

## SUBCHAPTER F—AID TO FISHERIES

### PART 253—FISHERIES ASSISTANCE PROGRAMS

#### Subpart A—General

Sec.  
253.1 Purpose.

#### Subpart B—Fisheries Finance Program

253.10 General definitions.  
253.11 General FFP credit standards and requirements.  
253.12 Credit application.  
253.13 Initial investigation and approval.  
253.14 Loan documents.  
253.15 Recourse against other parties.  
253.16 Actual cost.  
253.17 Insurance.  
253.18 Closing.  
253.19 Dual-use CCF.  
253.20 Fees.  
253.21 Demand by guaranteed noteholder and payment.  
253.22 Program operating guidelines.  
253.23 Default and liquidation.  
253.24 Enforcement violations and adverse actions.  
253.25 Other administrative requirements.  
253.26 Traditional loans.  
253.27 IFQ financing.  
253.28 Halibut sablefish IFQ loans.  
253.29 CDQ loans.  
253.30 Crab IFQ loans.  
253.31–253.49 [Reserved]

#### Subpart C—Interjurisdictional Fisheries

253.50 Definitions.  
253.51 Apportionment.  
253.52 State projects.  
253.53 Other funds.  
253.54 Administrative requirements.

AUTHORITY: 46 U.S.C. 53701 and 16 U.S.C. 4101 *et seq.*

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#### § 253.1 Purpose.

(a) The regulations in this part pertain to fisheries assistance programs. Subpart B of this part governs the Fisheries Finance Program (FFP or the Program), which makes capacity neutral long-term direct fisheries and aquaculture loans. The FFP conducts all credit investigations, makes all credit determinations and holds and services all credit collateral.

(b) Subpart C of this part implements Public Law 99-659 (16 U.S.C. 4100 *et seq.*), which has two objectives:

(1) Promote and encourage State activities in support of the management of interjurisdictional fishery resources identified in interstate or Federal fishery management plans; and

(2) Promote and encourage management of interjurisdictional fishery resources throughout their range.

(3) The scope of this part includes guidance on making financial assistance awards to States or Interstate Commissions to undertake projects in support of management of interjurisdictional fishery resources in both the executive economic zone (EEZ) and State waters, and to encourage States to enter into enforcement agreements with either the Department of Commerce or the Department of the Interior.

#### Subpart B—Fisheries Finance Program

##### § 253.10 General definitions.

The terms used in this subpart have the following meanings:

*Act* means Chapter 537 of Title 46 of the U.S. Code, (46 U.S.C. 53701–35), as may be amended from time to time.

*Actual cost* means the sum of all amounts for a project paid by an obligor (or related person), as well as all amounts that the Program determines the obligor will become obligated to pay, as such amounts are calculated by § 253.16.

*Applicant* means the individual or entity applying for a loan (the prospective obligor).

*Application* means the documents provided to or requested by NMFS from an applicant to apply for a loan.

*Application fee* means 0.5 percent of the dollar amount of financing requested.

*Approval in principle letter (AIP)* means a written communication from NMFS to the applicant expressing the

agency's commitment to provide financing for a project, subject to all applicable regulatory and Program requirements and in accordance with the terms and conditions contained in the AIP.

*Aquaculture facility* means land, structures, appurtenances, laboratories, water craft built in the U.S., and any equipment used for the hatching, caring for, or growing fish, under controlled circumstances for commercial purposes, as well as the unloading, receiving, holding, processing, or distribution of such fish.

*Capital Construction Fund (CCF)*, as described under 46 U.S.C. 53501-17, allows owners of eligible vessels to reserve capital for replacement vessels, additional vessels, reconstruction of vessels, or reconstructed vessels, built in the United States and documented under the laws of the United States, for operation in the fisheries of the United States.

*Captain* means a vessel operator or a vessel master.

*Charter fishing* means fishing from a vessel carrying a "passenger for hire," as defined in 46 U.S.C. 2101(21a), such passenger being engaged in recreational fishing, from whom consideration is provided as a condition of carriage on the vessel, whether directly or indirectly flowing to the owner, charterer, operator, agent, or any other person having an interest in the vessel.

*Citizen* means a "citizen of the United States," as described in 46 U.S.C. 104, or an entity who is a citizen for the purpose of documenting a vessel in the coastwise trade under 46 U.S.C. 50501.

*Crewman* means any individual, other than a captain, a passenger for hire, or a fisheries observer working on a vessel that is engaged in fishing.

*Demand* means a noteholder's request that a debtor or guarantor pay a note's full principal and interest balance.

*Facility* means a fishery or an aquaculture facility.

*Fish* means finfish, mollusks, crustaceans and all other forms of aquatic animal and plant life, other than marine mammals and birds.

*Fisheries harvest authorization* means any transferable permit, license or

other right, approval, or privilege to engage in fishing.

*Fishery facility* means land, land structures, water craft that do not engage in fishing, and equipment used for transporting, unloading, receiving, holding, processing, preserving, or distributing fish for commercial purposes (including any water craft used for charter fishing).

*Fishing* means:

(1) The catching, taking, or harvesting of fish;

(2) The attempted catching, taking, or harvesting of fish;

(3) Any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish;

(4) Any operations at sea in support of, or in preparation for, any activity described in paragraphs (1) through (3) of this section.

(5) Fishing does not include any scientific research activity which is conducted by a scientific research vessel.

*Fishing industry* for the purposes of this part, means the broad sector of the national economy comprised of persons or entities that are engaged in or substantially associated with fishing, including aquaculture, charter operators, guides, harvesters, outfitters, processors, suppliers, among others, without regard to the location of their activity or whether they are engaged in fishing for wild stocks or aquaculture.

*Guarantee* means a guarantor's contractual promise to repay indebtedness if an obligor fails to repay as agreed.

*Guarantee fee* means one percent of a guaranteed note's average annual unpaid principal balance.

*Guaranteed note* means a promissory note from an obligor to a noteholder, the repayment of which the United States guarantees.

*IFQ* means Individual Fishing Quota, which is a Federal permit under a limited access system to harvest a quantity of fish, expressed by a unit or units representing a percentage of the total allowable catch of a fishery that may be received or held for exclusive use by a person. IFQ does not include community development quotas.

*Noteholder* means a guaranteed note payee.

*Obligor* means a party primarily liable for payment of the principal of or

## § 253.10

## 50 CFR Ch. II (10-1-13 Edition)

interest on an obligation, used interchangeably with the terms “note payor” or “notemaker.”

*Origination year* means the year in which an application for a loan is accepted for processing.

*Program* means the Fisheries Finance Program, Financial Services Division, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

*Project* means:

(1) The refinancing or construction of a new fishing vessel or the financing or refinancing of a fishery or aquaculture facility or the refurbishing or purchase of an existing vessel or facility, including, but not limited to, architectural, engineering, inspection, delivery, outfitting, and interest costs, as well as the cost of any consulting contract the Program requires;

(2) The purchase or refinance of any limited access privilege, IFQ, fisheries access right, permit, or other fisheries harvest authorization, for which the actual cost of the purchase of such authorization would be eligible under the Act for direct loans;

(3) Activities (other than fishing capacity reduction, as set forth in part 600.1000 of this title) that assist in the transition to reduced fishing capacity;

(4) Technologies or upgrades designed to improve collection and reporting of fishery-dependent data, to reduce bycatch, to improve selectivity or reduce adverse impacts of fishing gear, or to improve safety; or

(5) Any other activity that helps develop the U.S. fishing industry, including, but not limited to, measures designed or intended to improve a vessel's fuel efficiency, to increase fisheries exports, to develop an underutilized fishery, or to enhance financial stability, financial performance, growth, productivity, or any other business attribute related to fishing or fisheries.

*RAM* means the Restricted Access Management division in the Alaska Regional Office of NMFS or the office that undertakes the duties of this division to issue or manage quota shares.

*Refinancing* means newer debt that either replaces older debt or reim-

burses applicants for previous expenditures.

*Refinancing/assumption fee* means a one time fee assessed on the principal amount of an existing FFP note to be refinanced or assumed.

*Refurbishing* means any reconstruction, reconditioning, or other improvement of existing vessels or facilities, but does not include routine repairs or activities characterized as maintenance.

*Security documents* mean all documents related to the collateral securing the U.S. Note's repayment and all other assurances, undertakings, and contractual arrangements associated with financing or guarantees provided by NMFS.

*Underutilized fishery* means any stock of fish (a) harvested below its optimum yield or (b) limited to a level of harvest or cultivation below that corresponding to optimum yield by the lack of aggregate facilities.

*U.S.* means the United States of America and, for citizenship purposes, includes the fifty states, Commonwealth of Puerto Rico, American Samoa, the Territory of the U.S. Virgin Islands, Guam, the Republic of the Marshall Islands, the Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, and any other commonwealth, territory, or possession of the United States, or any political subdivision of any of them.

*U.S. Note* means a promissory note payable by the obligor to the United States.

*Useful life* means the period during which project property will, as determined by the Program, remain economically productive.

*Vessel* means any vessel documented under U.S. law and used for fishing.

*Wise use* means the development, advancement, management, conservation, and protection of fishery resources, that is not inconsistent with the National Standards for Fishery Conservation and Management (16 U.S.C. 1851) and any other relevant criteria, as may be specified in applicable statutes, regulations, Fishery Management Plans, or NMFS guidance.