- j. Amount of input from fishermen/community (positive and/or negative).
- k. Change in the number or size of suppliers, ice houses, grocery stores, etc.
- l. Quota and/or permit value.
- m. Extent to which quota is transferred and/or distributed.
- n. Profile of quota owner (e.g., age, occupation).

Utilizing Existing Socioeconomic Data to Understand the Effects of Catch Share Programs: Workshop participants identified a number of socioeconomic datasets that could be used to augment the evaluation and monitoring of catch share programs. These include:

- a. Census data.
- b. Tax data (e.g., sales tax and/or real estate).
- c. Economic Data Reports (EDRs).
- d. Non-fisheries data such as health or crime statistics.
- e. State data drawn from agencies; some examples provided by participants included the Alaska Department of Fish & Game, Alaska Department of Labor, Alaska Department of Community and Economic Development, or Alaska Bureau of Economic Development.
- f. Local data drawn from sources such as the Western Alaska Community Development Quota organizations or from documents such as Kodiak Economic Indicators.
- g. Non-profit and for-profit data from sources such as Coastal Enterprises, Island Institute, or EcoTrust.
- h. Community Development Institutions such as the Gulf Mutual Association.

Lacking a proper baseline for community indices prior to adoption of a catch share program compounds the challenge of monitoring program performance. Moreover, the types of data elements currently available may not be the elements necessary to monitor the achievement of the specific Council goals for a community, raising the need for better prioritization of data elements. Many participants suggested reaching out opportunistically to other agencies and organizations for all available data elements, whereas other participants felt that the responsibility to provide essential socioeconomic data fell on the recipients of a community catch share, and data provision should be a part of the sustainability plan for an RFA or FC allocation.

Opinions also varied by coast and fishery on the adequacy of socioeconomic data to construct performance metrics. However, most participants resonated with the need to bring data back to and inform the community more often. It was recommended that NOAA fund the collection of community information about what the seafood industry means to a port and provide such analysis and interpretation of data back to the community as part of an outreach and education effort. It was noted that it was essential to make meaning out of the data since there is a big difference between tracking a change versus understanding the cause and meaning of the change. Such outreach would help set the stage for community goal setting (knowing where they are currently and where they want to be in the future).

How and by whom all this desired communication and outreach would be conducted was a recurring theme. Some participants suggested new skill sets, technologies, and processes were needed for NMFS and Councils (such as the recent adoption of regional ecosystem panels for communication and planning in the Western Pacific), whereas others suggested new partners were needed to overcome the limiting factors constraining NOAA and Councils. It was also suggested that data collection methods be developed that were feasible for community members to collect data. This could also be incorporated into the design of a program, and the Councils could include requirements for data collection from the communities/organizations upon establishment of an FC or RFA.

The above trigger question discussion brought about two potential research topics:

- Past Metrics: Research what social and economic metrics have been used in the past to evaluate fisheries and/or other resource-related management decisions. Drawing on past experiences could help NOAA identify useful/appropriate metrics to evaluate the effects of catch share programs, both positive and negative, on communities.
- Data Resolution: More community-scale baseline data are greatly needed. These data would help fisheries managers and non-profit organizations understand the effects of management decisions (or economic development projects). In designing new data collection efforts, researchers will need to address issues of data quality, privacy, timeliness, accessibility, meaningfulness (relevancy), and communicability.

The key points from the breakout session were:

- 1. FCs and RFAs could be used to achieve FMP goals by giving local communities the flexibility to come up with local solutions.**
- 2. A number of fisheries and non-fisheries related metrics can be used to measure the effect(s) of catch share programs.**
- 3. Existing social and economic data should be used to assess the effectiveness of FCs and RFAs where possible, but additional data and analysis are likely to be needed, and affected communities would most likely be engaged in both producing and consuming the data and information.**

Case Study 5 – Understanding Catch Shares: Cortez, Florida

Karen Bell, owner of Starfish Company and Restaurant, shared her perspective on the Red Snapper Catch Share program in the Gulf of Mexico. The following is a short summary of her presentation.



Photo courtesy of Karen Bell

Cortez, Florida, is a small fishing community on the Gulf of Mexico, just north of St. Petersburg. Like other fishing-dependent communities in the region, fishermen in Cortez are still trying to understand how catch share programs work.

The Starfish Company, which has been in business since the 1940s, is the most prominent fishing business in Cortez. Today, it owns Red Snapper quota and leases it to fishermen in the community. Recently, the value of the shares dropped dramatically, without clear explanation. The fluctuation in price is a major challenge and it suggests that communities need more information about how catch shares work when it comes to buying and selling quota.

Topic 6: Communities Getting and Holding Quota

Glenn Merrill (NMFS Alaska Regional Office) and Merrick Burden (Environmental Defense Fund) collaborated on a session titled *Communities Getting and Holding Quota: (Initial Allocation, Transferability, Accumulation Limits) & Mitigation (Permit Banks, Fisheries Loan Fund, Catch Accounting)*. Because of the complexity and importance of the six topics in the title, this session followed a slightly different process and was allotted twice as much time on the agenda as the other eight sessions. Their briefing papers are included as Appendix 6a and 6b.

The session began with a contextual presentation of the underlying market-based nature of catch share programs. If left unchecked, catch shares will result in catch privileges accumulating on the most efficient vessels/in the hands of the most profitable owners (i.e., those operators who can harvest the allocations at the least cost), and moving to those ports or regions where these most efficient operators run their fishing business.

These profit-maximizing market tendencies may conflict with Council goals and objectives for community well-being by reducing the overall number of employment opportunities in a fishery, and/or redistributing fishing and delivery activity and profits in geographically different areas than the status quo. Policymakers, however, have catch shares design tools to respond to community objectives for maintaining current jobs and profit distribution within a community. Measures could include restricting transferability of catch shares, restricting accumulation/consolidation of shares, and allowing community entities to receive initial or acquire additional shares and conditioning their use.

The presenters emphasized that each community may have a different set of social and economic objectives for their component of the fishery, such that a one-size-fits-all catch share design would be inappropriate. In such circumstances a Council may establish a framework for community quota holding entities to decide what works best for their circumstance within the acceptable boundaries set by the Council.

This introduction was followed by a discussion of the six topic areas. The following trigger questions were used to guide the discussion:

- *How could a Council make initial allocations with FCs, and what is initial allocation based on?*
- *How can a Council set accumulation limits for FCs/RFAs? What is necessary to avoid loopholes?*
- *How would FCs/RFAs affect the market for catch shares?*
- *What are the pros and cons of setting up a permit bank to manage the quota?*
- *How could a loan fund be established and funded?*
- *What are some other ways for FCs and RFAs to access capital to purchase quota?*
- *What are some options for a community catch accounting system?*

The major points made are as follows:

1. *Initial Allocation.* There were both direct and indirect pathways discussed for catch shares to become subject to community controls, and initial allocation was the most obvious direct means, yet the least used among current Councils. The traditional initial allocation models based on historical harvest periods of individual fishermen did not seem as strong an option when applied to a potential community allocation. Varying quality and contradictory sources of historical data seemed more problematic when attempting to compile a community history. In addition to holdbacks of initial allocations for communities, duration of the initial allocation was factored into the discussion. Some participants suggested allocating limited duration catch shares to individuals and relying on performance-based metrics in order to retain individual allocations, or else have them revert or be redirected over time to communities.

2. *Transferability.* Setting transferability conditions on what a community can do with privileges after receiving an initial allocation is one of the most powerful design elements of a catch share program. As with any design parameter there are pros and cons to using it to help achieve social and economic benefits for communities, with several means available to prevent migration of quota out from the initial community receiving the allocation. In addition, participants said it was equally important to design a means to move quota into a pool that is just for communities. There were concerns expressed on how to ensure fairness, since allocation of a fixed quota to a community comes at the expense of other possible recipients, but most workshop participants indicated an IFQ and a community allocation could readily co-exist.
3. *Accumulation Limits.* Participants suggested that a community recipient of catch shares warrants a higher accumulation cap than individuals. The exact limit could be based on a standard way of setting percentages in advance based on some initial analysis, or a custom way through an allocation based on a competitive Request for Proposals process where a community requests a specific limit and explains why. In all cases activities would be closely monitored to prevent predatory or anti-trust behavior. Exceptions to an accumulation limit for the first generation of recipients were debated, such as grandfathering in entities with shares above the accumulation cap and then requiring divestiture before a certain date. Importantly, all of these scenarios and design features were suggested to be worked out up front rather than after the fact.
4. *Permit Banks.* Participants noted there were pros and cons to permit banks. Clearly they can be used to anchor quota in a community, including features to account for intergenerational transfers and future entrants. They noted equity tradeoffs, however, in establishing permit banks for access by those fishermen otherwise deemed ineligible for initial allocation of shares. Presumably the initial allocation parameters considered the qualifying criteria carefully, and establishing a permit bank could reverse intended outcomes of the initial allocation, not just potential unintended outcomes. Rules governing subsequent acquisition of shares into the permit bank must be carefully evaluated as well, including defining accumulation limits, establishing rights of first refusal to acquire shares by the bank of those fishermen wanting to divest, and ensuring benefits accrue to the community (forcing harvest/lease of shares to ensure full utilization versus acquiring and then simply holding shares).
5. *Fisheries Loan Funds.* The discussion of how to get assets into communities included the goals of obtaining financing at favorable interest rates and finding willing financial institutions to take on high-risk fishery debt. The participants were concerned that community-oriented objectives for maximizing employment and broad participation of residents might be less attractive attributes for private financing than profit-maximizing behaviors of individual holders of quota shares, making it harder for communities to access loans. It was observed that the current loan programs in the MSA for Limited Access Privilege Programs (LAPPs) was too limiting and needed reform to provide similar access to benefits for non-LAPP catch shares and extend eligibility to communities, not just individual fishermen. Additional ideas having merit to pursue for financing and/or getting assets to a community organization included: holding back a portion of initial allocations for communities; auctioning a portion of the allocation and

redistributing proceeds to a community for a loan fund; community issuance of municipal bonds; group or cooperatives pooling of assets; private loans; New Market Tax Credits² and other government community development/loan programs; and philanthropic program investments.

6. *Catch Accounting*. The topic of joint and severable liability of members of a community holding quota share was thoroughly discussed. From a technical standpoint, the same data elements are needed from an individual or group of individuals forming a community to ensure there is no overage in allocations. There was a sense that joint liability in a community entity could put individuals who are part of a group in a better position to deal with contingencies than if they were fishing individually. For example, pooling risk as members of an organized group and creating agreements within the community to redistribute or rebalance quota as needed is more likely to occur than one-to-one agreements of individual fishermen who do not have advantage of the affinities which led to creation of a community group.

Topic 7: Facilitating Community Organization efforts

Kate Quigley (South Atlantic Fishery Management Council) organized a session titled *Facilitating Community Organization Efforts*. The presentation was given by Bob Mahood (Executive Director of the South Atlantic Fishery Council). The presentation addressed the need for NMFS and Council staffs, who do not typically take part in community organization efforts, to provide more assistance in organizing interested community entities.

The following trigger questions were used to guide the discussion:

1. *What can NMFS and the Councils do to facilitate community efforts to organize themselves to consider future catch share options?*
2. *What are sources of legal and organizational expertise and funding for fishing communities (e.g., self-, government or externally sourced and funded)?*
3. *Would NMFS provide support upon request or should NMFS and Councils be proactive in seeking out communities needing help?*
4. *How would NMFS/Councils identify communities to target for outreach/capacity building?*

The trigger questions above spurred multiple interconnected discussions:

Need for a Centralized Resource Center: Workshop participants emphasized the need for a well-organized database where cases studies and technical information about domestic catch share programs could be compiled and easily accessed.

² The New Markets Tax Credit (NMTC) Program, enacted by Congress as part of the Community Renewal Tax Relief Act of 2000, is incorporated as section 45D of the Internal Revenue Code. This Code section permits individual and corporate taxpayers to receive a credit against federal income taxes for making Qualified Equity Investments (QEIs) in qualified community development entities (CDEs). See www.irs.gov/pub/irs-utl/atgnmtc.pdf

Having a dedicated platform where information is readily available would make it easier for Councils (and communities) to explore new catch share program ideas. As one participant observed, “Everyone has their own little individual program, but it does no good if you can’t learn from them.” Furthermore, the information collected in a clearinghouse would facilitate outreach and education efforts by making it easier to access and share information. This platform, though not fully visualized, would be most useful if it included a wide spectrum of information so that it was relevant to Councils, communities, and industry.

One approach would be to nest information within topical areas (e.g., allocation, quota transfer, or new entrants) or geographic areas (New England, Alaska, Gulf of Mexico), embedding layers of detail with simple summaries. This approach would make the clearinghouse useful to the general public interested primarily in the general topic, as well as practitioners who need to understand how catch shares work in detail, want access to templates and lessons learned, and are interested in exploring the “*building blocks*” of catch share programs.

In addition to an information resource center holding templates and points of contact to reach out to experts or stakeholders with direct catch share experience, the participants also suggested two other ways to facilitate community organizing efforts.

Access to grants: Many small communities do not have the money to organize to prepare themselves to participate in the current Council process, and government and private grants can help facilitate their start-up and operations. NOAA grants through the Saltonstall-Kennedy grant program and Commerce Economic Development Administration or other government Community Development grants were mentioned as federal sources of seed money. Private foundations and NGOs were also mentioned (in particular the National Fish and Wildlife Foundation Fishery Innovation Fund program) as grant sources with a track record of supporting fishery community organizations. It was noted that such funds do not have to take the form of a handout; successful community development proposals can be created as attractive business investments for investors to fund community efforts. In addition, non-governmental organizations can also provide direct technical assistance and funding to support the sustained participation of fishing communities. Identifying these federal and state government and non-government sources with specific contact information was highly recommended.

Council process reform: Several workshop participants raised concerns that underrepresented stakeholders are being excluded from the decision-making process.

The second means to facilitate community organizing efforts focused on reforming the Council process. There was sentiment that the current Council scoping and meeting process tended to attract only large, well-capitalized harvesting or processing firms into the management process. Participants noted that groups or communities with the most needs often lacked resources to even be visible in the current process. Many felt there was a need to level the playing field and distribute opportunities to frame management options by using alternative models focused on more grassroots engagement. This would include more direct contact with constituents in their home ports and using town hall formats rather than traditional Council meeting formats, which are seen by some as obtuse, rigid, and intimidating to fishermen. Examples cited focused on forward-looking discussions and visioning about the desired future state of fisheries rather than the current focus on responding to present fishery and regulatory crises. As part of this process, simplifying and shortening documents so that non-scientists and non-bureaucrats can understand

them was suggested as a meaningful and doable step. It was acknowledged that change in the public involvement structure may require more time and energy, but that small boat operators and vulnerable communities could not count on the current process to consider their requirements.

One topic that resurfaced during the discussion was the recurring theme of fishing community definition. There were numerous examples demonstrating the dramatic contrasts in fishing communities and how their needs differ: from fishing cooperatives in Guam (where food security is paramount and “if a fishery is not community-based there is no purpose in life”) to sectors in New England Multispecies. Each fishing community is different. Even within a community, the members’ goals are not always homogeneous (e.g., harvesters vs. dock owners vs. processors; within harvesters, differences by vessel size or gear; differences between young fishermen and those nearing retirement). The conclusion was: do not underestimate the complexity and heterogeneity of the fishing community you are trying to engage in management.

The role of NGOs and others: Workshop participants thought NOAA should utilize partnerships with a range of non-profit, industry, business, and governmental entities to facilitate community organization efforts for FCs and RFAs.

NOAA should recognize the role that non-profit and industry leaders have played and could play to facilitate community organization efforts for FCs and RFAs. In New England, for example, non-profit organizations such as the Gulf of Maine Research Institute were instrumental in the development of the existing Groundfish Sector program. Industry also plays an important role; even stakeholders such as the New England Seafood Coalition that opposed catch shares at the outset participated in the process so they would have a voice. One area where non-profit entities can play a pivotal role is in providing outreach and education about catch share programs, since Councils lack sufficient capacity. In addition, Sea Grant and the NOAA Coastal Services Center were cited as examples of existing entities that could play a more visible role in supporting the development of catch share programs by providing information to stakeholders and assuaging misperceptions. However, catch shares have become too politically contentious in some areas where the rhetoric now prevents a thoughtful discussion of them as a management option. The key is finding a trusted entity. Consideration of catch share options may also require expertise and knowledge beyond the current capacity of NMFS, Councils, and stakeholders. Facilitating external access to expertise in finance and business and incorporating these issues early in program design discussions was recommended.

The key points from the breakout session were:

- 1. NOAA and the Councils should provide understandable, unbiased pro and con information about catch share attributes, program options, and case examples at various levels of detail in an easily accessible clearinghouse.**
- 2. NOAA and the Councils should find ways to identify and support underrepresented individuals and areas so that they are not unknowingly impacted by catch share programs and can participate in the consideration of design decisions.**
- 3. To help communities maximize the value of catch share programs, government and non-profit entities should work collaboratively and take advantage of expertise in**

communications, community development, financing, organizational management, and small business planning, and transfer this knowledge to communities.

The trigger questions also raised several potential research topics and unanswered questions:

- A Matter of Approach: Research on relative merits of different approaches to design and operationalize catch shares is sketchy. Are catch share programs more or less effective when they emerge from within the fishing industry? Knowing whether catch share programs are more successful when they are initiated by individual communities or by Council members would inform how Council's perceive catch shares as a tool for fisheries management. For example, if catch share programs proved to be more effective when they were designed and implemented by the Councils (rather than when they are initiated by communities), it might encourage Councils to evaluate catch share program options even in light of initial public opposition.
- Competing with Permit Banks: How and to what extent will NOAA-funded, state-managed permit banks influence the price of quota and compete against private enterprise? Better understanding the impact of new permit banks will inform the design and implementation of these programs in the future.

Topic 8: Current FMP goals and objectives affecting communities; Threats and opportunities; Future vision relative to communities

Bonnie McCay (Rutgers University) organized a session titled *Current FMP goals and objectives affecting communities: Threats and opportunities; Future vision relative to communities*. Her presentation (Appendix 8) provided a brief review of current FMP goals and objectives that highlighted the near absence of explicit reference to communities. This observation provided context for a discussion on several trigger questions.

The following trigger questions were used to guide the discussion:

- *What are some current community-related FMP goals and are they being met?*
- *How can community-related issues be brought more directly into Council decision-making?*
- *How can "best available science" requirements of the MSA be used to improve the use and legitimacy of social science information on communities?*
- *What can be done to ensure representation of community concerns and interests in MSA deliberations? Is the current system for appointing Council members, advisory panels, and such appropriate to the task?*
- *What are the other challenges to establishing community goals and objectives for a fishery?*
- *What methods/processes are available or have been used to establish community-orientated goals and objectives?*

The trigger questions above spurred multiple interconnected discussions:

Acknowledging Change: Workshop participants discussed the fundamental tension between preserving communities as they are now and accepting the fact that they will change as ecological, economic, social, and political systems change.

For example, in the Bering Sea King and Tanner Crab Rationalization Program, quota is tied to processors in specific communities. However, as fishery and business conditions changed since implementation, the regulations had to be adjusted to provide more flexibility in landing requirements to reflect the reality of stakeholders' changing needs. In other fisheries, the community status quo may no longer be sustainable. Biological, economic, and social conditions inside and outside the fishery may change so much over time that attempts to provide for the sustained participation of such communities may be doomed to fail regardless of the catch share design. Thus, Council plans need to have flexibility and be adaptive since a stable community is not an end point but a status that needs to be monitored over time.

A Tension with National Standard 1: Several workshop participants noted that Councils have to treat National Standard 1 as paramount, thereby limiting what they can do for communities.

It is important that environmental groups and community advocates alike recognize that Councils are mandated to uphold National Standard 1 above all other Standards, but that upholding the Standard does not mean Councils are against communities. Some participants noted that if overfishing is occurring, Councils do not have much flexibility. Regulations to cease overfishing and obtain optimum yield may conflict with the social and economic development needs of communities, at least in the short term. Others noted that if community sustainability is not simultaneously considered with rebuilding stocks, there may be no fishing industry left in the future to reap the benefits of rebuilt stocks. This transition period is extremely important, especially to the more economically and socially vulnerable fishing communities.

Another challenge noted was timing: social and economic issues are often not on the table for Council deliberation at the same time as these biological issues. Therefore the tradeoffs and consequences of NS1 decision-making on communities only become evident after the fact.

Recognizing that allocation is the toughest job that a Council does, a final challenge identified was the initial allocation process and its effect on communities. Experience has shown that if communities are not part of the initial allocation dynamic then they are at a disadvantage in playing catch-up and may have severe challenges in purchasing quota.

To partially assuage these concerns, it would be helpful if NOAA could provide more information about the policy process and provide technical guidance to groups so they are able to maximize the use of tools that already exist for sustaining communities. For example, NOAA could provide clear guidance on the creation and approval process for FCs and RFAs and promote their consideration by Councils.

Acknowledging Communities: Workshop participants discussed the need for more recognition of community and community goals by Council. This included considering inclusion of community interests on Council Committees. Workshop participants also discussed the extent to which a

separate advisory committee of community stakeholders would be an asset to Councils as they address ways to sustain the viabilities of these communities.

Several Councils cited examples of community-specific groups they have formed to focus on community goals and objectives, such as outreach and Advisory Panels. For example the North Pacific Fisheries Management Council has an Industry Advisory Panel composed of large-scale stakeholders and a Right of First Refusal Committee. The Western Pacific Regional Fishery Management Council has an Indigenous Advisory Panel and more recently created Regional Ecosystem Advisory Committees. Their Fishery Ecosystem Plans and their community development plans required considerable education and outreach and required the Council to go into communities and hold many workshops. Other means mentioned to bring community issues before the Council included making formal solicitations to the community by inviting leaders to attend or participate on panels, sponsoring biannual community forums in the field, and creating a select subcommittee of community members for the express purpose of tackling community engagement challenges. Although most agree that these committees would benefit communities and Councils alike, one of the obstacles of doing this is that community stakeholders generally do not have the time to understand the issues and effects to the same extent as paid representatives of larger industry-scale stakeholders, and they may not have the capacity or money to become more active.

Proactive vs. Reactive: Workshop participants debated whether Councils are proactively or reactively incorporating community goals and objectives into catch share programs. Views varied, in part, because each Council is embedded in a unique social, economic, environmental, and political context and so their focus on community differs greatly.

The Pacific Regional Fishery Management Council was cited as an example of a Council that is proactively identifying ways to protect communities. For instance, in an effort to avoid quota consolidation, the Council designed the Pacific Trawl Rationalization program so that quota must be transferred among owner/operators, and sale of quota was prohibited in the first 2 years after implementation. In addition, the Council set aside 10 percent of the overall quota so it could address unforeseen needs at some point in the future. Although the Pacific Council is making an effort to include communities' goals into their catch share design, there is a history of Councils reacting to the impacts that were caused by previous decisions. Participants noted that in New England, for example, much of the discussion about community stability is taking place now as the result of initial allocation consequences in the formation of the Sector program.

The key points from the breakout session were:

- 1. FCs and RFAs should be designed in a way that allows communities to adapt to changes in social, political, economic, and environmental conditions.**
- 2. National Standard 1 affects how Councils address community needs.**
- 3. To develop FMP goals that address community needs, community-related issues need to be brought to the Councils more directly, including by way of formal advisory committees.**
- 4. In designing catch share programs, Councils should address community needs proactively rather than in trailing amendments.**

Topic 9: Transferring Knowledge – Future Communication and Engagement Strategies with Communities

Ed Backus (Ecotrust) organized a session titled *Transferring Knowledge – Future Communication and Engagement Strategies with Communities*. His discussion provided an opportunity for participants to creatively and openly debate potential pathways for communication and for exchange of information, knowledge (expertise) and perspective among management entities, community innovators, and new participants in catch share programs. His briefing paper is included as Appendix 9.

The following trigger questions were used to guide the discussion:

- *What information needs to be further developed to create usable knowledge for communities to adapt to catch share programs?*
- *What existing community information and knowledge could NOAA uptake, synthesize, and disseminate?*
- *What collaborative structures could be created by NMFS and third parties to establish effective exchange with communities?*
- *What research needs to be undertaken by both NOAA and communities to expand the knowledge and options available to and for communities?*

The trigger questions above spurred multiple interconnected discussions:

Building Trust via Long-Term Interactions: Workshop participants identified long-term communication with communities as one of the most effective ways to build support for fisheries management tools such as catch share programs.

The participants noted that the conflict surrounding catch share programs has as much, if not more, to do with communities' historical distrust of fisheries management (i.e., government) as it has to do with catch share programs themselves. The historic tension is an impediment to the expansion of catch share programs and other fisheries management strategies. NOAA and the Councils alike can make progress toward assuaging this tension by finding ways to communicate with stakeholders more regularly.

It was suggested that the nature of these communications needs to include concise products and tools (or tool kits) that show communities a way forward to a sustainable community, rather than advocacy for a catch share program. This includes showing the pros and cons when using case examples. Because of the traditional focus on overfished and overfishing issues, Councils have had little investment in addressing social issues, and this is reflected in the lack of contemporary narratives about who is fishing, which vessel types, what has changed in the fishery over time, and what is happening to the future of fishing in different communities. This lack of knowledge puts Councils at a disadvantage. At the same time, they also lack clear factual case studies on the nitty-gritty of catch shares or how they have been used by communities successfully. The further absence of Council and NOAA partnerships with legal, financial, and community organizing groups with this expertise has put communities at a disadvantage. Knowledge about forming cooperatives, avoiding antitrust issues, and broader understanding that catch shares are not limited to individual transferable quotas would help engender a relationship of trust. The participants sought means to and identify fisheries and their development as an asset to the Department of Commerce rather than being seen as a regulatory burden by both sides.

Two examples were cited to show the impediments resulting from lack of communication between communities and regulators. The first is the current statutory language in Section 303A that requires the Secretary to deny or revoke limited access privileges from participants who fail to comply with a FC or RFA plan. This is a much more severe penalty for non-compliance than could be applied to an individual outside a FC or RFA, and thus presents a strong disincentive to FC or RFA use. A legislative amendment or regulatory clarification is needed to help remove this impediment to FC and RFA implementation. The second example was the absence of communication on whether non-303A pathways to issue catch shares was acceptable to NOAA. Case examples in the New England and Pacific groundfish fisheries are now setting precedent, but lacking clear guidance several other Councils may have avoided or ignored opportunities that would have helped their communities benefit from establishing non-303A catch shares.

Participants reiterated the utility of using specific examples or a building block approach to help Councils. The format for a typical building block would identify the design question/issue being addressed, identify one or more options of how other fisheries approached the problem, and then provide feedback on what worked well and what did not.

Identifying Community Leaders: Workshop participants repeatedly referenced the important role that community leaders play in fisheries management.

Community leaders can represent a barrier to NOAA and the Councils if they are opposed to an idea, or they can provide access to community decision-makers and promote credible dialogue within a region if they support an idea. It is important that NOAA and the Councils reach out to these stakeholders and work to build productive relationships with them by providing access to balanced information about management tools such as catch shares.

Planning for Change: Several workshop participants suggested the scope of catch share designs should be expanded to include non-fisheries considerations.

Councils and NOAA should collaborate with non-fisheries service providers to anticipate and assist communities as they adapt to change brought about by catch share programs. Putting service providers in place may help to reduce social tension and economic hardship. In Alaska, several programs have been developed to support communities as they transition to catch share programs. The Young Fishermen's Summit, for example, was designed by the Alaska Sea Grant Marine Advisory Program to provide training and networking opportunities for fishermen who are under 40 and/or have been in the business for less than 5 years. In addition to these intensive training programs, more long-term business planning programs are also underway to assist fishermen with transitions.

The key points from the breakout session were:

- 1. To foster renewed trust in fisheries management, NOAA and the Councils alike need to spend more time with communities and provide access to additional expertise and to complete and impartial information.**

2. **Community leaders often play an important, albeit indirect, role in fisheries management by encouraging and/or discouraging communities to support proposed policies.**
3. **Well-designed catch share programs should include plans for dealing with the social and economic hardships they will encounter. Councils and NOAA need to transfer information and knowledge regarding options, strategies, and best practices where available to avoid or mitigate these hardships.**
4. **Collaborative structures with expertise and capacity in legal, financial, and community organizing could be used to establish more effective exchanges with communities.**

The trigger questions also raised several potential research topics and unanswered questions:

- Resources: What resources are available to assist groups to get organized, build capacity, and fund the costs associated with technical and legal support?
- Legal Guidance: What is the process that groups must go through to make sure they are in compliance with Section 303A? NOAA General Counsel does not provide legal advice to outside groups. Therefore, communities should explore new alternatives to obtain legal advice regarding different catch share options and getting answers to questions in advance of a Council decision.

SUMMARY

The purpose of the workshop was to add clarity to the potential role and function of fishing communities in current and future catch share programs. Workshop participants discussed nine core topics covering a range of social, technical, environmental, and economic issues. Over the course of the workshop, several ideas emerged and in some cases the group came up with recommendations and/or requests for guidance from NOAA leadership:

1. **The MSA includes a legal definition of “fishing community” and “regional fishing association.” However, Councils need to delimit regionally specific eligibility criteria that account for the social, political, economic, geographic, and temporal distinctness/diversity of FCs in their region and define how these criteria relate to overarching management objectives so that groups may design FCs and/or RFAs that align with Council goals.**
2. **The function, advantage, and appropriate/intended use of FCs and RFAs need to be expressed more clearly to stakeholders and potential members.**
3. **Existing entities (e.g., commercial fishermen’s cooperatives) could provide the architecture for future FCs and RFAs; however, it is unclear how/if these entities are better than non-Section 303A entities that currently exist given that FCs and RFAs require more prescribed accountability.**
4. **Sustainability plans should be comprehensive (e.g., objective statements, performance standards, strategic goals, justification for collective quota holding, confidentiality requirements, administrative responsibilities, and**

accounting/accountability clauses), but they should also strive to reduce reporting of superfluous information.

5. To successfully develop FCs and RFAs, communities need financial and technical assistance from NOAA and the Councils and in some cases third-party expertise.
6. NOAA should develop an online clearinghouse of information to house and disseminate data, knowledge, and case study building blocks about catch share programs to support decision-makers, community leaders, and the industry.
7. A suite of regulatory “levers” can be integrated into catch share programs to achieve economic, social, and ecological outcomes (e.g., limited consolidation, community quota, etc.). Recognizing the flexibility of the model, it is important that explicit community goals and objectives be set by a Council to inform the design of the catch share program.
8. To facilitate effective and efficient community organization efforts, an interagency and/or public-private cross-sector approach that includes governmental, non-governmental, and non-profit collaboration is needed. NOAA and the Councils can be proactive in this process by providing understandable information about catch share programs, financial and technical assistance to offset start-up costs, and a commitment to long-term communication, monitoring, and follow-up with communities.
9. To develop FMP goals that explicitly address community needs, community-related issues need to be brought to and sought out by the Councils more directly. Adoption of formal fishing community advisory committees or expanded consultation mechanisms in communities in use by some Councils should be evaluated for adoption as a best practice.
10. Information about the benefits and impacts of catch share programs needs to be made more accessible to the public. The information needs to be synthesized and disseminated by a consortium of government, non-governmental, and non-profit entities that have experience and long-term relationships working with local communities.

Appendix 1:

NOAA Commercial Fishing Communities & Catch Shares Workshop Discussion Topic 1: MSA – Communities in Fisheries Management

Prepared by Susan Abbott-Jamieson,
NOAA Fisheries Service Office of Science and Technology

Overview of MSA Communities in Fisheries Management³:

The term “fishing community” appears in the Magnuson-Stevens Fishery Conservation and Management Act or MSA (16 U.S.C. 1801 et seq.)⁴ in several places and includes a legal definition of the term. Some problems have been encountered in the application of the legal definition in the management of marine fisheries. This paper lists the places in the MSA where the term appears, providing a brief discussion of each. The paper concludes with a list of points to keep in mind and some questions to ask as we engage our discussion of communities in fisheries management.

Definition of “Fishing Community” in the MSA:

The MSA legal definition of “fishing community” is:

The term “fishing community” means a community which is substantially dependent or substantially engaged in the harvest or processing of fishery resources to meet social and economic needs, and includes fishing vessel owners, operators, and crew and United States fish processors that are based in such a community.” [16 U.S.C. 1802 Sec.3. Definitions (17)]

The general prescriptions in the MSA regarding the assessment of social impacts (see 303(b)(6) and 303(a)(9)) allow examination of both communities of place and communities of interest.

- Communities of place are communities that are defined by political boundaries, for example, a town or city boundary line, or some other subdivision based on location in space like a neighborhood in a larger metropolitan area, or a subdivision of a township.
- Communities of interest are categories, groups, or social networks of people associated by some common interest or characteristic, e.g., by gear type or target species or ethnicity.

National Standard 8 and Fishing Communities:

National Standard 8 (NS8) states:

Conservation and management measures shall, consistent with the conservation requirements of this Act (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities by utilizing economic and

³ These materials are adapted from Patricia M. Clay and Julia Olson (2008). Patricia M. Clay, Eric Thunberg, and Joseph Terry offered helpful comments.

⁴ The MSA was originally enacted as the Fishery Conservation and Management Act of 1976 (P.L. 94-265), and subsequently amended and/or reauthorized in 1981, 1983, 1989, 1991, 1996 and 2007.

social data to meet the requirements of [MSA 301(a)] paragraph 2 in order to (A) provide for the sustained participation of such communities and (B) to the extent practicable, minimize adverse economic impacts on such communities. [16 U.S.C.1802 Sec.301.(a) 104-297 (8)]⁵

The MSA requires fishing communities to be place based,⁶ and dependent on or engaged in fishing to some important, though unquantified, degree for meeting “social and economic needs.” As the guidelines for MSA implementation explain: “Further, dependence, engagement, and sustained participation are not measured solely in terms of the percent of fishing activity in relation to the entire economic base of the community; there are other social, cultural, and economic assessments specifically focused on the harvesting, processing, and fishery-support industries” (63 Fed. Reg. 24211, 24223 [May 1, 1998]).

Fishery Impact Statements and Fishing Communities:

Fishery Impact Statements (FIS) must be prepared when new management plans or amendments to existing plans are being considered. Section 303(a)(9) on preparation of FISs requires that they “...shall assess, specify, and analyze the likely effects, if any, including the cumulative conservation, economic, and social impacts, of the conservation and management measures on, and possible mitigation measures for— (A) participants in the fisheries and fishing communities affected by the plan or amendment; [and] (B) participants in the fisheries conducted in adjacent areas under the authority of another Council...”

The seemingly straightforward requirement to consider impacts to communities has generated a multiplicity of methodological approaches to understanding regulatory impacts on communities (Ingles and Sepez 2007). These various methodologies further involve deep-seated theoretical issues relating to the definition of fishing community (Clay and Olson 2007) and the role of human communities within the ecosystem.

Guidelines for the Assessment of the Social Impact of Fishery Management Actions are provided as Appendix 2(g) of the NOAA/NMFS Council Operational Guidelines – Fishery Management Process.⁷

National Standard 8 Requirement to Minimize Impacts to Fishing Communities:

In looking at the details of the full NS8 language quoted above, note that it states that fisheries management “...provide[s] for the sustained participation (undefined) of fishing communities and the minimization of adverse economic impacts (B) to the extent practicable, minimize adverse economic impacts on such communities.” [16 U.S.C.1802 Sec. 301 (a)(8)]

Minimization of adverse impacts to fishing communities must be considered, but is qualified by the additional phrase “to the extent practicable” which like “sustained participation” is also undefined.

Limited Access Privilege Programs and Fishing Communities:

⁵ The 2007 amendments to the MSA clarified this provision by adding, after “to fishing communities” the phrase “by utilizing economic and social data that meet the requirements of [MSA 301(a)] paragraph 2.” (NOAA/NMFS Council Operational Guidelines – Fishery Management Process Appendix 2(g) Guidelines for Assessment of the Social Impact of Fishery Management Actions, p.6. Available online at <http://www.nmfs.noaa.gov/directives/>. They were updated in 2008.

⁶ In the original legislative debate over fishing communities, both the House version emphasizing “local coastal communities” and the Senate version referencing “any place where vessel owners, operators, and crew or US fish processors are based” were firmly place-based (NOAA Office of General Counsel 1997: sec. 102).

⁷ See Endnote iii.

Fishing communities of both place and interest are written into the MSA sections on Limited Access Privilege Programs (LAPPs). The MSA as amended through January 12, 2007, by the MSA Reauthorization Act (P.L. 109-479) Sec. 303A (c)(3)(A) states:

To be eligible to participate in a limited access privilege program to harvest fish, a fishing community shall –

- be located within the management area of the relevant Council;
- meet criteria developed by the relevant Council, approved by the Secretary, and published in the Federal Register;
- consist of residents who conduct commercial or recreational fishing, processing, or fishery-dependent support businesses within the Council’s management area; and
- develop and submit a community sustainability plan to the Council and the Secretary that demonstrates how the plan will address social and economic development needs of coastal communities, including those that have not historically had the resources to participate in the fishery, for approval by the Secretary and published in the Federal Register.

The participation criteria for eligible communities are further spelled out with Councils instructed to consider six different criteria including:

- traditional fishing or processing practices in, and dependence on, the fishery;
- the cultural and social framework relevant to the fishery;
- economic barriers to access the fishery;
- the existence and severity of projected economic and social impacts associated with implementation of limited access privilege programs on harvesters, captains, crew, processors, and other businesses substantially dependent upon the fishery in the region or sub region;
- the expected effectiveness, operational transparency, and equitability of the community sustainability plan; and
- the potential for improving economic conditions in remote coastal communities lacking resources to participate in harvesting or processing activities in the fishery.

The fishing communities section is assuming a place based definition of community. However the next section -- (4) Regional Fishery Associations, is released from the place based constraint other than to require that a fishery association be located within the relevant management area of a particular Council. These associations are “communities of interest.”

The first two criteria for participation are the same for fishing communities and regional fisheries associations. The next four for fisheries associations differ, and are as follows:

- be a voluntary association with established by-laws and operating procedures;
- consist of participants in the fishery who hold quota share that are designated for use in the specific region or sub region covered by the regional fishery association, including commercial or recreational fishing, processing, fishery-dependent support businesses, or fishing communities;
- not be eligible to receive an initial allocation of a limited access privilege but may acquire such privileges after the initial allocation, and may hold the annual

fishing privileges of any limited access privileges it holds or the annual fishing privileges that is [sic]⁸ members contribute; and

- develop and submit a regional fishery association plan to the Council and the Secretary for approval based on criteria developed by the Council that have been approved by the Secretary and published in the Federal Register.

The first four fishery association criteria for participation that Councils are directed to consider are the same as those for fishing communities, while the final two differ. The final two are:

- the administrative and fiduciary soundness of the association; and
- the expected effectiveness, operational transparency, and equitability of the fishery association plan.

Fishing communities appear again in the section on allocation. In section (5)(A), Councils are instructed to consider among other things:

- “the current and historical participation of fishing communities”.

In section (5)(B), Councils are told to:

“consider the basic cultural and social framework of the fishery” through “(i) the development of policies to promote the sustained participation of small owner-operated fishing vessels and fishing communities that depend on the fisheries, including regional or port-specific landing or delivery requirements; and (ii) procedures to address concerns over excessive geographic or other consolidation in the harvesting or processing sectors of the fishery.”

In section (5)(C), Councils are instructed to:

“include measures to assist, when necessary and appropriate, entry-level and small vessel owners-operators, captains, crew, and fishing communities through set-asides of harvesting allocations...” (then lists other ways adjust allocations to achieve goal)

Ecosystems Tied to Fishing Communities:

With regard to ecosystems, the MSA is less prescriptive, but utilizes the term throughout in a variety of key passages which are often tied also to the needs and practices of fishing communities. It, for instance, requires that Fishery Management Plans (FMPs) implemented to rebuild overfished stocks take into account “the status and biology of any overfished stocks of fish, the needs of fishing communities, recommendations by international organizations in which the United States participates, and the interaction of the overfished stock of fish within the marine ecosystem . . . [and] allocate both overfishing restrictions and recovery benefits fairly and equitably among sectors of the fishery.”⁹

⁸ So in original.

⁹ The full text is “(4) For a fishery that is overfished, any fishery management plan, amendment, or proposed regulations prepared pursuant to paragraph (3) or paragraph (5) for such fishery shall—(A) specify a time period for rebuilding the fishery that shall—(i) be as short as possible, taking into account the status and biology of any overfished stocks of fish, the needs of fishing communities, recommendations by international organizations in which the United States participates, and the interaction of the overfished stock of fish within the marine ecosystem; and (ii) not exceed 10 years, except in cases where the biology of the stock of fish, other environmental conditions, or management measures under an international agreement in which the United States participates dictate otherwise;

Some Points to Keep in Mind:

- A context of legal exactness exists for identifying *communities that fish* and for identifying and analyzing activities, firms, support services related to commercial fisheries located within or adjacent to them.
- Differing opinions and levels of fishing dependence and engagement are often common among fishermen of the same fishing community or fishing related community.
- Social relations within and between communities may be complicated and antagonistic, and include elements that the MSA definition of a community requires managers to take into account.
- Metrics used to identify fishing communities (e.g., tons of fish landed, number of fishing vessels home ported, number of fishing permits held by residents, and so forth) have to be put in context because what constitutes vulnerability at a community level requires ethnographic understandings of the places and spaces of fishing, individual and sub-group characteristics, and institutions and practices as they have been shaped by historical processes.

Some Questions to Ask:

1. Who defines the boundaries of the fishing community or fishing related community and the inclusion of varying relations to multiple seascapes?
2. Is community resilience always the same as fishing community resilience, and who decides?
3. "...sustained participation of fishing communities..." -- How do we define and measure it?

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(B) allocate both overfishing restrictions and recovery benefits fairly and equitably among sectors of the fishery; and (C) for fisheries managed under an international agreement, reflect traditional participation in the fishery, relative to other nations, by fishermen of the United States" (16 U.S.C. § 1854(e)(4)).

Appendix 2:

NOAA Commercial Fishing Communities & Catch Shares Workshop Briefing Paper Discussion Topic 2: MSA 303A Limited Access Privilege Programs and Communities

Prepared by Connie Sathre,
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Objectives:

- Review the Limited Access Privilege Program (LAPP) provisions of §303A of the Magnuson-Stevens Fishery Conservation and Management Act (MSA).
- Discuss potential uses of §303A, including the “fishing communities” and “regional fishery associations” provisions, to sustain communities.

Background/Context:

Section 303A of the MSA sets out requirements for limited access privilege programs. Key provisions include:

- Limited access privileges do not create any right, title or interest in fish before the fish are harvested. Privileges can be revoked, modified, etc.
- Only U.S. citizens, corporations, partnerships, or other entities established under the laws of the United States or any State may acquire a privilege. Councils may include other eligibility requirements.
- Councils must consider a number of criteria when establishing a program, including criteria regarding communities.
- Limited access privilege holders may not acquire an excessive share of the total limited access privileges in the program.
- Councils must establish criteria for transferability of limited access privileges.

Section 303A also includes provisions for “fishing communities” and “regional fishery associations”. See comparison table under “Recommended Reading” below.

Strengths and Weaknesses/Obstacles and Opportunities:

- Section 303A permits flexibility in designing and implementing a LAP program.
- The “fishing communities” and “regional fishery associations” provisions require additional process, but allow additional flexibility, public process, and accountability.

Trigger Questions:

- How could a Council use §303A, including the ‘fishing communities’ and ‘regional fishery association’ provisions, to meet its goals for communities?

- What are “fishing communities” and “regional fishery associations”? How do they differ from other governmental, non-governmental, or non-profit entities?
- What types of participation criteria could be established?
- How would these ideas comply with National Standard 4, which states that conservation and management measures shall not discriminate between residents of different states?

Recommended Reading:

- Comparison of “fishing community” and “regional fishery association” provisions of 303A (Word doc)
- Excerpts from Senate Report 109-229

Appendix 3:

NOAA Commercial Fishing Communities & Catch Shares Workshop Briefing Paper Discussion Topic 3: Non-303A Community Pathways for Councils-CFAs, Sectors

Prepared by Jim Seger,
Pacific Fishery Management Council

Objective:

In the previous discussion session covered the 303A(c)(3)/(4) criteria. The purpose of this session is (1) to explore the advantages and disadvantages of using the 303A(c)(3)/(4) provisions to provide for community-oriented entities, in comparison with providing for such entities independent of 303A(c)(3)/(4), and (2) to identify legal constraints and policy issues to be considered in creating special provisions for community-oriented entities.

Terminology:

The term “community-oriented entity” is used here to designate any entity existing to benefit communities or regions, including local municipalities, nonprofits, community fishing associations, fishing communities, and regional fishery associations.

Background:

While Sections 303A(c)(3)/(4) provide two sets of criteria and governing provisions for the participation of certain types of community-oriented entities in a catch share program, it is clear that these are not the only means by which such organizations might participate. In general, the MSA allows fishing privileges to be acquired only by persons¹ who are (1) US citizens, (2) corporations, partnerships and other entities established under the laws of the United States or any state, and (3) permanent resident aliens. Those potentially eligible may be further restricted by the eligibility and participation requirements of a particular LAP program. (see 303A(c)(1)(D)).² Community-oriented entities that fall within the qualifying classes listed in 303A(c)(1)(D) and otherwise meet “the eligibility and participation requirements of a particular LAP

¹ MSA Section 3(36) defines a person as

any individual (whether or not a citizen or national of the United States), any corporation, partnership, associations, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

² Note: “The Design and Use of Limited Access Privilege Programs” interprets 303A(c)(5)(E) as a limit on the scope of who is allowed to own LAP. 303A(c)(5)(E) states that a limited access program shall authorize limited access privileges to harvest fish to be held, acquired, used by, or issued under the system to persons who substantially participate in the fishery, including in a specific sector of such fishery, as specified by the Council.

However, that limitation has been interpreted as meaning only that the entities identified in 303A(c)(5)(E) must be included within the scope of the program. It has not been interpreted as a restriction against inclusion of anyone falling outside of 303A(c)(5)(E) but within 303A(c)(1)(D).

program” may participate in a LAP program without the need for special provisions. For example, the West Coast groundfish trawl shoreside IFQ program provides an initial allocation to any entity owning a limited entry trawl permit and allows participation in the program by any entity eligible to own a US documented fishing vessel. Any incorporated community organization that is eligible to own a US documented fishing vessel would be eligible to (1) acquire a limited entry trawl permit and thereby qualify for an initial allocation, and (2) acquire LAP through market transfers after initial allocations occur.

Providing an opportunity for community-oriented organizations to participate in a LAP is only one reason for special provisions for such entities. The following are three general categories of situations in which a particular LAP program might need to include special provisions for communities.

1. Because of the design of the LAP program, community-oriented entities cannot participate in common with other program participants.
For example, a program does not allow LAP ownership by incorporated individuals or requires LAP owners to be on board vessels.
2. Because of the design of the program, in order to meet their objectives, community-oriented entities need some special consideration not provided to other participants.
For example, a program allows community-oriented entities to participate fully in common with all other participants, but in order to meet its objectives, the entity needs to control an amount of LAP greater than allowed for other participants.
3. Because of conditions in the fishery and fishing communities, there is a perceived need to incentivize, subsidize (e.g. through an initial allocation), or otherwise encourage the community-oriented entity development and participation in the LAP program.
For example, recognized community-oriented entities might be afforded first chance to acquire LAP revoked from other participants through enforcement proceedings.

From this it can be seen that the need to create species provisions for community-oriented entities may be driven by the design of a particular LAP program and, potentially, the local conditions in the fishery and fishing community. If it is determined that special provisions for community-oriented entities are needed, then such provisions may be created either through the 303A(c)(3)/(4) or the non-303A(c)(3)/(4) authorities provided in the MSA. The non-303A(c)(3)/(4) authorities are simply those other provisions of the MSA which govern Council recommendations, including the National Standards and other sections of 303A (such as 303A (c)(1)(D)).

Other Policy Issues to Be Considered if a Non-303A(c)(3)/(4) Route is Taken:

- Who will be allowed to represent a community and what criteria must be met?
- What special privileges would be provided and how do they connect with policy objectives?
- What operational standards must be met?
- Would community sustainability plans be required?

Trigger Questions:

- Are there any particular conditions under which 303A(c)(3)/(4) must be followed?
- Are there any particular conditions under which there is an advantage in following 303A(c)(3)/(4)?
- What are the advantages and disadvantages of providing for a community-oriented entity without going through the 303A(c)(3)/(4) criteria?
- If community-oriented entities are recognized for special provisions without going through 303A(c)(3)/(4), what restrictions and criteria apply to those special provisions?
- What other legal constraints and policy considerations need to be taken into account in creating special provisions for community-oriented entities which are not organized in conformance with 303A(c)(3)/(4) provisions?
- How will it be determined whether or not the 303A(c)(3)/(4) criteria will be used in evaluating the approvability of a Council recommendation?

Recommended Reading:

Anderson, L. and M. Holliday (Eds). 2007. The Design and Use of Limited Access Privilege Programs. In particular, the second full paragraph on page 41 though the summary on page 42.

Appendix 4:

NOAA Commercial Fishing Communities & Catch Shares Workshop Briefing Paper Discussion Topic 4: Sustainability Plans and Regional Fishery Association (RFA) Plans

Prepared by Mark Grant,
NOAA Fisheries Northeast Regional Office, Gloucester, Massachusetts

Objectives:

- Section 303A of the Magnuson-Stevens Act provides for the creation of both Fishing Communities (FC) and RFAs to participate in LAPPs and requires them to develop and submit community sustainability plans and RFA plans, respectively; but the requirements for these plans are undefined.
- Provide a case-study of Northeast Multispecies sectors as a possible analog to RFAs to stimulate discussion of this type of LAPP.
- Discuss some of the detailed requirements of sector operations plans to stimulate discussion of the possible requirements for FC sustainability plans and RFA plans.

Background/Context:

No council has yet developed eligibility criteria for FCs and RFAs under MSA Section 303A . However, §303A specifies that FCs and RFAs must develop and submit sustainability plans. To help generate discussion of possible requirements of such plans I use the case study of sectors in the Northeast multispecies (groundfish) fishery. ‘Sectors’ are self-selecting groups that form and are allocated quota. Sectors must apply to, and be approved by, the New England Fishery Management Council (Council) to be implemented and must also submit an operations plan to NMFS annually, to be approved to fish and allocated quota. Experience working with the Council, industry, NGOs, and sectors has shown that it is important to balance the need for detailed plans, the responsibility for developing and analyzing plans, and the flexibility of these groups to determine their own fate. This briefing paper discusses sector operation plans as an example analogous to FC and RFA plans to stimulate discussion about the potential content requirements of FC and RFA plans.

Example(s):

“Liberty means responsibility. That is why most men dread it.”
George Bernard Shaw, Maxims for Revolutionists

Sectors were developed in 2004 as a way to allow interested groups of fishermen to opt for quota-based management in place of an effort-control management regime without a mandatory transition to quota-based management for the entire fishery. This allowed a dual management system for a fishery that was not yet ready for a complete conversion to a catch share. In 2004 a single sector was approved, formed by a group of small-boat hook fishermen from Cape Cod that targeted Georges Bank cod. This was the archetypal sector formed by a self-selected group that

was already working together to address common concerns. A second similar sector formed in 2006.

The Council allowed vessels to form sectors of their own choosing. Such self-selected sectors might be based on common fishing practices, vessel characteristics, community organization, or marketing arrangements, but this was not required and offered a great deal of flexibility in the formation of sectors. One of the major benefits of self-selecting sectors is that they provide incentives to self-govern, therefore, reducing the need for Council-mandated measures. They also provide a mechanism for capacity reduction through consolidation.

In 2010 Amendment 16 implemented ACLs, AMs, and reduced effort on some stocks up to 100% to end overfishing and/or rebuild overfished stocks in the mandated rebuilding time. The use of effort-controls in a multispecies fishery, including limiting days-at-sea (DAS) of each vessel, meant that the necessary effort and mortality reductions would dramatically curtail fishing. Amendment 16 extensively revised and expanded the use of sectors to mitigate (to the extent possible) the economic impacts. Amongst the changes were expanded requirements for sector operations plans, including detailed monitoring systems. Sectors are also responsible for a NEPA document analyzing their operations plan if it has not been previously analyzed. Seventeen sectors are now operating.

Operations plan requirements include:

- A list of all participants and a contract signed by all participants;
- A list of all vessels that would be part of the sector indicating which vessels will fish;
- The original distribution of quota;
- A detailed plan for consolidation of quota, if any is desired, identifying potential redirection of effort as a result of sector operations;
- A plan and analysis to show how the sector will avoid exceeding their allocated quotas;
- Rules for entry and exit to the sector including procedures for removing or disciplining members of the sector who do not abide by its rules, and notifying NMFS of such actions;
- Detailed information about penalties or actions to be taken if the sector exceeds its quota;
- Detailed information about the sector's independent third-party dockside monitoring system;
- Detailed information about a monitoring program for discards;
- A list of all Federal and State permits held by vessels participating in the sector;
- A list of specific ports where members will land fish; and,
- Quota thresholds that trigger increased reporting frequency and details regarding the sector's plans for notifying NMFS once the specified threshold has been reached.

Strengths and Weaknesses/ Obstacles and Opportunities:

- It is difficult for industry to draft detailed plans and contracts because of the need for consensus of members and the need for expertise in areas beyond fishing, including corporate law, contract law, monitoring systems, and NEPA analyses. It is costly to hire this expertise.

- Requirements for such plans need to change the balance of flexibility and responsibility. Sectors sometimes failed to take on the responsibilities they didn't want.
- A full-time professional is necessary to run the sector as an organization, which adds cost.
- The confidentiality provisions of the MSRA limit the ability for NMFS and the Council to publicly report on the successes or failures of sectors.
- Joint liability encourages sectors to self-police, but also creates difficulties in formation. Not only are many fishermen leery of joint liability, but government and non-government organizations that would like to be involved will not enter into joint liability with others.
- Requiring plans be submitted on a regular basis allows the opportunity to change or disapprove plans. However, annual plans require year 2 to be completely planned out just a few months into year 1, creating a long lag in responding to problems and is administratively burdensome to both industry and NMFS.
- West coast cooperatives are handled differently and also deal with larger-scale industry members that may facilitate administrative requirements.

Trigger Questions:

- What specific information and planning are needed for RFA and FC sustainability plans?
- Should the community have a special need that requires, or justifies, collective quota holding (e.g., to anchor quota in an area)? Who defines 'community'?
- Flexibility, Responsibility & Administrative burden-- How do we balance? We need for groups to have flexibility to design their own rules; we need for the public to review a detailed plan; and we need to satisfy NEPA, confidentiality requirements, and the other administrative responsibilities that come with flexibility.

Recommended Reading:

- Sector operations plan guidance for fishing year (FY) 2011.
- Port Clyde Sector Operations plan for FY 2010.
- <http://www.nero.noaa.gov/sfd/sfdmultisectorinfo.html> has redacted copies of all 17 sector operations plans, their amendments, and the associated environmental assessment in adobe acrobat format.

Appendix 5:

NOAA Commercial Fishing Communities & Catch Shares Workshop Briefing Paper Discussion Topic 5: Monitoring and Evaluating Community Objectives/Outcomes

Prepared by Michael Jepson,
Social Scientist, NOAA Fisheries Service Southeast Regional Office

Objectives:

This topic addresses the issues around monitoring and evaluating a catch share program that includes 303A community provisions. Designation of FCs/RFAs in a catch share program is linked to specific management goals, and programs must be monitored to determine if the FCs/RFAs are allowing these objectives to be met. This discussion focuses on the requirements and the challenges of monitoring at the community level.

Background/Context:

Section 303A (c)(1)(G) of the MSA states that “Any limited access privilege program:

(...) shall – include provisions for the regular monitoring and review by the Council and the Secretary of the operations of the program, including determining progress in meeting the goals of the program and this Act, and any necessary modification of the program to meet those goals...”

The NOAA Catch Share Policy states that, early in the FMP process, councils should develop explicit management goals so that the program can be tailored to meet those goals. Program design must include a monitoring program to measure progress towards all goals, including social, economic, and---our focus today---community objectives.

All FMPs, not just catch share programs, require specific goals and should be based on the council’s future vision for the fishery. A council may choose to meet their community-based objectives by implementing a catch share program that includes FCs or RFAs to allow for collective quota. In this case, the council would need a plan for monitoring and evaluation to determine if the FCs/RFAs are helping reach those community goals. A council may choose to use FCs/RFAs to meet fishery objectives such as anchoring quota in a geographic area; sustaining or improving fishing employment opportunities; economic development of a community; just to name a few.

Many catch share programs monitor social and economic performance at the individual level, because quota is allocated to individual fishermen or vessels, such as in the Gulf of Mexico IFQ programs for red snapper, grouper, and tilefish. The overall goal of this multi-species IFQ program is to reduce overcapacity and improve safety at sea by eliminating derby conditions. At present, monitoring is accomplished through use of VMS and an online landing transaction report. The program is evaluated on a yearly basis using logbook data and an IFQ database in

order to analyze: indicators of effort, transfers, landings, and share prices; economic performance through a stochastic frontier analysis; and cost adjustments and supply responses. A survey of participants is also used to determine shareholder attitudes towards the program and for a socioeconomic assessment of the program.

However, designing a monitoring program for community quota presents many challenges. Data that can be used in community metrics must be available and adequate, including baseline data. If a council has a specific management goal that is intended to be reached via FCs or RFAs, the data to measure progress towards the goal must be available, or have the potential to be collected and analyzed.

There are many options and tools for monitoring programs, and both quantitative and qualitative methods can be used to monitor the effectiveness of FCs/RFAs. If a quantitative method is desirable to measure progress, some community metrics have already been developed by fisheries social scientists. Below we present two examples of this work, which could be used directly or adapted to fit a specific monitoring program.

Two Examples of Community Metrics:

These are currently under development for assessing community vulnerability and dependence on managed species.

- **Indicator of Community Vulnerability:**

The index of community vulnerability reflects the parameters of social vulnerability of fishing communities, which is the *potential for loss* in response to an event or change (e.g., natural disaster, economic downturn, or for fisheries, a regulation change). For overall social vulnerability assessment, there are 11 component indices, each of which contains between four and six variables. The indices included are: labor force structure, housing characteristics, housing disruptions, personal disruption, poverty, retiree migration, urban sprawl, natural resource migration, disaster, social fishing dependence, population vulnerability/resilience and commercial and recreational fishing reliance. A community vulnerability index includes census components of demographics, poverty, housing, and growth, along with fisheries components of landings, permits and infrastructure.

- **Location Quotient (LQ):**

Adapted from economics and shiftshare analysis, the LQ is an analysis tool that compares local workforce statistics with national averages. The Fisheries LQ measure interprets local landings data to determine local reliance on managed species and depends on availability of community landings data. Adapted from the economic metric described above, the LQ is calculated by dividing the local percentage of total landings for a species by the regional percentage of total landings for the same species. The calculated value represents a measure of community dependence on the corresponding species.

Strengths and Weaknesses/ Obstacles and Opportunities:

- Challenge: Developing metrics at the community level
- Opportunity: Communities can be involved in data collection, monitoring, and evaluating their own participation.
- Obstacle: Availability of quality and timely data
- Obstacle: “Rule of 3” Due to federal confidentiality rules, landings data with less than three operators may not be used.

Trigger Questions:

- What are some management goals that having FCs and RFAs would contribute to?
- What performance metrics could be used to evaluate if designation of FCs and RFAs are contributing to progress towards management goals?
- What existing socioeconomic data collection and monitoring programs could contribute to effective monitoring of FCs/RFAs?
- What are some sources of baseline data for community-level metric?
- What responsibility does the FC/RFA hold in collecting and providing data for evaluation and monitoring?

Recommended Reading and Referenced Literature:

- Cutter, Susan L., Boruff, Bryan J., and Shirley, W. Lynn (2003) Social Vulnerability to Environmental Hazards. *Social Science Quarterly* 84(2), 242-261.
- Jacob, Steve and Michael Jepson (2009) Creating a Community Context for the Fishery Stock Sustainability Index. *Fisheries* 34(5), 228-231.
- Jacob, S. P. Weeks, B. G. Blount, M. Jepson. 2010 Exploring Fishing Dependence in Gulf Coast Communities, *Marine Policy*, Vol. 34(6):1307-1314.
- Jepson, Michael and Steve Jacob (2007) Social Indicators and Measurements of Vulnerability for Gulf Coast Fishing Communities. *NAPA Bulletin* 28, 57-68.

Appendix 6a:

NOAA Commercial Fishing Communities & Catch Shares Workshop

Briefing Paper Discussion Topic 6: White Paper on Communities Getting and Holding Quota - *Overview*

Prepared by Merrick Burden,
Environmental Defense Fund

Introduction:

This document is intended as a thought provoking tool to spur discussion and consideration of several topic areas related to Fishing Communities and Regional Fishery Associations. These topic areas include:

- Initial Allocation,
- Transferability,
- Accumulation Limits,
- Permit Banks,
- Fisheries Loan Funds,
- Catch Accounting

This sub-set of topic areas necessarily makes the scope of this discussion document quite broad. Rather than articulating a recommended pathway for dealing with any of the above topic areas, this document will articulate some economic and social dynamics, the placement of those dynamics within desired outcomes, and otherwise articulate thoughts that appear relevant.

This discussion paper starts by outlining some of the underlying factors of a market-based catch share system that appear to influence fishing communities. After establishing this baseline, the document identifies factors which appear to be able to tweak such underlying factors in order to respond to community objectives (or other objectives for that matter). The document ends by identifying some thoughts on each of the above topic areas.

Fishing Communities, Catch Shares, and the Effects of Fishery Management:

Almost any change in the fishery management regime will impact the economic and social dynamics of the people and communities that are involved within that fishery. Catch share systems are no exception. However, the manner in which catch share programs impact the social and economic dynamics of a fishery depend upon the fishery characteristics and also the design of the particular catch share system.

When considering the potential impacts of various fishery management regimes, it can be helpful to begin with a conceptual base line. Catch share programs are often developed in a manner that allows the underlying individual quota to be transferred and this causes the particular catch share system to be heavily influenced by market dynamics. In other words, allowing the underlying

individual quota to be transferred allows that quota to take on a value, and the market will attempt to steer that quota to the place of highest return.

Individual quotas (whether they be IFQs, ACE, PSC, catch history, or others) in a catch share system are often divisible and typically “stack-able” meaning the quota can be divided down to fine units (like individual pounds or percentages) and then stacked upon a single vessel or consolidated into fewer owners. High levels of divisibility and transferability makes transfers of quota relatively “fluid” and allows the market to direct that quota to operations that are relatively profitable and away from those that are less profitable. The more finely divisible the underlying individual quota, the more fluid one can expect the movement of that quota toward places of highest value. The less divisible, or the less transferable the quota, the more difficult the movement of that quota is toward the place of highest value, though the underlying market tendency still exists.

This underlying tendency is not necessarily “good” or “bad”. Such a judgment requires consideration of a whole variety of factors and effects that are occurring simultaneously to these market tendencies. The goals for the program, the existing state of the fishery, and other dynamics must be considered before determining whether such underlying tendencies are beneficial or adverse.

In general, the above description of underlying fundamentals is based on fishery participants having a profit-maximizing objective. Furthermore, such underlying fundamentals imply that for profit individuals or corporations are making the quota purchase and sale decisions. Should underlying objectives change, or should the underlying entities making the purchase and sale agreement change, the underlying tendencies for quota migration can be substantially different.

Profit Objectives, Externalities, and Outcomes:

For-profit entities may hold a distinct set of goals and objectives that are oriented around profit maximization. This profit maximization outcome is based on profits secured by that particular entity. Individual profit motives may tend to ignore the effects upon other businesses, other entities, or other aspects of society. Such outside effects that occur but are not considered by the purchaser or seller of the quota could be called “externalities”. In practice there are ways to address such externalities. In the context of a catch share-based fishery this may include such things as:

- Imposing restrictions or terms on the transfer and use of such quota, or
- Having the quota held by an entity that internalizes such factors. This may be a governmental entity, a non-profit corporation, or similar.

Whether to address such externalities is a policy tradeoff. In order to make informed policy decisions, the suite of effects, their drivers, and their causes should be understood. For instance, a for-profit entity may not address such community factors because doing may not be conducive to profit maximization. It is logical to assume then that imposing terms or restrictions intended to address such externalities would negatively impact the bottom line of those forced to bear those restrictions. This may have several secondary effects that should be considered. For

instance, if the restrictions are regionally specific and cause that entity to incur additional costs, that entity may look to engage in business elsewhere, taking with them tax receipts and jobs from that local area. Alternatively, such restrictions may distribute fishery-based economic activity broadly among the local fishery economy in a manner that may not otherwise occur without restrictions or conditions placed upon for-profit entities.

Local Government and Community Autonomy:

When the above concepts are viewed in the context of fishery communities, the appropriate goals, objectives, and outcomes may be best articulated by that individual community. Where one community may desire a small fleet of highly productive and profitable vessels with high paying jobs, another community may desire a large number of less profitable vessels with greater numbers of jobs. In such cases, rather than a one size fits all approach imposed on fishery communities by the Federal government or a Regional Fishery Management Council (RFMC), it may be more conducive for these Federal governing bodies to instead acknowledge certain levels of autonomy held by community government and locally elected community officials. One way in which this could be done is by setting up a framework under which such communities can engage in fishery management matters at their local level – if they so choose. This may involve that community acquiring quota and leasing it to fishermen under certain standards and conditions in order to achieve the desired outcome for their community.

Under the above structure, a RFMC may broadly indicate the types of activities and standards that a local community may impose on local fishermen. The RFMC may then require periodic reporting of that community in order to monitor the activities and effects of fishermen operating under standards crafted by the local community. This reporting would also help ensure that the overall goals and objectives the RFMC and Congress have established for managed fisheries as a whole are being met and are not being undermined by the deference given to such communities and the related activities occurring as a result of that deference.

The above concepts all require that entities in a community – or a representative community body – hold quota. This may come from an initial allocation of quota or through transfers of quota to entities within that community. It should be noted that similar outcomes could occur by imposing restrictions or terms upon for-profit entities.

Initial Allocation:

Initial allocation is a very complex topic. Available information indicates that whether and to what degree participants receive initial allocation will have a large impact upon their future participation in the fishery. This is undoubtedly true for communities as well. The manner in which communities receive and hold quota (or associated landings and fishery activity) can come in many different forms:

- A community may hold quota simply through the quota held by fishermen in the local port
- A local seafood processor may hold quota and lease that quota out to fishermen that choose to deliver back to a processing facility in a particular community

- A community may hold quota through a government entity or association which holds quota and utilizes that quota on behalf of the community
- A Regional Fishery Management Council may have developed a policy requiring certain amounts of quota held by fishermen to be fished or delivered in a particular area of the coast, thereby insuring continued deliveries of harvested fish to communities in each zone

The above are examples of communities holding quota either directly or indirectly. Direct ownership can come from an initial allocation, however the MSA indicates that RFAs are not eligible to receive an initial allocation, yet it appears that Fishing Communities are eligible. Subsequent transfers of quota are another vehicle for direct ownership. This implies that communities or RFAs may receive initial allocations of quota indirectly through the initial allocations made to entities like harvesters or processors. Indirect ownership of that quota could continue to occur in to the future if terms or community-based linkages are applied to such quota.

Another possibility for indirect ownership appears to be through the establishment of zoning or landing restrictions upon quota to achieve social and economic objectives. Such zoning would have the strong tendency to direct landings of harvested quota species to certain regions or communities even if those communities are not eligible for an initial allocation. This means that the utilization of that quota may still be done in a manner that is profit maximizing to the owner of that quota, but the activities associated with harvesting those species may very well continue to be based in particular communities.

If a community seeks to secure quota to preserve or maintain local infrastructure and fishery-related business, that community must be able to hold or attract landings sufficient to prop up that infrastructure or support business. If an entity is to hold quota and use that on behalf of the community, then this implies that accumulation limits of quota be set in a manner that includes, in addition to a variety of factors, the needs of communities and the types of entities which will hold that quota.

Accumulation Limits:

Limits on the accumulation of quota can come in several forms and may include multiple considerations in the determination of the appropriate size. Accumulation limits may be set to:

- Limit the amount of fish a vessel can harvest in a year (restricting fleet consolidation)
- Limit the amount of quota an entity can own (restricting ownership consolidation)

Some of the goals for setting limits may include things like, maintaining an owner/operator fishery, ensuring a diverse set of vessels and operators in a fishery, ensuring that regional market control does not occur, and other factors. *Different categories* of accumulation limits can also be set for different quota holding entities. When considering accumulation limit categories and addressing community objectives, it may be worthwhile to establish different categories such as accumulation limits for A) for-profit fishing firms, and B) entities operating on behalf of a community.

In doing so, care should be taken to A) clearly define the differences between a fishing firm and community entity, and B) establish measures and processes for reporting and enforcement in order to prevent abuse to the accumulation limit structures.

Transferability:

A previous paragraph indicated that a “right of first refusal” could be established for quota allocated to entities within a community. A community entity would be given a right of first refusal to acquire quota should the original owner of that quota within that community desire to transfer that quota elsewhere. Measures such as this condition transfers and can be created in order to provide communities with tools to address their community objectives. Other tools may include, for instance:

- A geographic restriction or linkage of certain quota categories to particular regions or communities
- The zoning of catch to specific areas with the idea that such zoning would encourage landing of that harvested fish to within that area

Permit Banks:

One possible example of an entity that could act on behalf of a community is a “permit bank”. If accumulation limits are specified as part of a catch share program, then the RFMC may wish to establish different accumulation limits categories between for-profit fishing firms and permit banks. This could be the case if the accumulation limits set for for-profit entities are not sufficient for a community that is attempting to attract fishery activity in to its port.

To establish this different category, what is meant by a “permit bank” should be clearly defined and the activities which make that entity eligible for a different set of accumulation limits should also be clearly defined. One possible structure is that a “permit bank” be a quota owning entity that does not engage in fishing activity. To receive a higher accumulation limit, that permit bank entity would be required to contract with a set of vessels that would harvest that quota and deliver it based on terms the bank may stipulate in the contract. Such a structure may help to ensure that the permit bank accumulation limit (which would presumably be relatively large) does not become a loophole for profit-maximizing entities.

Each of these examples impose restrictions on the ability of vessels to transit to another area, the ability of quota to be transferred to vessels or owners operating in another area, or similar.

Fishery Loan funds:

Fishery loan funds may be a tool for communities to use in lieu of restrictions upon quota transferability. The use of such funds implies that loan conditions would be more favorable to the user of that loan fund than the conditions required of a more typical financial institution. This may come in the form of relatively favorable interest rates and/or the willingness of the loan fund to take on riskier ventures than a for-profit financial institution. Either factor may have advantages to a community, especially if an entity plans to purchase quota with a loan and then

engage in fishery activities which may not have profit maximization as an objective. By not seeking profit maximization, the income generated off the underlying quota would tend to be smaller than could otherwise be the case. Without the willingness of the financial institution to take on risk or to offer up a relatively low interest rate for a loan, it may be difficult for such an entity to make loan payments (or to secure the loan in the first place) while simultaneously seeking community-based objectives.

Trigger Questions:

- How could a Council make initial allocations with FCs, and what is initial allocation based on?
- How can a Council set accumulation limits for FCs/RFAs? What is necessary to avoid loop-holes?
- How would FCs/RFAs affect the market for catch shares?

Catch Accounting:

Finally, particular thought may need to be given to catch accounting when considering fishing communities or RFAs. Assuming that a fishing community or RFA has a given amount of quota that is governed by the standards or bylaws of that group, and assuming that the catch share program holds vessels individually accountable, then catch monitoring applies to two layers of quota tracking (the collective community quota and the individual vessel quotas). This type of a structure may indicate the need to hold entities within these arrangements both jointly and severally liable in order to ensure robust accounting of the collective and individual quotas. In this type of a system, individual vessels must have significant enough trust of the other vessels in the group in order for that group to be successful. When considering catch monitoring, the monitoring system may need to be designed in such a way as to substantially prevent cheating or “free riders”, especially where joint liability exists. If one vessel operator can be held accountable for the cheating of another vessel operator in that group, then the arrangement may be at risk of crumbling if monitoring is not sufficient for individual operators to trust that they know the activities of another.

Trigger Questions:

- What are the pros and cons of setting up a permit bank to manage the quota?
- How could a loan program be established and funded?
- What are some other ways for FCs and RFAs to access capital to purchase quota?
- What are some options for a community catch accounting system?

Appendix 6b

NOAA Commercial Fishing Communities & Catch Shares Workshop

Discussion Topic 6: Communities Getting and Holding Quota & Mitigation: Examples of Community Considerations in the North Pacific

Co-Facilitator: Glenn Merrill, NOAA Fisheries Service Alaska Region

Community interests in the North Pacific have been addressed through: (1) allocations of catch share privileges; (2) catch share purchase provisions for community interests; and (3) transfer limits on share categories commonly assigned to fishermen operating in coastal communities.

Allocations to Communities

- Can provide job opportunities, infrastructure funding, assets “in trust”
- Controversy over potential conflict with existing participants when “slicing the pie”
- No experience directly allocating proportionally higher allocations to residents of specific communities rather than to community entities.

The North Pacific Council (Council) designed the Western Alaska Community Development Program (CDQ), initially in 1992, to assign catch shares to specific Western Alaskan communities located along the coast of the Bering Sea. The Council also recommended allocations of pollock and crab resources to Adak, a community in the Aleutian Islands.

Under the CDQ Program, roughly 10 percent of Bering Sea and Aleutian Islands (BSAI) groundfish and shellfish resources are directly allocated to six groups representing 65 communities. Annual ex-vessel value of these allocations is roughly \$140 million. These communities did not possess extensive fishery infrastructure prior to allocation. Potential competition among local fishermen and the CDQ Groups for catch share allocations was limited. CDQ Groups are largely limited to investments in fishery resources. CDQ Groups have leveraged their allocations to purchase catch shares in other programs. CDQ Groups have invested primarily in partnerships with established fishing companies, and improving local fishing infrastructure. Corporate partnerships have provided jobs for local residents.

Efforts to expand the CDQ approach to the Gulf of Alaska (GOA) have been controversial. Many GOA participants are concerned with the effect on their initial allocations given the large number of potential initial recipients and the relatively smaller scale of fishery resources relative to the BSAI, potential competition with community interests in the catch share market, and the lack of the same conditions that spawned the CDQ Program.

Catch Share Purchase Provisions

- Several catch share programs allow communities to “buy in”
- Few communities have been able, or willing, to purchase shares.
- Reported difficulty accessing capital
- A few community residents concerned about the equity of access to shares purchased by community residents.

- Annual report provides greater transparency

The Council recommended the development of the Community Quota Entity (CQE) Program in 2005. The CQE Program was designed to reverse a trend of halibut and sablefish quota shares moving out of smaller GOA communities. Initially, the Council defined 42 communities in the GOA that met specific geographic, population, and patterns of fishery resource participation as eligible to purchase halibut and sablefish quota shares. Thus far, only one of the 42 communities has purchased shares, although most communities have formed the necessary non-profit management structures.

Favorable access to capital has been cited as the single greatest barrier. Existing funding through NMFS Financial Services is not available without additional legislative authority. The Council has recently recommended allocating limited access permits for Pacific cod and charter halibut fisheries to CQE communities. These direct allocations could allow CQE communities to build capital derived from leasing these permits to fishermen operating out of these communities. This capital could be used to purchase halibut and sablefish quota shares.

Share Categories and Transfer Limitations

- Several catch share programs limit the transferability of catch share categories associated with relatively smaller vessels
- Halibut and sablefish program allows transfers only to natural persons to move toward an “owner-onboard” fishery.
- Other transfer rules limit consolidation of small vessel category shares.
- The BSAI Crab Program allocated quota share to skippers
- Processing shares in the BSAI Crab Program are subject to a right of first refusal.

The halibut and sablefish quota share program limits transferability of shares to individuals, and establishes vessel categories on which shares can be used. Consolidation limits also establish blocks of quota share types for the smaller vessel size categories. These limits are not applied to specific community residents, but the Council recognized that these vessel categories and “block limits” could reduce potential consolidation of shares on larger vessel categories. Consolidation on larger vessels could disadvantage residents of more remote coastal communities who typically use smaller vessels.

The BSAI crab program specifically assigned three percent of the catch shares to captains and crew meeting specific participation requirements. These allocations are not specific to coastal communities, but recognize the role of crew in catch share programs. Recently published regulations by the Financial Services Division extend loan authority for the purchase of BSAI crab crew shares.

A right-of-first-refusal provision allows communities with historic participation to purchase processor shares in the BSAI Crab Program. Several community entities have arranged to purchase processing shares, but not through this provision. Concerns remain about the proper valuation method for processing shares offered for sale.

Appendix 7:

NOAA Commercial Fishing Communities & Catch Shares Workshop Briefing Paper Discussion Topic 7: Facilitating Community Organization Efforts

Prepared by Kate Quigley,
SAFMC Staff Economist

Background/Context:

NMFS and Council staffs do not typically take part in community organization efforts. However, with the potential for development of RFAs, communities of fishermen will likely need assistance in organizing interested individuals.

Example - The South Atlantic Experience:

The commercial fishing industry/community in the South Atlantic is, for the most part, unorganized. While North Carolina and the Florida Keys (two areas perhaps most interested in RFAs) have some representation from particular fishing associations at Council meetings, the fishermen, in general, do not have representatives and few attend Council meetings except during the public comment sessions when the Council meets in their area.

Presently, keeping the public apprised of various and sometimes significant changes to catch share and other amendments between Council meetings requires them to read the briefing book (which can be sometimes thousands of pages) and check the Council website for committee summaries and sift through motions. Dissemination of quarterly newsletters and news briefs help inform those we have addresses for who read their email and mail. However, this is not enough to keep people informed, especially when it comes to catch shares and disseminating information about RFAs.

With catch shares, simplification and putting extra effort toward outreach and community awareness is increasing in importance, given the complex nature of catch shares and contentious environment. Fisheries management and the fisheries management process is complex and the documents are often written for other analysts. Recent efforts in the southeast to make the amendments/EIS more readable is a tremendous step forward.

With regards to catch shares in the South Atlantic, there is enormous caution among fishermen. Fishermen are highly divided on how to move forward, if at all. In general, those with significant landings history in particular species want catch shares and those with little catch history or that have not specialized in particular species (which is the category almost all permit holders fall under), do not want catch shares. In the South Atlantic, vertically integrated fish houses see benefit in catch shares while dealers without their own vessels do not. Many are intrigued by the idea of RFAs both to cut down on costs and to combine small amounts of individual quota.

In the South Atlantic, the catch shares conversation among fishermen began in earnest 3 years ago when the Council chose 15 people to participate in a LAP Exploratory Workgroup. The Workgroup spent a little over one year learning about catch shares from presentations, visits from fishermen in the Gulf, BC and New England. Workgroup members have used this

knowledge to inform others about catch shares. Over the past year, a number of community meetings have been held centered around discussion of catch shares. For the most part, those organizing their communities are original members of the LAP Exploratory Workgroup. They have a solid understanding of what catch shares are, what benefits they can provide, and drawbacks that may occur. They have spoken with people they work with and numbers of fishermen wanting a catch share amendment with details sufficient to allow them to make an informed decision about their ultimate support has increased. That small group of fishermen in the Workgroup branched out to become a much larger group that is working hard to organize a community of fishermen interested in seeing catch shares implemented. But, they want and need our help in: 1) educating their community of fishermen; 2) getting their voices heard; and 3) obtaining landings data and catch share information.

In general, the role of Council and NMFS staff with regards to catch shares or any other fishery management issue has always been to provide the public and the Council with information about the pros and cons of proposed management actions through presentations at Council meetings, analysis in EIS documents, answering information requests, creating fact sheets, holding workshops, and engaging in ongoing daily and weekly conversations with fishermen about topics of interest to them. However, understanding of catch shares remains low. The complex nature of catch shares and uncertain community and social impacts often results in the need for increased outreach efforts. Figuring out how to do more and appear objective among different communities of fishermen is an ongoing challenge.

Obstacles and Opportunities:

There are now fishermen clamoring for information about catch shares and RFAs. For the most part, fishermen want to know: 1) what their initial allocation is likely to be; 2) how fast we can move forward; and 3) what is required to do a RFA, fishing sector (like in New England), or cooperative. We have built models to estimate their initial allocation if they provide their catch history. However, this is problematic since they need signatures from former permit owners to get their landings information released from NMFS. In many cases, they don't know who or where these former owners are.

Another issue is Council and NMFS staff workload. However, assistance from NMFS has helped a great deal as we wait for work load to lessen. Regarding RFA's, we have no information about how to go about developing an RFA, other than that stated in the reauthorized MSA, and that is why we are here today. It is becoming clear to me that the very least we can do to help burgeoning community organizers is to provide them with: 1) Information they need/request (initial allocation models, landings); and 2) Outreach that provides basic information about catch shares as well as detailed information on how to go about establishing a RFA as well as attendance at meetings as requested to answer questions.

Another issue the South Atlantic and perhaps other Councils are dealing with is when and how to incorporate ideas from the fishing community regarding catch shares or new management into the Council conversation. Often, fishermen will come to Council staff and ask how they can bring their community's catch share ideas to the Council's attention and if their material can be included in the briefing book. Other fishermen vehemently object to this stating that their inclusion indicates that the meeting was Council supported or that their thoughts are

representative of the entire fishery. So, how do we involve one community's input into the process without upsetting other communities of fishermen?

In my mind, what is needed is industry representation. Perhaps a Council-commercial fishing industry liaison whose job it is to keep the fishing industry informed, receive their input and help them to communicate those ideas to the Council in a constructive way, outside of the amendment process. Much, almost half, of Council staff time is spent doing just this in addition to the excellent efforts and output of our public information officer. However, we are always wary to help too much knowing our obligation to be objective and other workload obligations. I have often thought that a Council/fishermen liaison could help in areas that need a good deal of education and organization. It is likely that with the establishment of RFAs this would be helpful.

Trigger Questions:

- What can NMFS and the Councils do to facilitate community efforts to organize themselves to consider future catch share options?
- What are sources of legal and organizational expertise and funding for fishing communities? (e.g., self-, government or externally sourced and funded?)
- Would NMFS support be upon request or should NMFS and Councils be proactive in seeking out communities needing help?
- How would NMFS/Councils identify communities to target for outreach/capacity building?

Appendix 8:

NOAA Commercial Fishing Communities & Catch Shares Workshop

Briefing Paper Discussion Topic 8: Current FMP goals and objectives affecting communities; Threats and opportunities; Future vision relative to communities

Prepared by Bonnie McCay,
Rutgers University

Introduction:

A brief review suggests that FMP goals and objectives almost never refer explicitly to communities. Should they? Under what circumstances? An exception: The October 2010 revised FMP for Gulf of Alaska Groundfish of the NPFMC explicitly mentions community as part of a policy statement that includes precautionary, market-based, and ecosystem-based approaches.¹ That is little surprise, however, given that the few explicitly community-oriented management systems are located in that region (see below).

There are many indirect ways that the interests of communities are affected and expressed. One very important one is how the TAC/ TAL or overall quota is allocated among user groups. Allocations of quotas, TALs, etc., affect communities directly or indirectly:

- a) Allocations with potential community consequences but using other criteria:
between/among
- Commercial and recreational (numerous)
 - Regulatory areas (numerous)
 - States (ex.: Mid-Atlantic summer flounder)
 - Gear-types (ex.: No. Pacific Sablefish: hook-and-line gear vs. trawl gear and percentages of the TAC).
 - Individuals (IFQs: Surfclam & Ocean Quahog; Wreckfish; Halibut & Sablefish; Redfish; and more....)
 - Processor type (e.g., North Pacific, Pacific cod, inshore/offshore)
 - Combinations (ex.: Mid-Atlantic Golden Tilefish, IFQs based on catch history for top two tiers; IFQs based on equal shares for lower tier; New England Sea Scallop FMP, IFQs for “general category” fleet; DAS and area restrictions for full-time limited access fleet)

¹ “As part of its policy, the Council intends to consider and adopt, as appropriate, measures that accelerate the Council’s precautionary, adaptive management approach through community-based or rights-based management, ecosystem-based management principles that protect managed species from overfishing, and where appropriate and practicable, increase habitat protection and bycatch constraints. All management measures will be based on the best scientific information available. Given this intent, the fishery management goal is to provide sound conservation of the living marine resources; provide socially and economically viable fisheries for the well-being of fishing communities; minimize human-caused threats to protected species; maintain a healthy marine resource habitat; and incorporate ecosystem-based considerations into management decisions.” [p. ES-2]

b) Allocations that explicitly involve communities or community-related organizations are heavily focused in the North Pacific; it is possible although not fully accurate that New England sectors could be included:

- North Pacific Community Development Quotas
- North Pacific Community Quota Entities
- North Pacific Cooperatives
- *Some* New England multi-species groundfish sectors

c) Other goals and objectives can also have effects on communities, as they affect access to the resource that may be differentially distributed among communities due to

- Geography
- Historic involvement
- Level of capital, infrastructure, and other endowments available
- Social capital and leadership
- Etc.

FMPs include some aspects of communities in their EIS and other documents, to meet NEPA requirements (“Human Environment”), MSA/SFA requirements for social and economic impact (especially for limited access measures) and regulatory review. For example, the Monkfish FMP of the New England Fishery Management Council and the 2005 SAFE report for Monkfish have sections on “Ports and communities” where the primary monkfish ports, by various criteria, are identified and some attention is given to trends for these ports.

The “Social Impact Assessment” section for measures under consideration (in this case, for a framework adjustment in 2006) uses National Standard 8 of the SFA as an introduction and the framework adjustment document also concludes with a brief assessment of NS 8, stating that “The actions proposed in this framework are not expected to have significant adverse effects on fishing communities”; and provides a mostly qualitative assessment of how various alternatives may affect different vessel/gear types and classes as well as port communities. That document, prepared by the NEFMC with assistance from the NEFSC, also has a NEPA-required section on “cumulative effects” that includes a section on “cumulative effects on communities.”²

The FMPs vary greatly in the amount of detail provided about fishing communities (almost always defined in the restricted meaning of primary ports of landing). More pertinent is the question of how the information is used, that is, what difference it makes to decision-making. In

² For example, “The cumulative effect of the proposed action on fishing communities, in conjunction with other past, present and reasonably [p. 85] foreseeable future actions, including non-fishing activities, may be somewhat negative in the short term for that segment of the fleet and their respective communities where vessels are

affected by the proposed changes to the 3-hour gillnet rule, the reduction in carryover DAS and the incidental limit on skate bait vessels, primarily communities in the SFMA. Over the long term, however, all communities affected by the monkfish fishery will benefit from stock rebuilding, a higher level of sustainable catch and overall stability in the fishery. [p. 86].

some regions (certainly the Mid-Atlantic), the information developed for those purposes is compiled *after* the Council has deliberated and voted on preferred alternatives. Community-related information, including descriptions of the fisheries that identify ports and their dependencies, social and economic impacts of alternatives, etc., becomes part of what is forwarded to NMFS for review and public comment but otherwise plays no role in Council deliberations, except as expressed in the informal politics of decision-making. For example, only a very close and informed reading of the Golden Tilefish Amendment approved in 2009 that created IFQs in that fishery would lead to an appreciation of the conflicts among fishing communities such as Montauk, NY, and Barnegat Light, NJ that resulted in a major lawsuit.

Trigger Questions:

- What are some current community-related FMP goals and are they being met?
- How can community-related issues be brought more directly into Council decision-making?
- How can “best available science” requirements of the MSA be used to improve the use and legitimacy of social science information on communities?
- What can be done to ensure representation of community concerns and interests in MSA deliberations? Is the current system for appointing Council members, advisory panels, and such appropriate to the task?
- What are the other challenges to establishing community goals and objectives for a fishery?
- What methods/processes are available or have been used to establish community-orientated goals and objectives?

Appendix 9:

NOAA Commercial Fishing Communities & Catch Shares Workshop

Briefing Paper Discussion Topic 9: Transferring Knowledge – Future Communication and Engagement Strategies with Communities

Prepared by Ed Backus,
Ecotrust

Objectives:

This discussion is an opportunity to think creatively and openly about potential pathways for communication and exchange of information, knowledge (expertise) and perspective among management entities, community innovators, and new participants in catch share programs.

Background/Context:

"Policies are experiments; learn from them," instructed Kai Lee in [*Compass and Gyroscope: Integrating Science and Politics for the Environment*](#). Lee's 1993 book drew upon his experiences with the (then) Northwest Power Planning Council and its attempts to balance desired outcomes for fisheries and hydropower production on the Columbia River. "Out of the fractious chronicle of ecosystems ruled by divergent human interests comes most of our small fund of ideas for managing the planet," Lee wrote; and in the process of *social learning* he sought the development of institutions to "govern our expanding capacity to change the world and ourselves."

Elinor Ostrom, studies social-ecological management systems widely and provides this paraphrased list of conditions that improve *social learning*:

- Participants have a voice in making change;
- Participants are willing to invest in learning about options;
- The interests of participants with the largest stakes are in broad accord with overall productivity;
- The political system encourages local autonomy and provides oversight;
- Rules vary across jurisdictions;
- The social and economic environment allows for learning from the successes and failures of others;
- Participants have developed learning practices;

We might view the transition to catch shares and the community options available to us as a huge challenge in social learning; experimentation and effective communications.

- Knowledge transfer is a two-way process, and rapid and productive progress will be gained by creating various two way communication pathways.
- Much innovation in adapting to catch shares has come from communities.
- Communities like to learn from each other's experiences and expertise.

Straw dog list of Ideas: Getting to the Practical and the Practice:

- Organize a series of small exchange workshops among experienced and newer participants around a focal set of themes (permit banking, leasing, building a local organization, finance/debt management, and so on.)
- Catalog and disseminate innovations (e.g. existing strategies) that have been generated by communities (e.g. community structures and organizations, responses, solutions) in adapting to catch share programs.
- Explore the role of and engage municipal governments.
- Contract a set of community-based persons with relevant experience as communications liaisons.
- Combine Sea Grant outreach processes with community experts.
- Set up a multi-party neutral “Institute” for community outreach, training, and interaction.

Frictions: some observations:

Like investors, fishermen and community fishing organizations like *clarity of policy and clear rules of the game*; Councils and NMFS could hasten innovation and communication by providing definitions and guidance for various community elements in the MSA such as community sustainability plans, operational rules for Community Fishing Association (CFAs) and so forth.

Many of the challenges that all parties sense or are uncertain about swirl around *new forms of governance* - sectors, CFAs, and Community Quota Entities (CQEs) are all new and relatively underdeveloped forms of community-based governance. This is a trend away from the traditional individual business approach in fishing. NMFS and the Councils can validate these efforts and experiments by issuing the guidance and clarity per above.

Many participants and observers feel that catch share programs are overly focused on individuals as the main pathway for implementation and that *a more balanced approach* would be inclusive of community options in 303a.

Trigger Questions:

- What information needs to be further developed to create usable knowledge for communities to adapt to catch share programs? E.g. NMFS perspectives on the development of sectors in New England, or the North Pacific FMC perspectives on the development of the Community Development Quota (CDQ) corporation program.
- What community information and knowledge is there that NOAA could uptake, synthesize and disseminate? E.g. experiences and structures created by community experts invited to the workshop, or the literature take home points.
- What collaborative structures could be created by NMFS and third parties to establish effective exchange with communities?
- What research needs to be undertaken by both NOAA and communities to expand the knowledge and options available to and for communities?

Appendix 10: Meeting Agenda

Catch Shares & Commercial Fishing Communities

Dates: January 11-13, 2011
 Location: Washington Court Hotel
 525 New Jersey Avenue, N.W.
 Washington, DC 20001

Tuesday, January 11			
Time	Min.	Subject	Presenter/Facilitator
8:30-8:45	15	Introductions, Opening Remarks	Eric Schwaab
8:45-9:00	15	Agenda Review and Goals of the Meeting	Mark Holliday, NOAA Fisheries Office of Policy
9:00-10:15	75	Discussion Topic 1: MSA: Communities in Fisheries Management <ul style="list-style-type: none"> • Community Definition • National Standard 8 • Designation Criteria • Social Indicators for Program Success • White Paper /Overview • Discussion 	Susan Abbott-Jamieson, NOAA Fisheries Office of Science and Technology
10:15-10:30	15	Break	
10:30-12:00	75	Discussion Topic 2: MSA 303A Limited Access Privilege Programs & Communities <ul style="list-style-type: none"> • Statute - Regional Fishing Associations and Fishing Communities Provisions • White Paper /Overview • Discussion 	Constance Sathre, NOAA General Counsel for Fisheries
12:00-1:00		Lunch	
1:00-2:15	75	Discussion Topic 3: Non-303A Community Pathways for Councils- CFAs, Sectors <ul style="list-style-type: none"> • Definition, qualification, geographic designations and community affiliations • Membership and operational standards • Community Sustainability Plans • Criteria evaluation for applications • Special Considerations (accumulation limits, quota acquisition, special responsibilities) • White Paper /Overview • Discussion 	Jim Seger, Pacific Fishery Management Council

Tuesday, January 11 (cont.)			
2:15-3:15	60	Communities' Experiences <ul style="list-style-type: none"> • Port Clyde, ME • Chatham, MA 	Jen Litteral, Island Institute Paul Parker, Cape Cod Fisheries Trust; Allison Duncan, Amplifier Strategies
3:15-3:30	15	Break	
3:30-5:00	90	Communities' Experiences (cont.) <ul style="list-style-type: none"> • Kodiak, AK • Morro Bay, CA • Cortez, FL 	Linda Kozak, Kozak& Assoc. Michael Bell, The Nature Conservancy Karen Bell, AP Bell Seafood
5:00pm	15	Summary of Day 1/ Plans for Day 2	Kari MacLauchlin, NOAA Fisheries Office of Policy
5:15pm		Adjourn	

Wednesday, January 12			
Time	Min.	Subject	Presenter/Facilitator
8:30-8:45	15	Welcome and Recap	Kari MacLauchlin, NOAA Fisheries Office of Policy
8:45-10	75	Discussion Topic 4: Sustainability Plans and RFA Plans <ul style="list-style-type: none"> • White Paper/Overview • Discussion 	Mark Grant, NOAA Fisheries Northeast Regional Office
10:00-10:15	15	Break	
10:15-12:00 (15 min slack)	90	Discussion Topic 5: Monitoring and Evaluating, and Amending: Responsibilities of Councils/NMFS/Communities <ul style="list-style-type: none"> • White Paper/Overview • Discussion 	Mike Jepson, NOAA Fisheries Southeast Regional Office
12:00-1:00	60	Lunch	
1:00-3:00	120	Discussion Topic 6: Communities Getting and Holding Quota: (Initial Allocation, Transferability, Accumulation Limits) & Mitigation (Permit Banks, Fisheries Loan Fund, Catch Accounting) <ul style="list-style-type: none"> • White Paper/Overview • Discussion 	Glenn Merrill, NOAA Fisheries Alaska Regional Office Merrick Burden, Environmental Defense Fund

3:00-3:15	15	Break	
3:15-4:30	75	Discussion Topic 6: Communities Getting and Holding Quota (cont.)	
4:30-4:45	15	Recap	Kari MacLauchlin, NOAA Fisheries Office of Policy
5:00		Adjourn	
6:00		Group Dinner/Event TBD	

Thursday, January 13			
Time	Min.	Subject	Presenter
8:30-9:00	30	Introduction and Day 1-2 Recap	Kari MacLauchlin, NOAA Fisheries Office of Policy
9:00-10:15	75	Discussion Topic 7: Facilitating Community Organization efforts <ul style="list-style-type: none"> • White Paper Overview • Discussion 	** Presented by Bob Mahood on behalf of Kate Quigley, South Atlantic Fishery Management Council
10:15-10:45		Break/ Checkout	
10:45-12:00	75	Discussion Topic 8 – Current FMP goals and objectives affecting communities; threats and opportunities; Future vision relative to communities <ul style="list-style-type: none"> • White Paper Overview • Discussion 	Bonnie McCay, Rutgers University
12:00-1:00	60	Lunch	
1:00-2:15	75	Discussion Topic 9: Transferring Knowledge – Future Communication and Engagement Strategies with Communities <ul style="list-style-type: none"> • White Paper Overview • Discussion 	Ed Backus, Ecotrust
2:15-2:45	45	Recap/Future Directions	Mark Holliday, NOAA Fisheries Office of Policy
3:00		Adjourn Meeting	

Appendix 11: Workshop Participant List

Susan Abbot-Jamieson, NOAA Fisheries Office of Science and Technology
Stewart Allen, NOAA Fisheries Pacific Islands Regional Office
Ed Backus, EcoTrust
Karen Bell, Starfish Company
Michael Bell, The Nature Conservancy
Jason Blackburn, NOAA Fisheries Office of Sustainable Fisheries
Merrick Burden, Environmental Defense Fund
Trish Clay, NOAA Fisheries Northeast Fisheries Science Center
Rip Cunningham, New England Regional Fishery Management Council
Paul Dalzell, Western Pacific Regional Fishery Management Council
Kelly Denit, NOAA Fisheries Office of Sustainable Fisheries
Kevin Duffy, NOAA Fisheries Northwest Regional Office
Allison Duncan, Amplifier Strategies
Carlos Farchette, Caribbean Regional Fishery Management Council
Mark Grant, NOAA Fisheries Northeast Regional Office
Glenn Haight, University of Alaska/Alaska Sea Grant
Mark Helvey, NOAA Fisheries Southwest Regional Office
Mark Holliday, NOAA Fisheries Office of Policy
Mike Jepson, NOAA Fisheries Southeast Regional Office
Nicole Kimball, North Pacific Regional Fishery Management Council
Linda Kozak, Kodiak Associates
Ava Lasseter, Gulf of Mexico Regional Fishery Management Council
Naomi Littlefield, NOAA Fisheries Office of Policy
Heidi Lovett, NOAA Fisheries Office of Policy
Kari MacLauchlin, NOAA Fisheries Office of Policy
Jim McCallum, NOAA Fisheries Office of Policy
Bonnie McCay, Rutgers University
Glenn Merrill, NOAA Fisheries Alaska Regional Office
Wendy Morrison, NOAA Fisheries Office of Sustainable Fisheries
Paul Parker, Cape Cod Hook Fishermen's Association
John Reghi, NOAA Fisheries Office of Law Enforcement
Connie Sathre, NOAA General Council
Rich Seagraves, Mid-Atlantic Regional Fishery Management Council
Jim Seger, Pacific Regional Fishery Management Council
Joe Sullivan, Mundt MacGregor
Joshua Stoll, NOAA Fisheries Office of Policy
Brycen Swart, NOAA Fisheries Office of Sustainable Fisheries
Chris Wright, NOAA Fisheries Office of Sustainable Fisheries

The following attendees of the January 9-10 meeting of the Magnuson-Stevens Act Council Coordination Committee attended part or all of Day Three of the Workshop

Lee Anderson, Mid-Atlantic Regional Fishery Management Council
David Cupka, South Atlantic Regional Fishery Management Council
Manuel Duenas, Western Pacific Regional Fishery Management Council
Christopher Holmes, NOAA Fisheries Office of the Assistant Administrator
Paul Howard, New England Regional Fishery Management Council
David Itano, Western Pacific Regional Fishery Management Council
Pat Kurkul, NOAA Fisheries Northeast Regional Office
Frank Lockhart, NOAA Fisheries Northwest Regional Office
Heather McCarty, Consultant
Chris Moore, Mid-Atlantic Regional Fishery Management Council
Eric Olson, North Pacific Regional Fishery Management Council
John Pappalardo, New England Regional Fishery Management Council
Rick Robins, Mid-Atlantic Regional Fishery Management Council