New England Fishery Management Council
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MEMORANDUM

DATE: August 8, 2013

TO: Groundfish Oversight Committee (Committee)

FROM: Groundfish Plan Development Team (PDT)

SUBJECT: Progress on Amendment 18

In June 2013, the Committee and NEFMC passed several motions relative to Amendment 18. The existing goals and objectives of this action were struck and replaced with a new set of goals. Also, the Committee and/or NEFMC tasked the PDT to consider certain ideas for potential measures. Listed below are the new goals and specific PDT tasks, followed by a discussion of issues relative to those tasks. Also provided are several questions that the Committee could consider at its next meeting on August 14, 2013.

A. Revised goals

1. Promote a diverse groundfish fishery, including different gear types, vessel sizes, ownership patterns, geographic locations, and levels of participation through sectors and permit banks;
2. Enhance sector management to effectively engage industry to achieve management goals and improve data quality;
3. Promote resilience and stability of fishing businesses by encouraging diversification, quota utilization and capital investment; and
4. To prevent any individual(s), corporation(s), or other entity(ies) from acquiring or controlling excessive shares of the fishery access privileges.

B. PDT tasks

1. Review the Northern Economics report "Designing Measures to Limit Accumulation of Fishing Privileges in the Northeast Multispecies Fishery" to determine if its recommended approaches for limiting accumulation of permits and Potential Sector Contributions (PSC) and for use of Annual Catch Entitlements (ACE) on vessels would help the NEFMC achieve the A18 goals (6/12/13 Committee motion).
2. Develop an option for an ownership cap that would limit multispecies permit ownership by any individual or entity, with the exception of permit banks, to 5% of the total of the limited access permits issued. This option should grandfather ownership levels to the individual or entity ownership level that exists prior to the control date (6/12/13 Committee motion).

3. Develop a regulatory definition for private permit banks and alternatives to establish appropriate caps for said banks commensurate with their value in protecting diverse fishery access and supporting the goals of this amendment (6/12/13 Committee motion).
4. Examining US solutions that provide access to capital for individuals, new entrants, sectors and community entities (e.g. halibut new entrant finance program called Community Quota Entities, NMFS fishery obligation fund financing for quota) (6/12/13 Committee motion).
5. Consider the concept of the Northeast Hook Fishermen's Association (NHFA) proposal as outlined in their April 7, 2013 letter to the NEFMC (6/19/13 Council motion).

The PDT found it helpful to create a spreadsheet that outlines the feasibility of the potential measures included in this list (Appendix I). Due to the sheer number of analyses requested (e.g., there are >100 potential measures in the Northern Economics report), the PDT did not have time to delve deeply into any one task. Subsequent work will be based on future Committee feedback and motions.

C. <u>Measures in the Northern Economics report (Task #1)</u>

The Northern Economics report outlines many options for measures that may limit accumulation, several of which have also been discussed by the Committee and/or public. To keep Appendix I reasonable, the options were grouped together and their feasibility discussed in general.

> *Question: Are there particular measures contained in this report that the Committee would/would not prefer to develop further?*

D. <u>Capping permit owners to owning 5% of permits (Task #2)</u>

At its June 12 meeting, the Committee moved that an option to cap multispecies permit ownership by any individual or entity, with the exception of permit banks, at 5% of the total of the limited access permits issued. Those individuals or entities owning in excess of the cap prior to the control date (April 7, 2011), would be grandfathered in, according to the motion. This option was drafted as a strawman, to be consistent with the current limited access scallop permit cap. See Appendix I.

Should a cap be developed further, the Committee would need to consider to what would a cap be applied and whether and how the cap percentage would constrain the fishery. The Committee could opt for capping the number of limited access permits, Moratorium Right Identifiers (MRIs), or MRIs with associated PSCs. Of these choices, the PDT recommends using MRIs with PSC. Technically, PSC is allocated to MRIs and ownership of MRIs is easier to track.

Given the number of permits and MRIs in the fishery (Table 1), it is likely that a 5% cap (~55-70 permits/MRIs per owner) would allow additional fishery consolidation to occur. A more detailed discussion of how various caps may constrain the fishery could be provided in a white paper, which would need more time to prepare than allowed within the deadline of this memo.

> *Questions: Is the Committee still interested in this type of cap? Is the Committee interested in developing a cap on permits, all MRIs, and/or MRIs with associated PSC?*

Table 1. Preliminary Multispecies Eligibility and Permit Counts				
	April 7, 2011	**FY2011**	**FY2012**	**FY2013**
		Any Time During Fishing Year*		
All Multispecies Limited Access Permits	1,257	1,320	1,222	1,129
		May 1st of Fishing Year		
All Eligibilities (MRIs)	1,422	1,421	1,407	1,380
Eligibilities (MRIs) with PSC	1,262	1,210	1,255	1,247

Notes:

MRI – Moratorium Right Identifier

* On May 1st of the fishing year, the number of vessels will equal to the number of eligibilities not in Confirmation of Permit History (CPH). Over time, the number of vessels will differ from the number of eligibilites, because these eligibilities can be transferred from vessel to vessel during the fishing year.

Source:

NMFS Northeast Regional Office. Report date 8/6/2013.

These data are the best available to NOAA's National Marine Fisheries Service (NMFS). Data sources for this report include: (1) Vessels via VMS; (2) Vessels via vessel logbook reports; (3) Dealers via Dealer Electronic reporting. Differences with previous reports are due to corrections made to the database.

E. *Defining and capping accumulation of private permit banks (Task #3)*

The PDT can help define private permit banks and propose a cap, but it would help if the Committee provided some additional information to better inform the PDT. See Appendix I.

> *Questions: In what ways does the Committee want these entities to be distinct from other permit holders, including the state-operated permit banks already defined though Amendment 17? Does the Committee want a distinction between an individual or entity that holds multiple permits to increase their PSC (and ACE) for use by their own fishing operation vs. an entity that holds permits for the sole purpose of providing ACE for other fishermen? Does the Committee envision creating different rules governing how private permit banks operate (e.g., different reporting requirements; higher or lower caps than developed for other ownership entities)?*

F. *Providing access to capital (Task #4)*

The PDT, with the assistance of Amanda Tine, a student at the Massachusetts Maritime Academy and NOAA Hollings Scholar at the NEFSC Social Sciences Branch this summer, has generated a list of federally funded and administered programs that enable fishermen and others in food production industries to access capital. Benefits, restrictions, and eligibility are detailed. Most of these programs were established and are administered outside of the Fishery Management Council system. See Appendix II.

The federal government, including NOAA, does subsidize access to capital in food production industries. Fisherman cannot usually participate in programs targeted at farmers, but the programs in Appendix II are examples of the types that could be beneficial to fishermen, including new entrants, should they be crafted or adopted specifically for fisheries. Creating a finance program specific to the Northeast multispecies fishery may help achieve the goals of Amendment 18, but it may take more than Council action (e.g., Congressional appropriations).

Additional information may be found at www.nmfs.noaa.gov/mb/financial_services/ffp.htm or by contacting the Northeast Financial Services Branch of the NMFS Northeast Regional Office.

Question: What would the Committee like to do with the information provided in Appendix II? Is additional information needed at this time?

G. Measures outlined in the Northeast Hook Fishermen's Association proposal (Task #5)

The core of the NHFA proposal is to create a sub-ACL for the HA multispecies permit category and allow active HA permit holders to harvest their allocation under a program distinct from either the common pool or sectors. Under the proposal, their sub-ACL would be based on the landings history of HA permit holders during 1996-2006, the same qualifying years as sector members. The NHFA would no longer harvest under the trimester quota allocation of the common pool or have their fishing history used by fishermen other than HA permits holders. Also, they propose being exempt from all commercial groundfish closures except cod spawning closures. In many ways, the NHFA proposes that the handgear commercial fishery be managed more like the recreational fishery than other segments of the commercial fishery.

The HA permit holders constitute a small fraction of the fishery (Table 2). In the last few years, there have been about 100 HA permits issued, and about 30 have landed groundfish each year, though that number has been declining. These permits account for about 0.06-0.1% of the total groundfish landings in the fishery. Currently, one HA permit holder belongs to a sector, and all the other active HA fishermen fish in the common pool.

Table 2. Contribution of HA Permits to the Commercial Groundfish Fishery

		HA permits[1]	Total Common Pool[2]	Total Fishery[2]
2010	Groundfish Pounds Landed	36,844	1,404,614	58,622,152
	Groundfish Revenues	\$59,727	\$2,234,905	\$82,984,988
2011	Groundfish Pounds Landed	91,585	595,705	61,721,659
	Groundfish Revenues	\$167,838	\$971,226	\$90,115,537

[1] Source: (Framework 50, Table 43)

[2] Source: (Murphy et al. 2012, Table 2)

See Appendix I for line-by-line PDT feedback. The NHFA proposal contains a few measures that would not change existing regulations: requiring a Letter of Authorization when fishing in the Georges Bank Broad Stock Area, maintaining current fish size limits, and using Vessel Trip Reports to report catch. For concision, these are not discussed in Appendix I.

The NHFA proposal does not discuss how a sub-ACL for HA permits would be allocated among the permit holders. Thus the PDT assumes they wish to keep the current trip limit approach. Considering the NEFMC motion from June 19, 2013, "that the intent of Amendment 18 is not to backfill Amendment 16 into a limited access privilege program (LAPP)," measures that would allocate ACE directly to permit holders would turn the fishery (or its sub-components) into a LAPP.

Rather than create a program distinct from sectors and the common pool, many of the aims of the NHFA proposal may be accomplished if the HA permit holders were to form their own sector or join as a sub-set of an existing sector. Considering the A18 implementation timeline, this approach may be the more expedited solution to their concerns. The PDT identified some impediments or disincentives today from the HA permit holders from enrolling in sectors, namely administrative costs, reporting requirements, and assumed discard rates. However, the PDT also brainstormed potential solutions:

- They could request an exemption from at-sea monitoring, because they catch such small amounts of fish.
- Handgear discard estimation would need more discussion, but probably does not need to be impacted by the catch of other gear types.
- Perhaps a HA sector could be given an exemption from having ACE for species that they don't catch (e.g., yellowtail, plaice, winter flounder).
- Sector vessels are required to use VMS, but a sector of HA permits may be able to continue to using IVR.
- "Right of first refusal" operating agreements could be established to ensure that HA permit holders have priority in leasing their ACE.
- There are low-cost ways to manage a sector that they could take advantage of.

Questions: Would the Committee prefer to develop fishery regulations for the HA permit holders that are distinct from those governing the common pool and sectors? Would the Committee prefer to modify the common pool regulations, under which most of the HA permits are fished? Are there specific ideas in the NHFA proposal that the Committee would like to develop further at this time?

H. <u>Defining "ownership"</u>

An important component to the development and analysis of measures that would meet A18 Goal #4 is considering to whom an accumulation cap would apply, such as individual human persons or business entities. For the scallop fishery, the only fishery in New England with a cap, its 5% cap applies to individual human persons, and the PDT recommends keeping consistent with this approach.

For your reference, here is an excerpt for the *Federal Register* notice for Amendment 11 to the Scallop FMP (NOAA 2007).

> "…an individual could not have ownership interest in more than 5 percent of the TAC allocated to the fleet of vessels issued IFQ scallop permits. The only exceptions to these ownership cap provisions are if a vessel's initial contribution factor results in the ownership of more than 2 percent of the overall TAC initially upon initial application for the IFQ scallop permit, or if the vessel owner owns more than 5 percent of the overall TAC initially upon initial application for the IFQ scallop permits. This restriction would not apply to existing limited access scallop vessels that also have been issued an IFQ scallop permit since such vessels are already subject to the 5–percent ownership cap for limited access permits and because such vessels would not be permitted to transfer IFQ between vessels."

Question: What approach would the Committee like to take on constraining ownership at the individual level?

I. *Defining "excessive share"*

Relative to Amendment 18 Goal #4, the PDT has determined that additional expertise in economics from an external consultant is necessary to provide technical assistance that will help the Council determine an appropriate excessive shares limit for the groundfish fishery. An update on this work will be provided at the August 14 Committee meeting.

J. *Fleet Diversity*

While not explicitly in the list of PDT tasks, the PDT had some discussion about potential fleet diversity measures. A common dilemma for fishery managers is the degree to which social engineering should trump market efficiency in achieving certain objectives. Relative to Amendment 18 Goal #1, should regulations impose fleet diversity on the fishery or should regulations not inhibit fleet diversity?

The PDT cautions that potential unintended consequences be carefully considered. For example, imposing a vessel length restriction on ACE use may ensure that vessels of certain sizes continue to operate in the fishery, but then fishermen may start modifying their vessels in unsafe ways to fit within certain size restrictions. Requiring that a portion of landings occur in specific ports, may limit economic efficiency. The PDT discussed that the enforcement of either approach would require changes in reporting. ACE might need to be associated with specific vessels (LAPP implications?) if its use is restricted by vessel size.

One approach that may achieve Goals #1 and 2 is to require sectors to develop their own fleet diversity approaches. The Council would need to consider if and what sort of standards would be established and how approved diversity plans would be enforced. This may require additional reporting by sectors in their annual reports (which are currently confidential).

K. *General questions*

1. *Are there other measures that the Committee would like to pursue to meet the Amendment 18 goals?*
2. *What additional information would help the Committee with its decision-making?*

L. *References*

Murphy T, Kitts A, Records D, Demarest C, McPherson M, Walden J, Caless D, Bing-Sawyer E, Steinback S, Olson J. 2012. 2011 Final Report on the Performance of the Northeast Multispecies (Groundfish) Fishery (May 2011-April 2012). December 2012. Woods Hole (MA): NOAA Fisheries Northeast Fisheries Science Center. 12-30. 1111 p.

NOAA. 2007. Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery. Federal Register. 72(241): 71315-71344.

Appendix I

Groundfish PDT feedback on potential measures to include in Amendment 18

#	Source	Proposed Measure	A18 Goal	Benefits / trade-offs	Data availability / reporting	Implementation feasibility	Other considerations
Limiting ownership/control (other than for permit banks)							
1	OSC motion	Limit multispecies permit ownership by an individual or entity (except permit banks) to 5% of the total issued.	4	If limits are too strict, efficiency may be compromised; economic feasibility given low ACLs; could have just 20 entities in the fishery.	CPH permits need to get into the ownership database (in progress). Presumably current ownership data is sufficient to determine % owned.	Would need to define "permit." All? Limited access? MRIs allocated PSC?	Likely that 5% is too high to pose much constraint on consolidation today.
2	N. Econ. (p.5-6)	Defining ownership entity.	4		Data available.	May be simpler to keep consistent with the definition for the scallop fishery.	Ownership entity definition will be essential to any cap or use options. Multiple definitions possible (individual person, business entity, vessel affiliation, etc.).
3	N. Econ. (p.6-8)	Limit the number of limited access NE multispecies permits (and assoc. PSC) that can be owned or controlled.	4	If limits are too strict, efficiency may be compromised; economic feasibility given low ACLs; prevent over consolidation.	CPH permits need to get into the ownership database (in progress).		Alone, capping PSC is unlikely to influence control of the fishery. Leasing currently provides strong disincentive to permanently acquire PSC/permits. However, ownership = access.
4	N. Econ. (p.8-11)	Limit the amount of PSC of individual stocks (certain or all) that can be owned or controlled.	4	Same as #3.	Same as #3.	May be better to limit MRIs than permits.	GOM cod is the least concentrated stock. GB and GOM winter flounder are the most concentrated. Cap at the sector level may create a shell game as they can shift memberships.
5	N. Econ. (p.11-13)	Limit the amount of PSC in the aggregate that can be owned or controlled.	4	Same as #3.	Same as #3.		Top 5 ownership groups have ~21% of the PSC share in FY13. Need a standard ownership definition.
6	N. Econ. (p.13-16)	Limit the amount of ACE of individual stock that can be used on any vessel.	4	Same as #3.	Data available.	Leases are currently sector to sector, not vessel to vessel. There may need to be allocations to vessels somehow. Would be legal, but may create a LAPP.	This may not limit excessive shares, as a person can own multiple vessels. Vessel-to-vessel systems may be problematic as they would require vessel-level ACE monitoring (LAPP?). Potential to create a complex system resulting in a shell game of moving ACE around between vessels to avoid limit with a net effect of no change in control or use.
7	N. Econ. (p.16-18)	Limit the amount of overall ACE (all stocks) that can be used on any vessel.	4	Same as #3.	Data available. Sectors would have to provide vessel-specific data in annual catch report.	There may need to be allocations to vessels somehow. Would be legal, but may create a LAPP.	Same as #6.

#	Source	Proposed Measure	A18 Goal	Benefits / trade-offs	Data availability / reporting	Implementation feasibility	Other considerations
Permit banks							
8	OSC motion	Define private permit banks.	4	Is the benefit going to be worth the work? Unclear on the need/objective.	Data available.	Could model off the MOA of the state PBs. Would need to be clearly defined (e.g. non-profit status).	What does the Council want the non-state PBs to be able do? Why should they be regulated differently than a normal permit holder? Would the Council could set parameters for what a non-state PB is and then let entities try to meet that definition? Could ask the current NGO PBs what they think they are. Do they want similar constraints/opportunities as the state PBs?
9	OSC motion	Establish appropriate ownership cap for permit banks.	4	PBs would not have excessive control, to ensure that there is quota available for others.	Data available.	Could model off the MOA of the state PBs. Would need to be clearly defined (e.g. non-profit status).	Currently, public and private (i.e. NGO) PBs hold <1% and ~10% of total ACE, respectively.
10	OSC motion	Define "Community Quota Entities" (CQEs).	1,3	What would be the incentive to become a CQE? Maybe they could have a higher allocation limit.	Data available.	Current private permit banks are not all linked to place-based communities, so they might not fit into a CQE. Current CQEs are constrained by high lease prices, so unclear how they foster new entrants.	Similar to NP halibut/sablefish CQEs: alaskafisheries.noaa.gov/npfmc/PDFdocuments/halibut/CQEreport210.pdf. Could CQEs or permit banks acquire permits and lease as they see fit?
Financing							
11	OSC motion	Creating a quota financing program for individuals, new entrants, sectors, or communities.	1,3	Enable capital investment.	Could require reporting on how capital is used.	May require an act of Congress rather than a FMP amendment.	Similar to NP halibut/sablefish quota loan program: www.publicaffairs.noaa.gov/pr98/ may98/noaa98-r127.html The loan program in AK is independent of Council process and involves the State of Alaska Economic Development Agency.

#	Source	Proposed Measure	A18 Goal	Benefits / trade-offs	Data availability / reporting	Implementation feasibility	Other considerations
HA permit measures							
12	NHFA (p.3, #1)	Allocate the handgear HA permit category cod history (PSC) from 1996-2006 as a sub-ACL for use by HA fishermen.	1	Preserves a traditional gear type; HA fishing history would not be used by other gear types.	HA history data go back to FY96 as part of the current qualification to get PSC. HA limited access permits started in about 2004.	Taking quota away from the common pool adds to the difficulty of monitoring it. Presumably, the sub-ACL would be established for a specific permit category and the respective permit holder's PSC applied to that.	This idea is similar to how the GB Hook Gear Sector started. Forming a sector may be a more expedited solution than waiting until A18 is implemented. If the allocation is not to individuals, it wouldn't create a LAPP, but would need to discuss further.
13	NHFA (p.3, #2)	Specify handgear cod sub-ACL can only be used by HA fishermen, using handgear, if fishing in a sector.	1	Preserves a traditional gear type; HA fishing history isn't used by other sector members; Doesn't allow HA fishermen to lease ACE to other gear types.	n/a		Could be accomplished through sector ops plans.
14	NHFA (p.3, #6)	Remove March 1-20 Handgear fishing closure.	1	More flexibility to harvest under an ACL.		Real-time enforcement would be difficult (no VMS). May be possible to enforce after the fact from landings data.	Spawning protections would need to be considered; potential solution would be to tie closure to stock status for cod or haddock (i.e., good status=fishery open, poor status=fishery closed). If they became a sector, they could request exemptions such as this.
15	NHFA (p.4, #8)	Access to fish in all permanent and rolling closures except the cod spawning closures.	1	More flexibility to harvest under an ACL; access would be the same as recreational fishermen who use hook gear; other fishermen are not allowed to do this. Would the intent of closed areas be compromised?		Same as #17.	Same as #17. There is some concern about other catch if they only get a cod allocation. What about haddock, etc.?
16	NHFA (p.4, #9)	Do not require LOA to fish on a commercial groundfish trip or a charter/party trip.	1	More flexibility to switch b/w commercial & party charter fishing.			If handgear fishermen are allowed to fish in closures (see #17,18), then a LOA would not be necessary to fish in the closure, either as party-charter or commercially.
17	NHFA (p.4, #11)	Up to 20% unused Handgear HA cod ACL may be transferred to the following fishing year.	1	Currently, sectors can carry-over a diminimus amount (<10%), so 20% wouldn't be consistent.	Presumably utilization from 2010-12 can be analyzed.	A 10% (or other large amount) of carry-over may be inconsistent with NS1 guidelines.	May enable catch higher than the HA sub-ACL (if one is created); carryover advice previously provided applies here. Some IFQ fisheries can carry-forward an under-harvest.

#	Source	Proposed Measure	A18 Goal	Benefits / trade-offs	Data availability / reporting	Implementation feasibility	Other considerations
18	NHFA (p.4, #12)	Eliminate trimester AMs for HA permit holders developed in A16.	1	Eliminate race to fish under each trimester; inshore HA fishermen not "forced" to fish in unsafe winter conditions.	n/a		Assigning an allocation could reduce the need for trimester quotas. It would be simpler if they received a sub-ACL for all the stocks they are fishing on, not just cod and haddock.
19	NHFA (p.4, #13)	Automatic triggers to not exceed Handgear cod sub-ACL.	1	Required by MSA; developed specific to Handgear fishing practices and effort.	Could examine past catch streams, but unlikely to have the resources to provide the micro-level quota monitoring as outlined (i.e., triggers). Particularly true at low quota levels and if IVR is not used until a large percent of the quota is taken.		Proactive AMs not MSA required; reactive AMs are.
20	NHFA (p.4, #14)	Do not require IVR call-in unless 85% of the cod handgear sub-ACL is harvested. Call in modified to streamline what is needed for this fishery.	1	Would reduce the reporting by HA fishermen; NMFS would rely on VTRs to monitor the fishery.	Catch rates by month could be examined to see when this trigger might occur.	What type of monitoring would these vessels have? Would VTRs be sufficent? How much ASM would be necessary if they are given quota?	At low quota levels, the ability to examine catch data quickly is essential to developing appropriate in-season adjustments or closures. An 85% trigger point may be too high to ensure effective monitoring.
21	NHFA (p.5, #17)	One HA permit per fisherman. One-time sell provision for existing HA permit holders.	1,4	Prevents corporations or NGOs from removing permits from the active fishery; fosters new entrants.	Current permit data available.	Questions on the constraints of one-time sales. Needs further evaluation.	The "fisherman" would need to be defined as an ownership entity. Depending on the definition, there may be enforcement and monitoring complications. Could entities who hold permits of other categories also hold HA permits?
22	NHFA (p.5, #18)	Removal of requirement for HA fishermen to carry a tote.	1	Fishermen with a small amount of catch on a small vessel prefer to keep fish in coolers. Totes take up needed deck space.	n/a		This is a hold-over from Amendment 7. It may be antiquated. May want to ask the Enforcement Committee for input.
23	NHFA (p.5, #20)	Changes to handgear input controls.	1	More flexibility needed to harvest cod sub-ACL; encourage more fishermen to participate in this fishery.	May change handgear definition.		Could allow use of hydraulic hauler of tub trawl gear. Council could consider redefining handgear to allow use of more efficient gear.

APPENDIX II
(TO NEFMC PDT MEMO TO OSC, AUGUST 5, 2013)
FEDERAL PROGRAM THAT PROVIDE ACCESS TO CAPITAL
FOR THE FOOD PRODUCTION INDUSTRIES

Fisheries-specific programs

The Northeast Financial Services Branch of the National Marine Fisheries Service Northeast Regional Office (NMFS/NERO) would be a good source of additional information for the following programs.

Fisheries Finance Program:

The Fisheries Finance Program (FFP) is administered by NMFS and is a direct government loan program based on an annual loan authority from Congress to provide long-term loans to the aquaculture, mariculture, and commercial fishing industries. Loans can be used to finance or refinance any project that is deemed to be eligible. Those receiving loans must have a three-year history of owning or operating either the fisheries project which will be the subject of the loan or a comparable project. The loans provided are long-term, fixed rate loans with interest rates set at 2% over the U.S. Department of the Treasury's cost of funds. In the Northeast, about 180 loans have been issued since 2000. Applications are typically accepted in the spring.

Benefit:

- Provides direct loans for:
  - Purchase of used vessels
  - Reconstruction of vessels (limited to reconstructions that do not add to fishing capacity).
- Provides financing for:
  - Refinancing existing debt obligations.
  - Finance or refinance fisheries shore side facilities or aquaculture facilities.
  - IFQ financing (at the request of a Fishery Management Council). IFQ financing currently available to first-time purchasers and small vessel operators in the Halibut Sablefish and Alaskan Crab fisheries.
  - Provides long term fishery buy back financing (at the request of a Fishery Management Council or Governor) to purchase and retire fishing permits and/or fishing vessels in overcapitalized fisheries.

Restrictions:

- Direct loans for ≤80% of actual cost of reconstruction of fishing vessels, or renovation or construction of fisheries shore-side facilities.
- Maximum maturity is 25 years or until the end of the economic useful life of the asset financed, whichever comes first.
- FFP loans cannot be used during the construction phase of a fishing vessel. Once the vessel is built and in service, the project is eligible for FFP financing.

Eligibility:

- Must be a commercial fisherman, processor, or distributor of fishery products.
- Possess the ability, experience, financial resources, and other qualifications necessary to operate successfully and repay the debt.

Numbers:

- (Direct Loans) FY11 $67,549,448; FY12 ~$115,000,000; FY13 ~$83,000,000

Literature:

- 50 CFR 253

Capital Construction Fund Program:

The Capital Construction Fund (CCF) is administered by NMFS and allows fishermen to defer tax on some vessels to use funds to construct or reconstruct other vessels. The fishermen are able to set up a CCF account where s/he can deposit: taxable income from vessel operations, vessel depreciation, and/or net proceeds from sale or disposition of the vessel. S/he can then use this money to construct or reconstruct another vessel. If the fisherman is not doing any work to construct or reconstruct vessels, they may defer the tax on vessels but must either (a) keep the funds in the account established as per the CCF agreement, and tax will be deferred until a project is initiated at a later time; or (b) the money may be withdrawn for other purposes, and taxes are applied. When the tax deferred income is spent on (re)construction efforts, the depreciation allowance for the reconstructed vessel is reduced to compensate for the taxes that were previously deferred, allowing the IRS to 'recapture' it.

Benefit:

- Enables fishermen to construct, reconstruct, or (under limited circumstances) acquire fishing vessels with before-tax, rather than after-tax dollars.
- Allows fishermen to defer tax on income from the operation of their fishing vessels.
    - When money saved from tax deferral is used to help pay for a vessel project, it is effectively an interest-free Government loan.

Restrictions:

- CCF agreement must be executed and entered on or before the due date for filing Federal tax returns for that tax year.
- Minimum annual deposit of tax-deferred income of an amount equal to 2% of the estimated cost of all Schedule B objectives; or, if that 2% is more than 50% of your taxable income in any year, then 50% of your taxable income in that year.
- Funds can be used to pay mortgages for financed projects.
- Before making a withdrawal you must have NMFS approval.
- The reconstruction project must be completed within 18 months of commencing at a minimum cost of 20% of the original acquisition cost (plus improvements since), or $100,000, whichever is less.

Eligibility:

- U.S. citizen
- Own or lease a U.S.-built fishing vessel of at least 2 net tons.
- Have an acceptable program for constructing, reconstructing, or acquiring a fishing vessel of at least 2 net tons.
    - The term "fishing vessel" includes:
        - Vessels used commercially in the fisheries of the U.S. for catching, transporting, and processing fish; and
        - Commercial passenger-carrying vessels used for fishing parties.
- Possesses the ability, experience, financial resources, and other qualifications necessary to operate successfully and repay the debt.

Literature:

- Section 607 of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1177)
- 50 CFR Part 259.30 through 259.38

Community Quota and License Programs and Community Quota Entities

These programs were put in place in certain federal limited access fisheries in Alaska. They give eligible Alaskan communities an opportunity to improve their economies with special fishery-related privileges. In these programs, eligible communities may form nonprofit entities called Community Quota Entities (CQEs). If a CQE represents a community eligible for privileges under a particular management program, the CQE may request no-cost community permits or purchase commercial Quota Share (QS). The Crab Rationalization Community Protection Measures were established in particular to protect the interests of nine communities that were historically dependent on crab revenues and fishing activity.

Benefit:

- Eligible communities in Alaska can form nonprofit CQEs. If a CQE represents a community eligible for privileges under a particular management program, the CQE may request no-cost community permits or purchase commercial (QS).
- Benefits by participating management programs:
    - Charter Halibut Limited Access Program (CHLAP)
        - Charter Halibut Permits (CHPs) issued at no cost.
        - Charter operators use community CHPs, although the CHP itself is retained by the CQE.
    - License Limitation Program (LLP) Community License Program
        - Provides non-trawl groundfish LLP licenses endorsed for Pacific cod in the central or western Gulf of Alaska.
    - Individual Fishing Quota (IFQ) Community Quota Program
        - Authorizes CQEs to purchase commercial halibut and sablefish QS for lease to residents of the eligible community.
    - Crab Rationalization Community Protection Measures
        - Established non-profit organizations known as Eligible Crab Communities (ECCs)
        - Gave EECs the right to acquire Bering Sea and Aleutian Islands king and Tanner crab QS for lease of the resulting IFQs to residents of the ECC.

Restrictions:

- Restrictions by participating management programs:
    - Charter Halibut Limited Access Program (CHLAP)
        - A Community CHP is subject to all charter fishing regulations
        - Charter trips must either begin or end within the community designated on the permit.
    - License Limitation Program (LLP) Community License Program
        - The CQE must assign annually each community LLP to a user and vessel in a Letter of Authorization (LOA) and provide a copy of the LOA and any subsequent LOA amendments made by the CQE to both NMFS and the vessel operator prior to use by the person(s) designated.
    - Individual Fishing Quota (IFQ) Community Quota Program
        - Community member leasing the QS must be onboard when the IFQ is fished and landed.

        - Caps limit the amount of QS that can be held on behalf of each community and collectively for all communities.
    - Crab Rationalization Community Protection Measures
        - Caps limit the amount of crab QS that can be held by each community and crab IFQ used by each resident.
        - There is a strict definition of eligible community resident.

Programs from other food production industries

Farm Operating & Ownership Loans

This program is similar to the Fisheries Finance Program, except with agriculture equipment as opposed to fishing vessel reconstructions. The Farm Service Agency (FSA) offers loans to farmers who are temporarily unable to obtain private, commercial credit due to either disaster or general financial hardship. Under the Loan Operating Costs Program, loans can be used to purchase things like livestock, farm equipment, feed, seed, fuel, farm chemicals, repairs, insurance, and other operating expenses. Under the Farm Ownership Loan Program, loans can be used to purchase a farm or ranch, pay closing costs, construct buildings or make other real estate improvements, and promote soil and water conservation. Farm Ownership Loans are also made available to new farmers just entering the agricultural industry. If the applicant qualifies for a guaranteed loan, the loan will be made by a conventional bank, a Farm Credit System institution, or another lender, and the FSA will guarantee it for up to 95% of the loss of principal and interest. If the applicant does not qualify for the guaranteed loan, then the FSA will loan directly to the applicant. Applicants must show sufficient repayment ability and pledge enough collateral to fully secure the loan.

Benefit:

- Provides direct and guaranteed loans for:
    - Purchase of farm, farm equipment, livestock etc.; building construction; real estate improvements; and other farm operating costs.
- FSA offers lower interest rates to direct loan applicants who cannot afford the agency's regular interest rate.
- In some cases, FSA can pay 4% of the interest rate for farmers who cannot afford the lender's normal interest rate.

Restrictions:

- The maximum FSA guaranteed operating loan is $1,214,000.
- The maximum amount for a direct farm operating loan is $300,000.
- Loan repayment periods for both direct and guaranteed farm operating loans cannot exceed seven years.

Eligibility:

- Must be a U.S. Citizen and not be delinquent on any federal debt.
- Must be the operator of a "family-sized farm" after the loan is closed.
- Not have any outstanding judgments against you.
- Must be unable to obtain credit elsewhere.
- Must possess the ability, experience, financial resources, and other qualifications necessary to operate successfully and repay the debt.

Appendix II

Beginning Farmer and Rancher Opportunity Act of 2013

This act is a part of the bipartisan, five-year Farm Bill recently approved by the House Agriculture Committee. It was introduced into both the House and Senate in April 2013 and potentially provides a large amount of support, although the entirety of the new Farm Bill is being finalized (passed by the Senate in June of 2013). It is recognized within the bill that factors such as limited access to land and markets, hyperinflation in land prices, high input costs, farm and tax policy disadvantages, and lack of training have created a lot of consolidation and high barriers to entry in the agriculture industry. According to reports, the average American farmer is now 57 years old and there are concerns over national food security. This act is aimed to address these concerns by investing in new entrants.

This act is extremely comprehensive and carries a large number of provisions aimed at providing access to capital for individuals and particularly new entrants. These include the: **Conservation Reserve Program Transition Incentive Program (CRP-TIP), Farm and Ranchland Protection Program (FRPP), Environmental Quality Incentives Program (EQIP), Technical Assistance and Whole Farm Conservation Planning Program, Direct Farm Ownership Loans, Conservation Loans, Down Payment Loan Limits, Microloan Authorization, Beginning Farmer and Rancher Individual Development Accounts Pilot Program, Graduation to Commercial Credit, Priority for Participation Loans, Limited Resource Interest Rates, Value-Added Producer Grants, Beginning Farmer and Rancher Development Program, Beginning Farmer and Rancher Research Priority, Risk Management Partnership Programs, and Military Veterans Agricultural Liaison Program.**

Many of these programs were already in place and were simply amended to accommodate the new goal of reducing barriers to entry. They all now provide some added incentive for new entrants. Most of them have to do with amending current loan programs to either lower interest rates or give priority to new farmers. Although all are worth looking into, what follows are the most relevant proposed measures.

A summary of all aspects of the Act can be found at http://www.youngfarmers.org/beginning-farmer-and-rancher-opportunity-act-of-2013/.

Conservation Reserve Program Transition Incentive Program (CRP-TIP)

The Conservation Reserve Program (CRP) is a land conservation program administered by the FSA. In the program, a farmer may enter into a 10-15 year contract where, in exchange for a yearly rental payment, they agree to remove environmentally sensitive land from agricultural production and plant species that will improve environmental health and quality. In the CRP-TIP program, owners or operators of land enrolled in an expiring CRP contract are eligible to receive up to two additional CRP payments if they sell or lease their land to a non-family member beginning or socially disadvantaged farmer or rancher. The beginning farmer must then return the land to production using sustainable grazing or crop production methods. The program is dual purpose – it promotes sustainable agricultural practices and makes more land available to new entrants. Essentially, it is a subsidy wherein the government gives retiring farmers an incentive to provide opportunity for new entrants into the industry instead of keeping all of the land consolidated in the hands of a few large and wealthy farming families.

Benefit:

- Pays retired or retiring owners or operators of land enrolled in an expiring CRP contract not more than two additional CRP payments if they sell or lease their expiring CRP land to a non-family member beginning or socially disadvantaged farmer or rancher.

Restrictions:

- If either party is an entity, at least 50% of the members or stockholders of the entity must meet the defined eligibility characteristics.
- Gender is not included as a covered group of 'socially disadvantaged farmers'.

Eligibility:

- Retiree
    - Must be ending active labor in farming operations as a producer of agricultural crops or expect to do so within 5 years.
    - Must have land that is expiring under a CRP contract.
- Beginning Farmer
    - Must not have been a farm or ranch operator or owner for more than 10 years.
    - Must materially and substantially participate in the operation of the farm or ranch involved.
- Socially Disadvantaged Farmer
    - Must be a member of a group whose members have been subjected to racial or ethnic prejudice because of their identity as members of a group without regard to their individual qualities.

Appendix II

Beginning Farmer and Rancher Individual Development Accounts Pilot Program

This program is modeled after the Individual Development Account program administered by the Department of Health and Human Services that focuses primarily on home purchase or business development but instead applies to farmers. Any non-profit organization, tribe or local/state government may submit an application to USDA to receive a grant. The organization will then establish a reserve fund made up of the total amount of the IDA grant awarded to them (up to $250,000) as well as a non-federal match of 50% of that amount. Once the funds are established, an eligible beginning farmer or rancher may establish an account with the participating organization and deposit a certain amount that is then matched by that organization at a rate of 100% to 200%. After a two-year period, the account balance becomes available to the new farmer to put toward the assets s/he has been saving for.

Benefit:

- An eligible beginning farmer or rancher can set up an account with a participating organization and deposit a certain amount that is matched by that organization.
- Beginning farmers receive education and training related to business and responsible finance.

Restrictions:

- IDA grant awards are to up to $250,000.
- Up to 10% of the federal grant amount (up to $25,000) can be used to support business assistance, financial education, account management, and general program operation costs.
- The organization must match farmer's contributions at 100% to 200%.
- Up to $3,000 of an individual’s savings can be matched per year.

Eligibility:

- Beginning farmers or ranchers must:
    - Not have significant financial resources or assets.
    - Have an income less than 80% of the median income of the state in which they live, or 200% of the most recent annual Federal Poverty Income guidelines.
    - Agree to complete a financial training program and create a savings account.