

# NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Date 03/07/2016

Department of Commerce  
National Oceanic and Atmospheric Administration

FOR CERTIFYING OFFICIAL: Jennifer Jessup

FOR CLEARANCE OFFICER: Jennifer Jessup

In accordance with the Paperwork Reduction Act, OMB has taken action on your request received 02/03/2016

ACTION REQUESTED: Extension without change of a currently approved collection

TYPE OF REVIEW REQUESTED: Regular

ICR REFERENCE NUMBER: 201602-0648-002

AGENCY ICR TRACKING NUMBER:

TITLE: Interim Capital Constructions Fund Agreement, Family of Forms, Certification and Deposit/Withdrawal Report

LIST OF INFORMATION COLLECTIONS: See next page

OMB ACTION: Approved without change

OMB CONTROL NUMBER: 0648-0041

The agency is required to display the OMB Control Number and inform respondents of its legal significance in accordance with 5 CFR 1320.5(b).

EXPIRATION DATE: 03/31/2019

DISCONTINUE DATE:

BURDEN:	RESPONSES	HOURS	COSTS
Previous	3,000	3,167	15,320
New	2,445	2,732	12,073
Difference			
Change due to New Statute	0	0	0
Change due to Agency Discretion	0	0	0
Change due to Agency Adjustment	-555	-435	-3,247
Change due to PRA Violation	0	0	0

TERMS OF CLEARANCE:

OMB Authorizing Official: Dominic J. Mancini  
Acting Deputy Administrator,  
Office Of Information And Regulatory Affairs

List of ICs

IC Title	Form No.	Form Name	CFR Citation
Capital Construction Fund - Deposit/Withdrawal Report	NOAA 34-82	Capital Construction Fund Deposit and Withdrawal Report	
Capital Construction Fund Agreement Family of Forms	88-14, NA, NA, NA, NA	Interim Capital Construction Fund Agreement, CCF Application, Schedule A, Schedule B - construction, acquisition and/or mortgage payments, Schedule B - reconstruction	
Certificate of Construction or Reconstruction	NA	Certificate of Construction or Reconstruction	

# PAPERWORK REDUCTION ACT SUBMISSION

**Please read the instructions before completing this form. For additional forms or assistance in completing this form, contact your agency's Paperwork Clearance Officer. Send two copies of this form, the collection instrument to be reviewed, the supporting statement, and any additional documentation to: Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.**

<p>1. Agency/Subagency originating request</p>	<p>2. OMB control number <span style="float: right;">b. <input type="checkbox"/> None</span>                  a. _____ - _____</p>
<p>3. Type of information collection (<i>check one</i>)</p> <p>a. <input type="checkbox"/> New Collection</p> <p>b. <input type="checkbox"/> Revision of a currently approved collection</p> <p>c. <input type="checkbox"/> Extension of a currently approved collection</p> <p>d. <input type="checkbox"/> Reinstatement, without change, of a previously approved collection for which approval has expired</p> <p>e. <input type="checkbox"/> Reinstatement, with change, of a previously approved collection for which approval has expired</p> <p>f. <input type="checkbox"/> Existing collection in use without an OMB control number</p> <p>For b-f, note Item A2 of Supporting Statement instructions</p>	<p>4. Type of review requested (<i>check one</i>)</p> <p>a. <input type="checkbox"/> Regular submission</p> <p>b. <input type="checkbox"/> Emergency - Approval requested by _____ / _____ / _____</p> <p>c. <input type="checkbox"/> Delegated</p>
	<p>5. Small entities                  Will this information collection have a significant economic impact on a substantial number of small entities? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>
	<p>6. Requested expiration date</p> <p>a. <input type="checkbox"/> Three years from approval date b. <input type="checkbox"/> Other Specify: _____ / _____</p>
<p>7. Title</p>	
<p>8. Agency form number(s) (<i>if applicable</i>)</p>	
<p>9. Keywords</p>	
<p>10. Abstract</p>	
<p>11. Affected public (<i>Mark primary with "P" and all others that apply with "x"</i>)</p> <p>a. <input type="checkbox"/> Individuals or households d. <input type="checkbox"/> Farms</p> <p>b. <input type="checkbox"/> Business or other for-profit e. <input type="checkbox"/> Federal Government</p> <p>c. <input type="checkbox"/> Not-for-profit institutions f. <input type="checkbox"/> State, Local or Tribal Government</p>	<p>12. Obligation to respond (<i>check one</i>)</p> <p>a. <input type="checkbox"/> Voluntary</p> <p>b. <input type="checkbox"/> Required to obtain or retain benefits</p> <p>c. <input type="checkbox"/> Mandatory</p>
<p>13. Annual recordkeeping and reporting burden</p> <p>a. Number of respondents _____</p> <p>b. Total annual responses _____</p> <p>    1. Percentage of these responses collected electronically _____ %</p> <p>c. Total annual hours requested _____</p> <p>d. Current OMB inventory _____</p> <p>e. Difference _____</p> <p>f. Explanation of difference</p> <p>    1. Program change _____</p> <p>    2. Adjustment _____</p>	<p>14. Annual reporting and recordkeeping cost burden (<i>in thousands of dollars</i>)</p> <p>a. Total annualized capital/startup costs _____</p> <p>b. Total annual costs (O&amp;M) _____</p> <p>c. Total annualized cost requested _____</p> <p>d. Current OMB inventory _____</p> <p>e. Difference _____</p> <p>f. Explanation of difference</p> <p>    1. Program change _____</p> <p>    2. Adjustment _____</p>
<p>15. Purpose of information collection (<i>Mark primary with "P" and all others that apply with "X"</i>)</p> <p>a. <input type="checkbox"/> Application for benefits e. <input type="checkbox"/> Program planning or management</p> <p>b. <input type="checkbox"/> Program evaluation f. <input type="checkbox"/> Research</p> <p>c. <input type="checkbox"/> General purpose statistics g. <input type="checkbox"/> Regulatory or compliance</p> <p>d. <input type="checkbox"/> Audit</p>	<p>16. Frequency of recordkeeping or reporting (<i>check all that apply</i>)</p> <p>a. <input type="checkbox"/> Recordkeeping b. <input type="checkbox"/> Third party disclosure</p> <p>c. <input type="checkbox"/> Reporting</p> <p>    1. <input type="checkbox"/> On occasion 2. <input type="checkbox"/> Weekly 3. <input type="checkbox"/> Monthly</p> <p>    4. <input type="checkbox"/> Quarterly 5. <input type="checkbox"/> Semi-annually 6. <input type="checkbox"/> Annually</p> <p>    7. <input type="checkbox"/> Biennially 8. <input type="checkbox"/> Other (describe) _____</p>
<p>17. Statistical methods</p> <p>Does this information collection employ statistical methods</p> <p style="text-align: center;"><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>18. Agency Contact (person who can best answer questions regarding the content of this submission)</p> <p>Name: _____</p> <p>Phone: _____</p>

## 19. Certification for Paperwork Reduction Act Submissions

On behalf of this Federal Agency, I certify that the collection of information encompassed by this request complies with 5 CFR 1320.9

**NOTE:** The text of 5 CFR 1320.9, and the related provisions of 5 CFR 1320.8(b)(3), appear at the end of the instructions. *The certification is to be made with reference to those regulatory provisions as set forth in the instructions.*

The following is a summary of the topics, regarding the proposed collection of information, that the certification covers:

- (a) It is necessary for the proper performance of agency functions;
- (b) It avoids unnecessary duplication;
- (c) It reduces burden on small entities;
- (d) It used plain, coherent, and unambiguous terminology that is understandable to respondents;
- (e) Its implementation will be consistent and compatible with current reporting and recordkeeping practices;
- (f) It indicates the retention period for recordkeeping requirements;
- (g) It informs respondents of the information called for under 5 CFR 1320.8(b)(3):
  - (i) Why the information is being collected;
  - (ii) Use of information;
  - (iii) Burden estimate;
  - (iv) Nature of response (voluntary, required for a benefit, mandatory);
  - (v) Nature and extent of confidentiality; and
  - (vi) Need to display currently valid OMB control number;
- (h) It was developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected (see note in Item 19 of instructions);
- (i) It uses effective and efficient statistical survey methodology; and
- (j) It makes appropriate use of information technology.

If you are unable to certify compliance with any of the provisions, identify the item below and explain the reason in Item 18 of the Supporting Statement.

Signature of Senior Official or designee

Date

Agency Certification (signature of Assistant Administrator, Deputy Assistant Administrator, Line Office Chief Information Officer, head of MB staff for L.O.s, or of the Director of a Program or StaffOffice)

Signature

Date

Signature of NOAA Clearance Officer

Signature

Date

**SUPPORTING STATEMENT  
INTERIM CAPITAL CONSTRUCTION FUND AGREEMENT, FAMILY OF FORMS,  
CERTIFICATE AND DEPOSIT/WITHDRAWAL REPORT  
OMB CONTROL NO. 0648-0041**

**A. JUSTIFICATION**

This request is for extension of this information collection.

**1. Explain the circumstances that make the collection of information necessary.**

National Oceanic and Atmospheric Administration (NOAA) Form 34-82, NOAA Form 88-14, Family of Forms and the Certificate are used to facilitate meeting the continuing record keeping requirements of the Fishing Vessel Capital Construction Fund (FVCCF) program. The program was created under the Merchant Marine Act of 1970. The CCF was authorized by Section 607 of the Merchant Marine Act, 1936, as amended, 46 U.S.C. 1177 (now at [46 U.S.C. 53503](#) of the Shipping Act) and administered pursuant to [50 CFR Part 259](#). The data collected is required pursuant to 50 CFR Part 259.35 (Form 34-82) and 50 CFR Part 259.30 (Form 88-14, Family of Forms and Certificate) and is needed for responsible program administration. The FVCCF is a tax deferral program which allows participating fishermen to defer the tax on vessel income deposited into the fund and provides for the recapture of the deferred tax by reducing an agreement vessel's basis by the amount withdrawn for its construction, acquisition and/or reconstruction. Deposited income is separated into one of three bookkeeping accounts, and is withdrawn from them on a first-in first-out basis in accordance with the nature of the withdrawal as set forth in [26 CFR Part 3](#) Sec 3.6(b) and 3.7(c).

If withdrawn monies are not used for allowed purposes, the withdrawn amount (a non-qualified withdrawal) is considered income to the participant in the year withdrawn, and taxed at the highest rate for the account involved.

Under a Capital Construction Fund (CCF) agreement, the participant must deposit a minimum amount per year, and cannot deposit more than a set amount. National Marine Fisheries Service (NMFS) must approve any withdrawals made before they take place. It is essential that a reasonably detailed record be kept of each participant's deposit/withdrawal activity.

The Merchant Marine Act of 1936, as amended by P.L. 91-469 and P.L. 99-514, provides for the administration of a Capital Construction Fund (CCF) Program by NMFS. The law requires that applicants enter into formal agreements with the Secretary of Commerce. The agreement allows the fishermen to defer taxable income from operation of their fishing vessels if the money is placed into an account to fund the construction, reconstruction, or replacement of a fishing vessel. The program requirements are detailed at 50 CFR Part 259. The agreement is a contract between the Secretary of Commerce and the agreement holder specifying the obligations of each party. Schedule A specifies the vessel which earned the income which is eligible for deposit in to a CCF account. Schedule B specifies the construction, acquisition, or reconstruction

objectives planned under the agreement. The Certificate of Construction/Reconstruction certifies the total cost at completion of Schedule B objectives.

**2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.**

The information is used by the Government for the purpose of responsibly administering the FVCCF Program and for general program management purposes. NOAA Form 34-82 must be submitted by participants not later than 30 days after the deadline, with extensions, for filing the participant's tax return. A copy of the tax return must also be submitted at that time. NMFS compares the two documents to find any conflicting information on earned income, deductions taken for deposits, adjustments made to depreciation schedules, and the proper payment of additional tax for non-qualified withdrawals. The information is also checked to ensure that withdrawals have been approved, and that deposited income meets minimum and maximum limits. There is no other way, except by direct audit, for us to check if participants are complying with deposit/withdrawal requirements and properly accounting for FVCCF activity on their tax returns. Incorrect reporting can be costly to the Government in lost rather than deferred tax revenue. The information may also be used for research to better understand the fishing industry and demands for the program.

NMFS collects information on the Capital Construction Fund application and related forms (listed and linked to in the application instructions) to determine whether an applicant is eligible for a formal agreement.

- Specific information about the vessel and its characteristics are needed to clearly identify the vessel affected by the agreement.
- Information on type of gear, fishery, and areas of operation is required because program benefits are limited for certain fisheries and because NMFS must track where the assistance is going to in the industry.
- Information on ownership and percentage of ownership is used to determine eligibility and the proper allocation of cost to the agreement vessel.
- Information on the bank or other institution at which the CCF account will be established is needed for enforcement purposes.
- Principle mortgage balance and depreciable basis are used to determine limitations of costs of objectives for compliance with program regulations. Objective costs are limited to the lesser of the principle mortgage balance or depreciable basis as of the beginning of the year in which the objective commenced.
- Dates and times for completion and the specific types of improvements to the vessel are needed to determine compliance with regulations, which impose time restrictions for beginning and completing objectives.

NMFS will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with NOAA standards for confidentiality, privacy, and electronic information. See response to Question 10 of this Supporting Statement for more

information on confidentiality and privacy. The information collection is designed to yield data that meet all applicable information quality guidelines. Although the information collected is not expected to be disseminated directly to the public, results may be used in scientific, management, technical or general informational publications. Should NMFS decide to disseminate the information, it will be subject to the quality control measures and pre-dissemination review pursuant to [Section 515 of Public Law 106-554](#).

**3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.**

The fillable CCF form is on-line at:

[http://www.nmfs.noaa.gov/mb/financial\\_services/ccf\\_docs\\_and\\_forms.htm](http://www.nmfs.noaa.gov/mb/financial_services/ccf_docs_and_forms.htm).

Some items could be electronically submitted, such as the “Certificate of Construction/Reconstruction.” The Program Automated Data Processing (ADP) system will be modified to accept these. Some other items could be electronically submitted but there would be no real benefit because supporting documentation is required. All information on these forms is the minimum required by law. Because the information collected relates to financial transactions of individuals and businesses it is not disclosed to the public in any form.

**4. Describe efforts to identify duplication.**

NMFS is solely responsible for the program. Some requirements for financial (tax) and vessel registration documents duplicate data submitted to other agencies, but NMFS accepts copies of this documentation.

**5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.**

The forms are organized to help small entities such as small businesses keep track of their annual deposit/withdrawal activity in a manner that will aid them in the timely preparation of their tax returns. The information collected is the minimum necessary to ensure participants are complying with program regulations and statute.

**6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.**

The information for NOAA Form 34-82 is collected at the end of each participant's tax year. Less frequent collection would allow improper deposit/withdrawal activity to go undetected for periods of more than one year and, in some cases, could prevent the Internal Revenue Service (IRS) from protecting the Government's interest if they were not notified of tax liability situations in time to act before the expiration of the IRS 3 year statute of limitations. Not collecting the information would almost certainly result in the Government's not recovering substantial amounts of deferred taxes.

The information for the Interim Capital Construction Fund Agreement, NOAA Form 88-14, is collected only once and is initiated by the respondent to obtain program benefits. If all of the information was not gathered, NMFS could not be certain of the applicant's eligibility for an agreement, track program activity, or ensure compliance with other requirements.

The information for the Family of Forms is collected when the respondent applies for program benefits and prior to project commencement. The Certificate is collected upon project completion. If the information was not collected we would not be able to grant project approval and would not be able to perform the review necessary to close out projects upon completion.

**7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.**

The collection is consistent with OMB guidelines.

**8. Provide information on the PRA Federal Register notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.**

A Federal Register notice published on October 6, 2015 (2015-25331) solicited public comments. No comments were received.

Comments were solicited by email from two program users. There specific comments are listed below:

**Availability of data:**

1. In my opinion the information to complete the forms is usually readily available.
2. The data is usually reasonably attainable (just need copy of bank statements)

**Frequency of collection:**

1. We attempt to gather information during the year so that we can assemble the required reporting data and meet the filing requirements. While the forms may be completed, they are usually not submitted until a CCF deposit is made. Usually our clients make CCF deposits in the current year for the prior reporting year. They usually do not fund as they go.
2. Once/year seems reasonable to me.

**The clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported:**

1. I would say that the instructions need some clarification. The example in the instructions could go into greater depth of offer additional examples or commentary. The examples given are usually too simplistic. (Response: the instructions provided are intended to cover the majority of items that a program user would encounter. We do realize that occasionally transactions occur that are outside the scope of our general instructions. The CCF staff is always available by phone or email to give guidance on the proper recording of any transaction that occurs in their CCF accounts.)

As far as recordkeeping is concerned, the requirements that records be available from day 1 appear a bit onerous. In theory a CCF examination could ask for anything that has ever been done on a vessel at any time. Most clients would like to discard certain information after the IRS statute permits them to. We do understand that there is a severe personnel shortage at the agency, more so than the IRS but asking for anything at any time seems to be a bit much. (Response: the CCF program staff attempts to minimize the reporting burdens of our program users. The respondent is referring to our requirement that the vessels' tax basis be tracked from the day the vessel is acquired until it is disposed of by sale or retirement. This is critical because the CCF is a tax deferral program in which the Government recoups the deferred tax by vessel tax basis reductions. If the recording of the tax basis is not properly maintained it is impossible to ensure that the basis was properly reduced for CCF transactions that occurred.)

2. I think the instructions are clear, disclosure format is good, and the data elements to be reported are reasonable.

**Burden of Hour Estimates**

1. I believe these are generally accurate.
2. CCF Application and Agreement about right. Certificate of Construction/Reconstruction about right. D/W Report - I would say about an hour if the account has activity. In some cases, the account has funds in investments that fluctuate in value. The work necessary to track unrealized gain and/or loss and tie back to the cost basis adds time to the form. Though not necessarily reported on the form, tracking of gains and/or losses adds to the time. Brokerage statements usually report at market value and the end of year statement showing actual realized gains need to be reconciled so that the proper reporting on the D/W statements is done. (Response:

Tracking gains and losses if the brokerage account is active is a tedious exercise regardless of whether or not the account is a CCF account or a personal investment account. The CCF program cannot accept market value balances since this is not a “realized” taxable transaction, the value changes daily and the market value has no impact on the cost basis of the CCF funds until the investments are sold and incur a realized gain or loss. The original burden hour estimate took the additional work into consideration.

**9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.**

No payment or gift to respondents is provided.

**10. Describe any assurance or confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.**

The information collected is confidential under the [Magnuson-Stevens Fishery Conservation and Management Act](#), as amended in 2006, and [NOAA Administrative Order 216-100](#), which sets forth procedures to protect confidentiality of fishery statistics. In addition, 50 CFR 259.38(b) states: “All CCF information received by the Secretary shall be held strictly confidential, except that it may be published or disclosed in statistical form provided such publication does not disclose, directly or indirectly, the identity of any fundholder.”

A Privacy Act System of Records Notice for all the Financial Systems Division programs, COMMERCE/NOAA-21, is under review at DOC. Publication is expected in the second or third quarter of FY16.

**11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.**

No sensitive questions are asked, however, the provision of the agreement holder’s Social Security Number is required pursuant to 46 U.S.C. Sec. 1177 (m)(2) which requires NMFS to report annually to the IRS on capital construction funds including the name and taxpayer identification number of each agreement holder.

**12. Provide an estimate in hours of the burden of the collection of information.**

Number of respondents = 1,445

Frequency of response:

1. Once a year, Deposit/Withdrawal Report (Form 34-82) - 1445 @ 20 minutes = 482 hours
2. One time only when applying for program benefits (Form 88-14) and Family of Forms - 500 @ 3.5 hours = 1,750 hours
3. Certificate varies depending of frequency of projects - 500@ 1 hour = 500 hours.

**Total number of responses expected = 2,445. Total annual burden = 2,732 hours.**

**13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in Question 12 above).**

Annualized costs per respondent for Form 34-82 are estimated at \$5.85 (\$3.35 for postage and \$2.50 for copying) = \$8,453.

Annualized costs per respondent for the Agreement and Family of Forms are estimated at \$6.50 (\$3.75 for postage and \$2.75 for copying) = \$3,250.

\$0.74 for the Certificate (\$.44 for postage and \$.30 for copying) = \$370.

The total annual cost to the respondents or record keepers based on 2,445 responses is \$12,073.

**14. Provide estimates of annualized cost to the Federal government.**

The sole cost to the Federal Government is the labor necessary to process the reports and update the program database. For NOAA Form 34-82 that effort is estimated to involve 10 minutes per report for a Financial Assistance Technician, or 240 hours and \$6,750 in labor and benefits.

For NOAA Form 88-14, Family of Forms and the Certificate the No. of responses x avg. time to review x avg. salary of reviewer/hr plus 35% overhead =  $1,000 \times 1 \text{ hr} \times \$27.88 + 35\% = \$37,638$ .

**15. Explain the reasons for any program changes or adjustments.**

The number of participants has been reduced since the last renewal. The program undertook a large effort to terminate those participants that have not reported and/or have had no account activity in the past 5 years or more. This resulted in a decrease of expected respondents from 2,000 to 1,445 since the last extension, resulting in a decrease of 555 responses, 435 hours and \$3,247 in recordkeeping/reporting costs.

**16. For collections whose results will be published, outline the plans for tabulation and publication.**

The information collected is not published.

**17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.**

The forms will display the expiration date of OMB approval.

**18. Explain each exception to the certification statement.**

There are no exceptions.

## **B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS**

Statistical methods are not used for this collection.

NOAA FORM 88-14

U.S. DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration

Agreement No. CCF-\_\_\_\_\_

## INTERIM CAPITAL CONSTRUCTION FUND AGREEMENT

This Interim Capital Construction Fund Agreement (the "Agreement"), made on \_\_\_\_\_, by and between the Secretary of Commerce (the "Secretary") and \_\_\_\_\_ (the "Party"), a citizen of the United States.

WITNESSETH:

WHEREAS:

1. The Party has applied for establishment of an Interim Capital Construction Fund (the "Interim Fund") under section 607 of the Merchant Marine Act, 1936, for the purpose of providing replacement, additional, or reconstructed vessels for operation in the fisheries of the United States;

2. The Secretary after appropriate findings and determinations has authorized the award of an Interim Capital Construction Fund Agreement to the Party upon the terms and conditions set forth in this Agreement and subject to the provisions of the Merchant Marine Act, 1936, as amended from time to time (the "Act"), and to such rules and regulations as the Secretary of Commerce or his delegate shall from time to time prescribe, either alone or jointly with the Secretary of the Treasury, as necessary to carry out the powers, duties, and functions vested in them by the Act (the "Rules and Regulations").

NOW, THEREFORE, in consideration of the premises, it is hereby agreed:

I. Establishment of Interim Fund. An Interim Fund is hereby established for the purposes set forth in Article III. During the term of this Agreement deposits into and withdrawals from the Interim Fund shall be made only in accordance with the provisions, conditions, and requirements of the Act, this Agreement, and the Rules and Regulations.

II. Term of the Agreement. This Agreement shall terminate:

A. Upon failure of the Party to make application for a permanent Capital Construction Fund Agreement (the "Permanent Agreement") within sixty (60) days after notice in the Federal Register that the final form of such Permanent Agreement and form of application, if any, have been adopted by the Secretary.

B. Upon denial by the Secretary of a timely-filed application for a Permanent Agreement.

C. By mutual consent.

D. Upon failure to execute a Permanent Agreement within ninety (90) days after tender by the Secretary of such Agreement for execution by the Party.

E. At the option of the Secretary, upon a determination pursuant to subsection (f) (2) of section 607 of the Act that a Party has failed to fulfill a substantial obligation under this Agreement, or if the Party has made any material misrepresentation in connection with this Agreement.

F. Upon the execution by the Secretary and the Party of a Permanent Agreement.

In the case of terminations occasioned by the events described in sections (A), (B), (C), (D), and (E) above, the provisions of the Internal Revenue Code of 1986 shall apply as though this Agreement had not been executed.

If this Agreement is terminated by virtue of the execution of a Permanent Agreement under (F) above, no interval shall be deemed to occur between the Interim and Permanent Agreement. The assets then on deposit in the Interim Fund, to the extent found necessary and appropriate by the Secretary for carrying out the program set forth in the Permanent Agreement, shall be transferred to the corresponding accounts in the Permanent Fund under the Permanent Agreement.

III. Purposes of the Interim Fund. The Interim Fund established by this Agreement shall be for the purposes of providing for qualified withdrawals during the term of this Agreement (1) to provide for the replacement, addition, or reconstruction of qualified vessels in accordance with the general objectives contained in Schedule B of this Agreement; and/or (2) to provide for the payment of the principal on indebtedness incurred in connection with the acquisition, construction, or reconstruction of a qualified vessel; and (3) to provide for transfer to a Permanent Agreement such amounts as may be approved by the Secretary under Article II of this Agreement. For the purpose of item (2) in the preceding sentence, an eligible vessel may also be a qualified vessel.

IV. Approved Depositories. All assets of the Interim Fund shall be maintained in the following depositories:  
(Insert the name of the depositories)

#### V. Deposits to be made in the Interim Fund.

A. In order to carry out the purposes of section 607 of the Act as more specifically set forth in Schedule B of this Agreement, for each of the taxable years covered by this Agreement;

1. The Party shall deposit in any order all amounts received from the following:
  - a. Receipts (earnings) from the investment and reinvestment of amounts held in the Interim Fund; and
  - b. Except as shall be specifically exempted from deposit by the Secretary, net proceeds (i) the sale or other disposition (including any mortgage) of any agreement vessel, and (ii) any insurance or indemnity attributable to any agreement vessel resulting from total loss whether such loss was determined by compromise, constructively, or by agreement.
2. In addition to the deposits required by section (A) of this Article V, the party may make deposits in any order and amount but not in excess of the sum of:
  - a. One hundred percent of the taxable income attributable to the operation of the agreement vessels in the fisheries of the United States;
  - b. The amount allowable as a deduction under section 167 of the Internal Revenue Code of 1986 for such year in respect to the agreement vessels; and
  - c. Net proceeds not required to be deposited under section (A) (1) (b) of this Article V from (i) the sale or other disposition (including any mortgage) of any agreement vessel, and (ii) any insurance or indemnity attributable to any agreement vessel.

In no event may the deposits of taxable income from agreement vessels for any taxable year exceed one hundred percent of the taxable income of the Party for such year. Deposits may be made to the ordinary income, capital gain, and capital accounts from any moneys or funds of the Party, however, the Federal income tax treatment of any deposit shall be that specified under section 607 of the Act.

B. Deposits which are determined by subsequent audit to exceed the limitations stated in section (A) of this Article V may be applied as deposits applicable to a subsequent taxable year either under this agreement or an immediately succeeding Permanent Agreement. In the event that upon subsequent audit it is determined that amounts deposited in the Interim Fund for any taxable year fall below the maximum limitations stated in section (A) of this Article V, additional deposits may be made applicable to such taxable year.

C. Deposits may be made in the form of mortgages and evidences of indebtedness received in connection with transactions referred to in section (A) of this Article V.

D. With respect to any leased vessel covered by this Agreement, the maximum amount which may be deposited by the Party for any taxable year may be increased by the amount allowable to the owner as a deduction under section 167 of the Internal Revenue Code of 1986 that the owner does not deposit under an Agreement for that year. Such deposits by the Party shall be added to the amount in the capital account as a deposit of depreciation.

#### VI. Withdrawals from the Interim Fund.

A. Prior to making a withdrawal, or a related series of withdrawals, the Party must obtain the consent of the Secretary, and, if required by the Secretary, must amend and supplement Schedule B. A withdrawal made for the purposes specified in Schedule B of the Agreement, as so amended and supplemented, shall be treated as a "qualified withdrawal" within the meaning of subsection 607(f) of the Act except as otherwise provided in section (B) of this Article VI. Any withdrawal which is not a qualified withdrawal shall be treated as a nonqualified withdrawal or a withdrawal pursuant to subsection 607(h), as the case may be.

B. The Secretary may from time to time determine that the addition of a significant degree of fishing effort to the existing fleet in any specific segment or segments of the fisheries will be inconsistent with the wise use of the fisheries resource involved, and inconsistent with the development, advancement, management, conservation, or protection of that resource (the "Closed Fishery"). Prior to his making a final determination the Secretary shall give notice of his intention to make such determination and afford an opportunity for hearing by publishing a proposed regulation in the Federal Register establishing that qualified withdrawals may not be made from the Interim Fund if such withdrawals would introduce a significant degree of additional fishing effort into the Closed Fishery. If, after notice and opportunity for hearing, the Secretary makes a determination and gives notice thereof by promulgating a regulation in the Federal Register, the Party affected thereby may:

1. Make a qualified withdrawal in accordance with section (A) of this Article VI: Provided, that a degree of fishing effort substantially equivalent to any additional degree of fishing effort to be introduced into any Closed Fishery as a result of such qualified withdrawal is permanently removed by such Party from all fishing effort in that Closed Fishery; or
2. Amend Schedule B with the Secretary's consent; or
3. Make a nonqualified withdrawal in accordance with section (A) of this Article VI in such manner as the Secretary determines to be equitable to the Party by allowing the Party to withdraw all of the assets in the Interim Fund, or specified portions thereof, over a period of time; or
4. Continue the Interim Fund, and all or a portion of the assets in it: Provided that it appears to the Secretary that a qualified withdrawal may at some later time be reasonably expected to occur.

In the case of nonqualified withdrawal in accordance with this Article VI, the provisions of the Internal Revenue Code of 1986 shall apply as though this Agreement had not been executed with respect to the funds withdrawn.

VII. Investment of the Interim Fund. Investments shall be made in accordance with the following requirements and such additional requirements as the Secretary may by Rules and Regulations prescribe from time to time.

A. The assets of the Interim Fund may be invested in obligations of the United States Government or of any agency or instrumentality thereof, bankers acceptances and negotiable certificates of deposit which are readily marketable and which are issued by members of the Federal Deposit Insurance Corporation and the Federal Reserve System, and commercial paper which is readily marketable and of one of the two highest grades as rated by Standard and Poor's Corporation. All of the foregoing investments shall mature not later than one year from the date of their purchase.

B. No person shall buy on margin or effect the short sale of any security when acting for the account of the Interim Fund.

C. Assets of the Interim Fund may not be invested in securities of any of the following:

1. The Party;
2. A subsidiary of the Party;
3. A related company of the Party; or
4. Any issuer under common control with the Party, or owning or controlling more than ten percent of the Party's voting securities.

VIII. Pledges and Assignments Prohibited. The Party covenants and agrees that, without the prior written consent of the Secretary, neither the Party nor a trustee nor any other person shall pledge or assign all or any portion of this Agreement, the Interim Fund, or any assets in the Interim Fund.

IX. Related Companies. Where affiliates, subsidiaries, holding companies, or other persons related to the Party, directly or indirectly, are involved in the financing, acquisition, construction, or reconstruction of a qualified vessel, the Party shall make written application to the Secretary for approval of the transaction not less than thirty (30) days prior to the execution thereof. Withdrawals with respect to such transactions before such approval is granted shall be treated as nonqualified withdrawals unless otherwise approved by the Secretary.

X. Records and Reports.

A. The Party and every affiliate, domestic agent, subsidiary, or holding company connected with, or directly or indirectly controlling or controlled by, the Party (1) shall keep its books, records, and accounts relating to the property and to the maintenance, operation, and servicing of the vessel(s) and service(s) covered by this Agreement in such form and under such conditions as may be prescribed by the Secretary, but the Secretary shall not require the duplication of books, records, and accounts required to be kept in some other form by the Secretary of the Treasury so long as such information is made available to the Secretary, and (2) shall file, upon notice from the Secretary, balance facts and transactions, as in the opinion of the Secretary reveal the financial results in the performance of, or transactions or operations under, this Agreement. The Secretary reserves the right to require that all or any of such statements, reports, and memoranda shall be certified by independent certified public accountants acceptable to the Secretary. The Party shall from time to time establish and maintain such checks upon or systems of control of expenditures or revenues in connection with the operation of the agreement vessel(s) as the Secretary may require.

B. The Secretary is hereby authorized to examine and audit the books, records, and accounts of all persons referred to in section (A) of this Article X whenever he may deem it necessary or desirable.

XI. Warranties and Representations by the Party. The Party hereby warrants, represents, and agrees as follows:

A. That the Party is, and at all times during the period of this Agreement, will continue to be a citizen of the United States within the meaning of subsection 905(c) of the Act;

B. That the Party owns or leases the eligible vessels, as that term is defined in subsection 607(k) of the Act, set out in Schedule A of this Agreement;

C. That the vessels referred to in Schedule B of this Agreement:

1. Were, or will be, constructed or reconstructed in the United States;
2. Were, or will be, documented under the laws of the United States for operation in the fisheries of the United States; and
3. Are, or will be, operated in the fisheries of the United States and the areas of operation specified in Schedule B.

D. That the Party will during the term of this Agreement comply with the provisions of this Agreement, of the Act, and of the Rules and Regulations.

XII. Effective Dates. This Agreement is binding upon execution and shall be effective for purposes of withdrawals from the Interim Fund in accordance with Rules and Regulations issued by the Secretary and for purposes of deposits the effective date(s) shall be prescribed in joint Rules and Regulations issued by the Secretary and the Secretary of the Treasury.

XIII. Modification, Amendment, and Extension. This Agreement may be modified, amended, or extended by mutual consent.

XIV. Miscellaneous Provisions.

A. The use of headnotes at the beginning of the Articles in this Agreement is for the purpose of description only and shall not be construed as limiting or in any other manner affecting the substance of the Articles themselves.

B. The "Secretary" shall mean the Secretary of Commerce or any official or body from time to time duly authorized to perform the duties and functions of the Secretary of Commerce under the Act (including the Administrator, National Oceanic and Atmospheric Administration, or his authorized delegate).

IN WITNESS WHEREOF, the Secretary and the Party have executed this Agreement in duplicate, effective as of the date hereinbefore first mentioned.

UNITED STATES OF AMERICA  
SECRETARY OF COMMERCE  
National Oceanic and Atmospheric Administrator

By \_\_\_\_\_

Financial Assistance Specialist  
Financial Services Division  
National Marine Fisheries Service

(SEAL)

ATTEST: (By corporate secretary), or  
Witness: (others)

PARTY:

By \_\_\_\_\_

By: \_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_

**Public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other suggestions for reducing this burden to NOAA Fisheries, F/MB5, 1315 East West Hwy., Silver Spring, MD 20910.**

**The information collected is confidential under the Magnuson-Stevens Fishery Conservation and Management Act, as amended in 2006, NOAA Administrative Order 216-100, which sets forth procedures to protect confidentiality of fishery statistics and 15CFR259.38(b).**

Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subjected to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.



Case No. CCF-\_\_\_\_\_

**CERTIFICATE OF CONSTRUCTION/RECONSTRUCTION**

The undersigned hereby certifies that:

Construction  Reconstruction\*

of Schedule B, page \_\_\_\_\_, \_\_\_\_\_, was completed  
(Name of Vessel)

on \_\_\_\_\_, by  Contract  Owner  Both,  
(Date)

for a **TOTAL COST** of \$ \_\_\_\_\_.

**If available, show breakdown below for above Total Cost:**

Hull & House \$ \_\_\_\_\_

Machinery \$ \_\_\_\_\_

Electronics \$ \_\_\_\_\_

Fixed Gear \$ \_\_\_\_\_

Other \$ \_\_\_\_\_

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Date)

**\*NOTE:** All, or the major portion (ordinarily, not less than 80 percent), of the total cost must (for the purpose of meeting the minimum cost requirement) be classifiable as a capital expenditure for IRS purposes. That portion of cost not classifiable as a capital expenditure is not eligible for payment through the CCF.

--50 CFR, sec 259.31(b)(2)

**Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other suggestions for reducing this burden to NOAA Fisheries, F/MB5, 1315 East West Hwy., Silver Spring, MD 20910.**

**The information collected is confidential under the Magnuson-Stevens Fishery Conservation and Management Act, as amended in 2006, NOAA Administrative Order 216-100, which sets forth procedures to protect confidentiality of fishery statistics and 15CFR259.38(b).**

Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subjected to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

**SCHEDULE A  
ELIGIBLE VESSEL**

CASE NO. \_\_\_\_\_

A. NAME OF VESSEL: \_\_\_\_\_ OFFICIAL NO. \_\_\_\_\_

B. NAME OF OWNER: \_\_\_\_\_

C. PERCENT OF OWNERSHIP: \_\_\_\_\_ % DATE ACQUIRED: \_\_\_\_\_

D. NAME OF LESSEE (If applicable): \_\_\_\_\_

E. DATE VESSEL LAST DOCUMENTED: \_\_\_\_\_

F. TRADE(S) VESSEL DOCUMENTED FOR: \_\_\_\_\_

G. DATE VESSEL CONSTRUCTED: \_\_\_\_\_

H. PLACE CONSTRUCTED (CITY & STATE): \_\_\_\_\_

I. NET TONNAGE: \_\_\_\_\_ TONS NUMBER OF CHARTER PASSENGERS: \_\_\_\_\_

J. GROSS TONNAGE: \_\_\_\_\_ TONS

K. LENGTH (OVERALL/REGISTERED): \_\_\_\_\_ FEET

L. VESSEL TYPE: CATCHER ( ) PROCESSOR ( ) TENDER/ TRANSPORTER ( ) CHARTER ( )

M. GEAR TYPE (Seine, Trawl, Pots, etc.): \_\_\_\_\_

N. FISHERY OF OPERATION (salmon, king crab, etc.): \_\_\_\_\_

\_\_\_\_\_

O. AREA OF OPERATION: \_\_\_\_\_

Date: \_\_\_\_\_

A PAGE \_\_\_\_\_

Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other suggestions for reducing this burden to NOAA Fisheries, F/MB5, 1315 East West Hwy., Silver Spring, MD 20910.

The information collected is confidential under the Magnuson-Stevens Fishery Conservation and Management Act, as amended in 2006, NOAA Administrative Order 216-100, which sets forth procedures to protect confidentiality of fishery statistics and 15CFR259.38(b).

Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subjected to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

**SCHEDULE B - QUALIFIED VESSEL FOR  
CONSTRUCTION, ACQUISITION AND/OR MORTGAGE PAYMENTS**

CASE NO. \_\_\_\_\_

A. NAME OF VESSEL: \_\_\_\_\_ OFFICIAL NO. \_\_\_\_\_

B. NAME OF OWNER: \_\_\_\_\_

C. PERCENT OF OWNERSHIP: \_\_\_\_\_ %

D. ANTICIPATED OR TOTAL ACTUAL COST OF VESSEL: \$ \_\_\_\_\_

E. PRINCIPAL MORTGAGE BALANCE \$ \_\_\_\_\_, AS OF \_\_\_\_\_

F. DEPRECIABLE BASIS \$ \_\_\_\_\_, AS OF \_\_\_\_\_

G. ANTICIPATED OR ACTUAL DATE OF ACQUISITION: \_\_\_\_\_

**If acquisition of a used vessel, skip to Line K.**

H. ANTICIPATED BEGINNING DATE OF CONSTRUCTION: \_\_\_\_\_

I. ANTICIPATED DELIVERY DATE: \_\_\_\_\_  
(Must be within 18 months of beginning date)

J. CONSTRUCTION TO BE DONE BY: CONTRACT ( ) OWNER ( ) BOTH ( )

K. NET TONNAGE: \_\_\_\_\_ TONS

L. GROSS TONNAGE: \_\_\_\_\_ TONS NO. CHARTER PASSENGERS: \_\_\_\_\_

M. LENGTH (OVERALL/REGISTERED): \_\_\_\_\_ FEET

N. AGE (SHOW YEAR CONSTRUCTED): \_\_\_\_\_

O. VESSEL TYPE: CATCHER ( ) PROCESSOR ( ) TRANSPORTER ( ) CHARTER ( ) TENDER/

P. GEAR TYPE (seine, trawl, pots, etc.): \_\_\_\_\_

Q. FISHERY OF OPERATION (salmon, king crab, cod, etc.): \_\_\_\_\_

R. AREA OF OPERATION: \_\_\_\_\_  
( ) Withdrawal limited to Party's share of cost/share of ownership.  
( ) Conditioned upon satisfying the requirements of 50 CFR '259.31.

DATE: \_\_\_\_\_

B PAGE \_\_\_\_\_

Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other suggestions for reducing this burden to NOAA Fisheries, F/MB5, 1315 East West Hwy., Silver Spring, MD 20910.

The information collected is confidential under the Magnuson-Stevens Fishery Conservation and Management Act, as amended in 2006, NOAA Administrative Order 216-100, which sets forth procedures to protect confidentiality of fishery statistics and 15CFR259.38(b).

Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subjected to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.



# NOAA FORM 34-82 - *GENERAL INFORMATION*

## CAPITAL CONSTRUCTION FUND - DEPOSIT/WITHDRAWAL REPORT

(SEE REVERSE SIDE FOR LINE-BY-LINE INSTRUCTIONS FOR FILING NOAA FORM 34-82)

**NOAA Form 34-82 is required *each year*, even if no deposits or withdrawals are made.**

Failure to submit these required annual deposit/withdrawal reports shall be cause, after due notice, for disqualification of withdrawals or involuntary termination of the CCF agreement, at the Secretary's [of Commerce] discretion.

*CAUTION: Notify NOAA Fisheries in writing of any change in depository institutions. Entering this information on Form 34-82 is not sufficient notice to amend your Agreement.*

**DUE DATE: 30 Days** after the due date of the year's tax return, including extensions.

### SUPPORTING DOCUMENTS REQUIRED:

- A signed and **complete** copy (even if it shows no CCF activity) of the year's federal tax return as submitted to the IRS. Attach it to Form 34-82; *always* submit the tax return copy and Form 34-82 together.
- If deposits relate to a S-corporation, partnership, or LLC, attach copy of K-1 from that entity.
- If depositing net proceeds from sale or disposition of a vessel, attach a Net Proceeds Worksheet. Contact the CCF staff to request this form.
- Transfers between agreements generally must be disclosed on transferee and transferor tax returns. Deposit/Withdrawal reports should clearly show these transfers and the related agreement number.

### AVOID FREQUENT ERRORS:

- Each depository account should be reported on a separate Form 34-82. If useful, add a schedule summarizing the year's transactions.
- Funds transferred between two CCF depository accounts during the year should be shown as withdrawals and deposits on the affected accounts. Explain the transfers in DESCRIPTION.
- Verify that last year's ending balance agrees with this year's beginning balance on Form 34-82. Do not use *Year-End Market Value* for balances.
- Reconcile tax return entries reducing taxable income to entries on Form 34-82. Attach schedule if necessary to explain differences, especially when they relate to pass-through entities.
- Verify all deposit and withdrawal entries against the depository statement. All deposits must be physically made to the depository account, except for those made in the first effective year of the agreement or the period before the agreement is finalized. Deposits/withdrawals made during this period are referred to as "constructive." (Supporting depository statements should be kept as part of your permanent records.)
- All withdrawals should reference a specific *approved* project - give the type of project, vessel name, and Schedule B page number. *Example: "Reconstruction of FV Dorothy; B-4"*.
- Source of vessel income should appear on the report. *Example: "Vessel income from FV Jack; Sch. A-2"*.
- Interest and dividends earned for the year may be summarized as a single entry.
- Do not include *unrealized* gains and losses; list only *realized* gains and losses on investment transactions. Your tax advisor can assist you on this matter.

NOAA Form 34-82 is used to meet the continuing record keeping requirements of the Fishing Vessel Capital Construction Fund (FVCCF) program which is statutorily mandated under Section 607 of the Merchant Marine Act, 1936, as amended. The data collected is required pursuant to 50 CFR, Part 259.35, and P.L. 99-514 (The Tax Reform Act, 1986). NOAA Fisheries is required to provide information furnished on this form to the Internal Revenue Service.

The information is used by the Government for the purpose of responsibly administering the FVCCF Program and for general program management purposes. Assurance of confidentiality of information required to complete Form 34-82 is given in 50 CFR Part 259, Sec 259.38(b) of the FVCCF regulations.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB control number.

**OVER FOR LINE-BY-LINE INSTRUCTIONS** ➡

# NOAA FORM 34-82 - *LINE-BY-LINE INSTRUCTIONS*

## CAPITAL CONSTRUCTION FUND - DEPOSIT/WITHDRAWAL REPORT

(SEE REVERSE SIDE FOR GENERAL INFORMATION ON NOAA FORM 34-82)

**NOAA Form 34-82 and tax return copy are required *each year*, even if no deposits or withdrawals are made.**

NOAA Fisheries is required to provide information furnished on this form to the Internal Revenue Service.

**DEPOSITORY BANK, OR INVESTMENT FIRM** - Enter name, location, type of account, account number, and date opened. Use a separate Deposit/Withdrawal Report for **EACH** account at **EACH** approved depository.

**AGREEMENT HOLDER** - Enter the name exactly as shown on the agreement.

**TAXABLE YEAR ENDING** - Enter applicable calendar year (12/31/yr.)... Fiscal Year taxpayers enter the ending date of the fiscal year.

**CCF CASE NUMBER** - Enter assigned case number as shown on the agreement.

**ACCOUNT ACTIVITY FOR THE TAX YEAR:** (Report transaction amounts in whole dollars)

**DATE** - Enter actual date of the deposit, withdrawal, or transfer. If reimbursing general operating funds, also show actual date of original expenditures in Description column.

**Deposits:** Enter the tax year for which the deposit is made, source of income (which Schedule A vessel) or details of transferred funds. EX: 2004 income - FV Dorothy. Summarize interest and dividend income. For deposit of proceeds of vessel sale, attach Net Proceeds Worksheet.

**Withdrawals:** Qualified withdrawals should describe Sch. B objective vessel and project. EX: Reconstruction of FV Dorothy. Every withdrawal should also be fully explained.

**SCH. A or SCH. B Page #** - Reference the appropriate page number of the Schedule A (income producing) vessel for each deposit, and the Schedule B objective vessel for each qualified withdrawal.

**CLASSIFICATION OF DEPOSITS (and Withdrawals)** - Use these columns to specify the bookkeeping classification to which each deposit and/or withdrawal relates. These bookkeeping classifications designate the ceiling defined by the Merchant Marine Act of 1936 (MMA) Sec. 607(e) and IRS Code Sec. 7518(a) under which deposits and withdrawals are made. (Also see information in IRS Publication 595). Since each ceiling classification is subject to different treatment for tax purposes, proper classification is important. Qualified withdrawals are made in the following classification order: First, from Capital; second, from Capital Gain; third, from Ordinary Income. Nonqualified withdrawals are made: First, from Ordinary Income; second, from Capital Gain; third from Capital.

**ORDINARY INCOME** - Deposits under this ceiling classification create an immediate deduction from taxable income. Generally, ordinary income deposits are limited to: (1) taxable income from operating the Schedule A vessel; (2) the ordinary income portion (depreciation recapture) on the sale of Agreement vessels; and (3) interest, dividend and short term capital gains and losses earned on investments of the FVCCF depository account.

**CAPITAL GAIN** - (long-term gains and losses). Deposits under this ceiling classification also create an immediate income tax deduction. Report long-term capital gain deposits of net proceeds made from the sale or insurance proceeds of Agreement vessels. Capital gains or losses from investment of the FVCCF deposits are also reported here.

**CAPITAL** - (non-tax deferred deposits). Valid deposits under this ceiling classification DO NOT generate a tax deduction. Generally, capital deposits are limited to vessel depreciation and the return of capital on the sale or other disposition of Schedule A vessels.

**SUMMARY BALANCE** - *IMPORTANT* Show beginning and end-of-year balance in the depository.

**SIGNATURE AND DATE** - Required certification by Agreement holder or Authorized Representative (with Power of Attorney, only). Forms not signed will be returned for certifying signature.

**OVER FOR GENERAL INFORMATION** ➡

**Capital Construction Fund Program  
DEPOSIT/WITHDRAWAL REPORT**

Mail report and tax return copy to:

NOAA Fisheries F/MB5  
Capital Construction Fund Program  
1315 East-West Highway  
Silver Spring, MD 20910-3282  
301-713-2393

Due 30 days after filing date of Federal Tax Return (including extensions). This report must be filed annually, whether or not agreement activity took place. Attach a signed copy of the Federal Income Tax Return, as filed with the IRS, to this report.

Prepare a separate Form 34-82 report for each account you maintain.  
DEPOSITORY BANK, OR INVESTMENT FIRM

Name: \_\_\_\_\_  
City and State: \_\_\_\_\_  
Number: \_\_\_\_\_ Date Opened: \_\_\_\_\_  
Type of Investment Account:  Savings  Money Market  Checking  
 Other: (describe) \_\_\_\_\_

AGREEMENT HOLDER:

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Telephone No: \_\_\_\_\_

CCF CASE NUMBER

CCF - \_\_\_\_ - \_\_\_\_

REPORT OF DEPOSITORY  
ACTIVITY FOR TAX YEAR ENDED

\_\_\_\_ / \_\_\_\_ / \_\_\_\_

Did you reduce taxable income for the current tax year due to CCF activity? Amount deferred \$ _____ <input type="checkbox"/> YES <input type="checkbox"/> NO		CLASSIFICATION OF DEPOSITS:						SUMMARY BALANCE	Notes :
		ORDINARY INCOME (tax deferred)		CAPITAL GAIN (tax deferred)		CAPITAL (funds <u>not</u> tax deferred)			
		DEPOSIT	WITHDRAWAL	DEPOSIT	WITHDRAWAL	DEPOSIT	WITHDRAWAL		
Was a CCF deposit made during the current year for taxes deferred in the prior year? Clearly identify this deposit in Account Activity section. <input type="checkbox"/> YES <input type="checkbox"/> NO		BALANCE FORWARD - FROM PRIOR YEAR'S REPORT (Should be same as last year's "Balance - End of Year" amount. If different, attach a reconciling schedule.)							
ACCOUNT ACTIVITY FOR THE TAX YEAR Summarize interest and dividend deposits. For deposits of vessel income, provide name of vessel and Schedule A page number. For all withdrawals, provide name of vessel and Schedule B page number for project.									
	DATE	DESCRIBE	SCH. A OR SCH. B PAGE #						
1								1	
2								2	
3								3	
4								4	
5								5	
6								6	
7								7	
8								8	
9								9	
10								10	
TOTAL EACH COLUMN (include "Balance Forward" amount for each column)			( )	( )	( )	( )			
WITHDRAWALS FOR THE YEAR (copy totals from adjacent column)		( )	←	( )	←	( )	←		
BALANCE - END OF TAX YEAR (net amounts and Summary Balance)									

Public reporting burden for this collection of information is estimated to average 20 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to NOAA Fisheries, F/MB5, 1315 East-West Hwy., Silver Spring, MD 20910.

I certify that for this tax year, there were no withdrawals or transfers other than those enumerated above for this Capital Construction Fund agreement. This report reflects true and complete statements in accordance with all applicable rules and regulations issued or adopted by the Secretary of Commerce pertaining to Section 607 of the Merchant Marine Act of 1936, as amended. Information on this report is complete, true and correct to the best of my knowledge and belief. **(Following Information is required.)**

SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_ Agreement holder or officer  Authorized  
representative

prohibitions provided in section 9(a)(1) of the ESA, which specifically prohibits “take” of any endangered species (“take” includes actions that harass, harm, pursue, kill, or capture). The first salmonid species listed by NMFS as threatened were protected by virtually blanket application of the section 9 take prohibitions. There are now 22 separate Distinct Population Segments (DPS) of west coast salmonids listed as threatened, covering a large percentage of the land base in California, Oregon, Washington and Idaho. NMFS is obligated to enact necessary and advisable protective regulations. NMFS makes section 9 prohibitions generally applicable to many of those threatened DPS, but also seeks to respond to requests from states and others to both provide more guidance on how to protect threatened salmonids and avoid take, and to limit the application of take prohibitions wherever warranted (see 70 FR 37160, June 28, 2005, 71 FR 834, January 5, 2006, and 73 FR 55451, September 25, 2008). The regulations describe programs or circumstances that contribute to the conservation of, or are being conducted in a way that limits impacts on, listed salmonids. Because we have determined that such programs/circumstances adequately protect listed salmonids, the regulations do not apply the “take” prohibitions to them. Some of these limits on the take prohibitions entail voluntary submission of a plan to NMFS and/or annual or occasional reports by entities wishing to take advantage of these limits, or continue within them.

The currently approved application and reporting requirements apply to Pacific marine and anadromous fish species, as requirements regarding other species are being addressed in a separate information collection.

## II. Method of Collection

Submissions may be electronically or on paper.

## III. Data

*OMB Control Number:* 0648–0399.  
*Form Number(s):* None.

*Type of Review:* Regular submission (extension of a currently approved collection).

*Affected Public:* Federal government; State, local, or tribal government; business or other for-profit organizations.

*Estimated Number of Respondents:* 300.

*Estimated Time per Response:* 20 hours for a road maintenance agreement; 5 hours for a diversion screening limit project; 30 hours for an urban development package; 10 hours

for an urban development report; 20 hours for a tribal plan; and 5 hours for a report of aided, salvaged, or disposed of salmonids.

*Estimated Total Annual Burden Hours:* 1,705.

*Estimated Total Annual Cost to Public:* \$1,000 in recordkeeping/reporting costs.

## IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency’s estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: September 29, 2015.

**Sarah Brabson,**

*NOAA PRA Clearance Officer.*

[FR Doc. 2015–25332 Filed 10–5–15; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### Proposed Information Collection; Comment Request; Interim Capital Construction Fund Agreement, Certificate Family of Forms and Deposit/Withdrawal Report

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

**DATES:** Written comments must be submitted on or before December 7, 2015.

**ADDRESSES:** Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at [Jjessup@doc.gov](mailto:Jjessup@doc.gov)).

#### FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of the information collection instrument and instructions should be directed to Richard VanGorder at (301)427–8784 or [Richard.VanGorder@noaa.gov](mailto:Richard.VanGorder@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Abstract

This request is for extension of a currently approved information collection.

Respondents will be commercial fishing industry individuals, partnerships, and corporations which entered into Capital Construction Fund (CCF) agreements with the Secretary of Commerce allowing deferral of Federal taxation on fishing vessel income deposited into the fund for use in the acquisition, construction, or reconstruction of fishing vessels. Deferred taxes are recaptured by reducing an agreement vessel’s basis for depreciation by the amount withdrawn from the fund for its acquisition, construction, or reconstruction. The interim Capital Construction Fund Agreement and Certificate Family of Forms is required pursuant to 50 CFR part 259.30 and Public Law 99–514 (The Tax Reform Act, 1986). The deposit/withdrawal information collected from agreement holders is required pursuant to 50 CFR part 259.35 and Pub L. 99–514. The information collected from applicants for the Interim CCF Agreement is used to determine their eligibility to participate in the CCF Program. The information collected from agreement holders for the Certificate Family of Forms is used to identify their program eligible vessels, their program projects and to certify the cost of a project at completion. The information collected on the deposit/withdrawal report form is required to ensure that agreement holders are complying with fund deposit/withdrawal requirements established in program regulations and properly accounting for fund activity on their Federal income tax returns. The information collected on the deposit/withdrawal report must also be reported semi-annually to the Secretary of Treasury in accordance with the Tax Reform Act.

## II. Method of Collection

The information will be collected on forms submitted electronically or by mail.

## III. Data

*OMB Control Number:* 0648-0041.

*Form Numbers:* NOAA Form 34-82, NOAA Form 88-14.

*Type of Review:* Regular submission (extension of a current information collection).

*Affected Public:* Business or other for-profit organizations.

*Estimated Number of Respondents:* 3,000.

*Estimated Time per Response:* NOAA Form 34-82, 20 minutes;

NOAA Form 88-14, 3.5 hours for agreements and 1 hour for certificate.

*Estimated Total Annual Burden Hours:* 2,917.

*Estimated Total Annual Cost to Public:* \$15,320 in recordkeeping/reporting costs.

## IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: September 30, 2015.

**Sarah Brabson,**

*NOAA PRA Clearance Officer.*

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**BILLING CODE 3510-22-P**

## DEPARTMENT OF COMMERCE

### Patent and Trademark Office

[Docket No. PTO-P-2015-0049]

### Change in Practice Regarding Correction of Foreign Priority Claims

**AGENCY:** United States Patent and Trademark Office, Commerce.

**ACTION:** Notice.

**SUMMARY:** The American Inventors Protection Act of 1999 (AIPA) provided for publication of patent applications at eighteen months from the earliest filing date for which a benefit is claimed. Thus, the patent laws and regulations require that foreign priority or domestic benefit claims, specifying the application number, country (or intellectual property authority), and filing date of any foreign application for which priority is claimed and the application number of any domestic application for which benefit is claimed, be submitted in a timely manner to allow for publication at eighteen months from the earliest filing date for which a benefit is claimed. It has been United States Patent and Trademark Office (USPTO) practice to require that any correction of the application number in a domestic benefit claim after the time period for filing a priority or benefit claim be via a petition to accept an unintentionally delayed benefit claim, but to permit correction of the application number in a foreign priority claim after the time period for filing a priority or benefit claim without such a petition. This dissimilar treatment of the correction of foreign priority claims and domestic benefit claims results in the publication of a corrected patent application publication reflecting the accurate domestic benefit claim information whenever an applicant corrects the application number in a domestic benefit claim in a pending application, but not whenever an applicant corrects the application number of the foreign application in a foreign priority claim. The rationale for the practice of permitting correction of the application number in a foreign priority claim without a petition was because the filing date of a prior foreign patent application did not affect the effective prior art date of a U.S. patent application publication and because the USPTO schedules publication of an application with the filing date provided by applicant in a foreign priority claim. The Leahy-Smith America Invents Act (AIA), however, now provides that the filing date of an earlier foreign patent application may now be the effective prior art date for subject matter disclosed in a U.S. patent or a U.S. patent application publication. Therefore, U.S. patent application publications should reflect accurate foreign priority information to minimize the burden on examiners and members of the public in assessing the effective prior art date for subject matter disclosed in such U.S. patent application publications. The USPTO will thus now require that any

correction of the identification of the foreign application (by application number, country (or intellectual property authority), and filing date) in a foreign priority claim after the time period for filing a priority or benefit claim be via a petition to accept an unintentionally delayed priority claim, and once the petition is granted in a pending application, will now publish a corrected patent application publication reflecting the accurate foreign priority claim information. Requiring a petition and publishing a corrected patent application publication whenever an applicant corrects the application number in a foreign priority claim or a domestic benefit claim will provide for common treatment of the correction of the identification of a foreign or domestic application in a priority or benefit claim. The publication of a corrected patent application publication by the USPTO will result in corrected patent application publications with accurate foreign priority information which will benefit examiners, applicants and members of the public in assessing the effective prior art date for subject matter disclosed in a U.S. patent application publication.

**DATES: Effective Date:** The change in this notice takes effect on November 5, 2015. Any corrections to the foreign application number in a foreign priority claim that were previously accepted are not affected by this change in practice.

**FOR FURTHER INFORMATION CONTACT:** Eugenia A. Jones, Senior Legal Advisor, by telephone at (571) 272-7727, or Erin M. Harriman, Legal Advisor, by telephone (571) 272-7747, Office of Patent Legal Administration, Office of the Deputy Commissioner for Patent Examination Policy, or by mail addressed to: Mail Stop Comments—Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, marked to the attention of Eugenia A. Jones.

### **SUPPLEMENTARY INFORMATION:**

**Background:** In view of the AIPA, foreign priority or domestic benefit claims must be submitted in a timely manner to allow for publication of patent applications at eighteen months from the earliest filing date for which a benefit is claimed. *See* 35 U.S.C. 122(b). The requirements for making a domestic benefit claim are set forth in 37 CFR 1.78 and the requirements for making a foreign priority claim are set forth in 37 CFR 1.55. As provided in 37 CFR 1.55 and 1.78, the claim for priority or benefit must be filed within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior