NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Date 01/07/2011

Department of Commerce
National Oceanic and Atmospheric Administration
FOR CERTIFYING OFFICIAL: Simon Szykman
FOR CLEARANCE OFFICER: Diana Hynek

In accordance with the Paperwork Reduction Act, OMB has taken action on your request received 10/15/2010

ACTION REQUESTED: Extension without change of a currently approved collection
TYPE OF REVIEW REQUESTED: Regular
ICR REFERENCE NUMBER: 201009-0648-007
AGENCY ICR TRACKING NUMBER:
TITLE: Interim Capital Construction Fund Agreement and Certificate Family of Forms
LIST OF INFORMATION COLLECTIONS: See next page

OMB ACTION: Approved without change
OMB CONTROL NUMBER: 0648-0090
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: 01/31/2014 DISCONTINUE DATE:

BURDEN:	RESPONSES	HOURS	COSTS
Previous	1,000	2,250	3,180
New	1,000	2,500	3,620
Difference			
Change due to New Statute	0	0	0
Change due to Agency Discretion	0	0	0
Change due to Agency Adjustment	0	250	440
Change Due to Potential Violation of the PRA	0	0	0

TERMS OF CLEARANCE:

OMB Authorizing Official: Kevin F. Neyland
Deputy Administrator,
Office Of Information And Regulatory Affairs

List of ICs			
IC Title	Form No.	Form Name	CFR Citation
Interim Capital Construction Fund Agreement	88-14, NA, NA, NA, NA	Capital Construction Fund Agreement, Capital Construction Fund Vessel Application, Capital Construction Fund Schedule B - Construction, Acquisition and/or Mortgage Payments, Capital Construction Fund Schedule A, Eligible Vessel, Capital Construction Fund - Qualified Vessel for Reconstruction	
Certificate of Construction/Reconstruction	NA	Certificate of construction/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.

1. Agency/Subagency originating request
DOC/NOAA/NMFS

2. OMB control number
a. 0648 - 0090
b. [ ] None

3. Type of information collection (*check one*)
a. [ ] New Collection
b. [ ] Revision of a currently approved collection
c. [✔] Extension of a currently approved collection
d. [ ] Reinstatement, without change, of a previously approved collection for which approval has expired
e. [ ] Reinstatement, with change, of a previously approved collection for which approval has expired
f. [ ] Existing collection in use without an OMB control number
For b-f, note Item A2 of Supporting Statement instructions

4. Type of review requested (*check one*)
a. [✔] Regular submission
b. [ ] Emergency - Approval requested by ____/____/____
c. [ ] Delegated

5. Small entities
Will this information collection have a significant economic impact on a substantial number of small entities? [ ] Yes [✔] No

6. Requested expiration date
a. [✔] Three years from approval date b. [ ] Other Specify:____/____

7. Title
Interim Capital Construction Fund Agreement and Certificate Family of Forms

8. Agency form number(s) (*if applicable*)
NOAA Form 88-14

9. Keywords
"Fisheries", "Fishing Vessels" and "Taxes"

10. Abstract

The Capital Construction Fund Program allows commercial fishermen to enter into agreements with the Secretary of Commerce to establish accounts to fund the construction, reconstruction, or replacement of a fishing vessel. Monies placed into the accounts receive tax deferral benefits. Persons must apply for the program to establish their eligibility.

11. Affected public (*Mark primary with "P" and all others that apply with "x"*)
a. x Individuals or households d. ___ Farms
b. P Business or other for-profit e. ___ Federal Government
c. ___ Not-for-profit institutions f. ___ State, Local or Tribal Government

12. Obligation to respond (*check one*)
a. [ ] Voluntary
b. [✔] Required to obtain or retain benefits
c. [ ] Mandatory

13. Annual recordkeeping and reporting burden
a. Number of respondents: 500
b. Total annual responses: 1,000
1. Percentage of these responses collected electronically: 0 %
c. Total annual hours requested: 2,500
d. Current OMB inventory: 2,250
e. Difference: 250
f. Explanation of difference
1. Program change: ____
2. Adjustment: 250

14. Annual reporting and recordkeeping cost burden (*in thousands of dollars*)
a. Total annualized capital/startup costs: 0
b. Total annual costs (O&M): 4
c. Total annualized cost requested: 4
d. Current OMB inventory: 3
e. Difference: 1
f. Explanation of difference
1. Program change: ____
2. Adjustment: 1

15. Purpose of information collection (*Mark primary with "P" and all others that apply with "X"*)
a. P Application for benefits e. ___ Program planning or management
b. ___ Program evaluation f. ___ Research
c. ___ General purpose statistics g. x Regulatory or compliance
d. ___ Audit

16. Frequency of recordkeeping or reporting (*check all that apply*)
a. [ ] Recordkeeping b. [ ] Third party disclosure
c. [ ] Reporting
1. [✔] On occasion 2. [ ] Weekly 3. [ ] Monthly
4. [ ] Quarterly 5. [ ] Semi-annually 6. [ ] Annually
7. [ ] Biennially 8. [ ] Other (describe) ____

17. Statistical methods
Does this information collection employ statistical methods
[ ] Yes [✔] No

18. Agency Contact (person who can best answer questions regarding the content of this submission)
Name: Richard Vangorder
Phone: 301-713-2393

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 or head of MB staff for L.O.s, or of the Director of a Program or Staff Office)	
Signature signed by Gary Reisner	Date 09/22/2010
Signature of NOAA Clearance Officer	
Signature signed by Sarah Brabson	Date 09/23/2010

SUPPORTING STATEMENT
INTERIM CAPITAL CONSTRUCTION FUND AGREEMENT AND FAMILY OF FORMS
OMB CONTROL NO. 0648-0090

A. JUSTIFICATION

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

This request is a renewal of this information collection.

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 the National Oceanic and Atmospheric Administration's (NOAA's) National Marine Fisheries Service (NMFS). The law requires that applicants enter into formal agreements with the Secretary of Commerce. The agreements allow 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 identifies the vessel which generates the fishing income that 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 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.

NMFS collects information 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.

As explained in the preceding paragraphs, the information gathered has utility. 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.

Fillable forms can be downloaded from the CCF Web page: http://www.nmfs.noaa.gov/mb/financial_services/ccf.htm. Forms are also mailed or faxed in response to telephone requests.

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. The ADP system is an Oracle database that tracks each CCF program participant's personal data, CCF financial information, incoming and outgoing correspondence, Schedule A vessels and Schedule B objectives. The modifications needed to allow for collection of data electronically are still in the planning stages. Some other items could be electronically submitted but there would be no real benefit because supporting documentation is required.

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 requirements are the minimum to ensure eligibility and compliance with program regulations. No special provisions for small businesses are made.

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

The information is only collected 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.

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 March 10, 2010 (75 FR 11115) solicited public comments on the information collection; no comments were received on the collection.

Consultation with program users, their accountants, and attorneys, as well as with the Internal Revenue Service, is ongoing about all aspects of the program including information collection.

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."

11. <u>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</u>.

No sensitive questions are asked.

12. <u>Provide an estimate in hours of the burden of the collection of information</u>.

The estimated total annual burden is as follows:

500 respondents x 1 agreement x 4 hrs/agreement (application, 30 minutes; Schedule A, 1 hour; Schedule B for Construction, Acquisition and/or Mortgage Payments, 1 hour; Schedule B for Qualified Vessel for Reconstruction, 1 hour; agreement document 30 minutes) = 2,000 hours.

500 respondents x 1 Certificate of Construction/Reconstruction x 1 hr/certificate = 500 hours.

TOTALS = 500 unduplicated respondents, 1,000 responses, and 2,500 hours.

The cost of the response time to the public is estimated to be $24/hr, for a total of $60,000.

13. <u>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)</u>.

Annualized costs per respondent are estimated at $6.50 for the agreement ($3.75 for postage and $2.75 for copying), totaling $3,250 for 500 responses, and $0.74 for the certificate ($.44 for postage and $0.30 for copying), totaling $370 for 500 responses, for a total cost of $3,620.

14. <u>Provide estimates of annualized cost to the Federal government</u>.

Number of responses x average time to review x average salary of reviewer/hr plus 35% overhead= $37,638.

1,000 x 1 hr x $27.88 = $27,880
+ 35% x $27,880 = 9,758

$37,638.

15. <u>Explain the reasons for any program changes or adjustments</u>.

Hours have been adjusted to match the times stated on the forms, resulting in an increase adjustment of 250 hours. Due to increased postage and copying costs, the total reporting/recordkeeping costs have increased from $3,180 to $3,620.

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.

Not Applicable.

18. Explain each exception to the certification statement.

Not Applicable.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Statistical methods are not used for this collection.

OMB Control No. 0648-0090
Expiration Date: 10/31/2010

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 ( ) TENDER/ TRANSPORTER ( ) CHARTER ( )

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.

OMB Control No. 0648-0090
Expiration Date: 10/31/2010

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.

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OMB Control No. 0648-0090; Expiration Date: 10/31/2010

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)

By_____

Title_____

PARTY:

By:_____

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.

OMB Control No. 0648-0090
Expiration Date: 10/31/2010

FISHING VESSEL CCF APPLICATION Date:_____

CCF Applicant Name:_____

Taxable Entity type: ☐ Individual ☐ C-Corporation ☐ S-Corporation ☐ Partnership

CCF application for the taxable year ending: (date)_____

Social Security/Employer Identification Number:_____

Estimated initial CCF deposit attributable to Schedule A vessel(s) from:

Fishing Income $_____ Sale/Insurance Proceeds $_____, Depreciation $_____

Name and Address of each CCF depository (bank, brokerage, etc.) to be used:

_____

_____

The following checked items are attached as a part of this application: (Note: *Required **See instructions)

_____ *NOAA Form 88-14, Interim Capital Construction Fund Agreement (2 signed forms)

_____ *Completed Schedule A and Schedule B forms

_____ **Evidence of ownership for all Schedule A eligible vessels to be a part of this CCF Agreement

_____ **Evidence of lease for Schedule A vessel(s)

_____ **Proof of U.S. citizenship (if Schedule A vessel leased, or 2 - 5 net tons)

_____ **Evidence of debt for Schedule B vessel

_____ *Federal tax return copies as filed with IRS for previous 2 years

_____ **Signed and dated copy of IRS Automatic Extension notice, and copy of IRS approved Additional Extension Request, if applicable to this taxable year application

I hereby give permission to the administrators of my Capital Construction Fund Agreement to release and obtain any information about the CCF Agreement from the following representative:

Representative (Name, Firm, etc.)_____

Address:_____

Phone (_____)_____ FAX Phone (_____)_____

Mail all CCF correspondence to: My Address _____ My Representative _____ Both _____

Applicant's Signature and Title_____

Address:_____

Phone (_____)_____ FAX Phone (_____)_____

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.

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OMB Control No. 0648-0090
Expiration Date: 10/31/2010

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.

OMB Control No. 0648-0090
Expiration Date: 10/31/2010

SCHEDULE B - QUALIFIED VESSEL FOR RECONSTRUCTION

CASE NO._____

A. NAME OF VESSEL:_____ OFFICIAL NO._____

B. NAME OF OWNER: _____

C. PERCENT OF OWNERSHIP:____% D. YEAR CONSTRUCTED:_____

E. ORIGINAL COST OF VESSEL:_____

F. ANTICIPATED OR ACTUAL TOTAL COST OF RECONSTRUCTION: $_____
(Amount must be 20% of Line "E" amount or $100,000, whichever is less)

G. MORTGAGE OR DEBT RELATED TO THIS RECONSTRUCTION: $_____

H. RECONSTRUCTION TO BE DONE BY: CONTRACT ( ) OWNER ( ) BOTH ( )

1. BEGINNING DATE:_____ 2. DELIVERY DATE:_____
(Note:--Delivery date must be within 18 months of beginning date)

3. IMPROVEMENTS (new engine, electronics, etc.):_____

_____

_____

	BEFORE RECONSTRUCTION:		AFTER RECONSTRUCTION:	
I.	_____NET TONS		_____NET TONS	
J.	_____GROSS TONS	____NO. CHARTER PASSENGERS	_____GROSS TONS	___NO. CHARTER PASSENGERS
K.	_____FEET		_____FEET	

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

M. GEAR TYPE (seine, trawl, pots, etc.):_____

N. FISHERY OF OPERATION (salmon, king crab, cod, etc.):_____

_____

O. AREA OF OPERATION:_____
( ) Conditioned upon satisfying the requirements of 50 CFR, §259.31.
( ) Withdrawal limited to Party's share of cost/share of ownership.

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.

Funds may be distributed by the Secretary only after notice and opportunity for public comment of the appropriate limitations, terms, and conditions for awarding assistance under this section. Assistance provided under this section is limited to 75 percent of an uninsured loss to the extent that such losses have not been compensated by other Federal or State programs.

(b) *Funds for interstate commissions.* Funds authorized to support the efforts of the three chartered Interstate Marine Fisheries Commissions to develop and maintain interstate fishery management plans for interjurisdictional fisheries will be divided equally among the Commissions.

§ 253.24 Administrative requirements.

Federal assistance awards made as a result of this Act are subject to all Federal laws, Executive Orders, Office of Management and Budget Circulars as incorporated by the award; Department of Commerce and NOAA regulations; policies and procedures applicable to Federal financial assistance awards; and terms and conditions of the awards.

PART 259—CAPITAL CONSTRUCTION FUND

JOINT TAX REGULATIONS

Sec.
259.1 Execution of agreements and deposits made in a Capital Construction Fund.

CAPITAL CONSTRUCTION FUND AGREEMENT

259.30 Application for Interim Capital Construction Fund Agreement (''Interim CCF Agreement'').
259.31 Acquisition, construction, or reconstruction.
259.32 Conditional fisheries.
259.33 Constructive deposits and withdrawals; ratification of withdrawals (as qualified) made without first having obtained Secretary's consent; first tax year for which Interim CCF Agreement is effective.
259.34 Minimum and maximum deposits; maximum time to deposit.
259.35 Annual deposit and withdrawal reports required.
259.36 CCF accounts.
259.37 Conditional consents to withdrawal qualification.
259.38 Miscellaneous.

AUTHORITY: 46 U.S.C. 1177.

JOINT TAX REGULATIONS

§ 259.1 Execution of agreements and deposits made in a Capital Construction Fund.

In the case of a taxable year of a taxpayer beginning after December 31, 1969, and before January 1, 1972, the rules governing the execution of agreements and deposits under such agreements shall be as follows:

(a) A capital construction fund agreement executed and entered into by the taxpayer on or prior to the due date, with extensions, for the filing of his Federal income tax return for such taxable year or years will be deemed to be effective on the date of the execution of such agreement or as of the close of business of the last regular business day of each such taxable year or years to which such deposit relates, whichever day is earlier.

(b) Notwithstanding the provisions of paragraph (a) of this section, where:

(1) For taxable years beginning after December 31, 1969, and prior to January 1, 1971, an application for a capital construction fund agreement is filed by a taxpayer prior to January 1, 1972, and a capital construction fund agreement is executed and entered into by the taxpayer prior to March 1, 1972, and

(2) For taxable years beginning after December 31, 1970, and prior to January 1, 1972, an application for a capital construction fund agreement is filed by a taxpayer prior to January 1, 1973, and a capital construction fund agreement is executed and entered into by the taxpayer prior to March 1, 1973 (or, if earlier, 60 days after the publication of final joint regulations under section 607 of the Merchant Marine Act, 1936, as amended); then such a capital construction fund agreement will be deemed to be effective as of the close of business of the last regular business day of each such taxable year or years to which such deposit related.

(c)(1) Deposits made in a capital construction fund pursuant to such an agreement within 60 days after the date of execution of the agreement, or on or prior to the due date, with extensions, for the filing of his Federal income tax return for such taxable year or years, whichever date shall be later, shall be deemed to have been made on

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[CITE: 46USC--App.1177]

TITLE 46, APPENDIX--SHIPPING

CHAPTER 27--MERCHANT MARINE ACT, 1936

SUBCHAPTER VI--VESSEL OPERATING ASSISTANCE PROGRAMS

Part A--Operating-Differential Subsidy Program Sec. 1177.

Capital Construction Fund

(a) Agreement rules; persons eligible; replacement, additional, or reconstructed vessels for prescribed trade and fishery operations; amount of deposits, annual limitation; conditions and requirements for deposits and withdrawals

Any citizen of the United States owning or leasing one or more eligible vessels (as defined in subsection (k)(1) of this section) may enter into an agreement with the Secretary under, and as provided in, this section to establish a **capital construction fund** (hereinafter in this section referred to as the ``fund '') with respect to any or all of such vessels. Any agreement entered into under this section shall be for the purpose of providing replacement vessels, additional vessels, or reconstructed vessels, built in the United States and documented under the laws of the United States for operation in the United States foreign, Great Lakes, or noncontiguous domestic trade or in the fisheries of the United States and shall provide for the deposit in the fund of the amounts agreed upon as necessary or appropriate to provide for qualified withdrawals under subsection (f) of this section. The deposits in the fund, and all withdrawals from the fund, whether qualified or nonqualified, shall be subject to such conditions and requirements as the Secretary may by regulations prescribe or are set forth in such agreement; except that the Secretary may not require any person to deposit in the fund for any taxable year more than 50 percent of that portion of such person's taxable income for such year (computed in the manner provided in subsection (b)(1)(A) of this section) which is attributable to the operation of the agreement vessels.

(b) Ceiling on deposits; lessees; ``agreement vessel '' defined

(1) The amount deposited under subsection (a) of this section in the fund for any taxable year shall not exceed the sum of:
(A) that portion of the taxable income of the owner or lessee for such year (computed as provided in chapter 1 of the Internal Revenue Code of 1986 [26 U.S.C. 1 et seq.] but without regard to the carryback of any net operating loss or net **capital** loss and without regard to this section) which is attributable to the operation of the agreement vessels in the foreign or domestic commerce of the United States or in the fisheries of the United States,
(B) the amount allowable as a deduction under section 167 of the Internal Revenue Code of 1986 [26 U.S.C. 167] for such year with respect to the agreement vessels,
(C) if the transaction is not taken into account for purposes of subparagraph (A), the net proceeds (as defined in joint regulations) from (i) the sale or other disposition of any agreement vessel, or (ii) insurance or indemnity attributable to any agreement vessel, and
(D) the receipts from the investment or reinvestment of amounts held in such fund.

(2) In the case of a lessee, the maximum amount which may be deposited with respect to an agreement vessel by reason of paragraph (1)(B) for any period shall be reduced by any amount which, under an agreement entered into under this section, the owner is required or permitted to deposit for such period with respect to such vessel by reason of paragraph (1) (B) .
(3) For purposes of paragraph (1), the term ``agreement vessel '' includes barges and containers which are part of the complement of such vessel and which are provided for in the agreement.

(c) Investment requirements; depositories; fiduciary requirements; interest-bearing

securities; stock: percentage for domestic issues, listing and registration, prudent acquisitions, value and percentage equilibrium, and treatment of preferred issues

Amounts in any fund established under this section shall be kept in the depository or depositories specified in the agreement and shall be subject to such trustee and other fiduciary requirements as may be specified by the Secretary. They may be invested only in interestbearing securities approved by the Secretary; except that, if the Secretary consents thereto, an agreed percentage (not in excess of 60 percent) of the assets of the fund may be invested in the stock of domestic corporations. Such stock must be currently fully listed and registered on an exchange registered with the Securities and Exchange Commission as a national securities exchange, and must be stock which would be acquired by prudent men of discretion and intelligence in such matters who are seeking a reasonable income and the preservation of their **capital.** If at any time the fair market value of the stock in the fund is more than the agreed percentage of the assets in the fund, any subsequent investment of amounts deposited in the fund, and any subsequent withdrawal from the fund, shall be made in such a way as to tend to restore the fund to a situation in which the fair market value of the stock does not exceed such agreed percentage. For purposes of this subsection, if the common stock of a corporation meets the requirements of this subsection and if the preferred stock of such corporation would meet such requirements but for the fact that it cannot be listed and registered as required because it is nonvoting stock, such preferred stock shall be treated as meeting the requirements of this subsection.

(d) Nontaxability of deposits; eligible deposits

(1) For purposes of the Internal Revenue Code of 1986--
(A) taxable income (determined without regard to this section and section 7518 of such Code [26 U.S.C. 7518]) for the taxable year shall be reduced by an amount equal to the amount deposited for the taxable year out of amounts referred to in subsection (b)(1)(A) of this section,
(B) gain from a transaction referred to in subsection (b) (1) (C) of this section, shall not be taken into account if an amount equal to the net proceeds (as defined in joint regulations) from such transaction is deposited in the fund,
(C) the earnings (including gains and losses) from the investment and reinvestment of amounts held in the fund shall not be taken into account,
(D) the earnings and profits of any corporation (within the meaning of section 316 of such Code [26 U.S.C. 316]) shall be determined without regard to this section and section 7518 of such Code [2 6 U. S. C. 7 518] , and
(E) in applying the tax imposed by section 531 of such Code [26 U.S.C. 531] (relating to the accumulated earnings tax), amounts while held in the fund shall not be taken into account.

(2) Paragraph (1) shall apply with respect to any amount only if such amount is deposited in the fund pursuant to the agreement and not later than the time provided in joint regulations.

(e) Accounts within fund: **capital** account, **capital** gain account, and ordinary income account; limitation on **capital** losses

For purposes of this section--
(1) Within the fund established pursuant to this section three accounts shall be maintained:
(A) the **capital** account,
(B) the **capital** gain account, and
(C) the ordinary income account.

(2) The **capital** account shall consist of--
(A) amounts referred to in subsection (b)(1)(B) of this section,
(B) amounts referred to in subsection (b)(1)(C) of this section other than that portion thereof which represents gain not taken into account by reason of subsection (d)(1)(B) of this section,
(C) the percentage applicable under section 243(a)(1) of the Internal Revenue Code of 1986 [26 U.S.C. 243(a)(1)] of any dividend received by the fund with respect to which the person maintaining the fund would (but for subsection (d)(1)(C) of this section) be allowed a deduction under section 243 of the Internal Revenue Code of 1986 [26 U.S.C. 243] , and
(D) interest income exempt from taxation under section 103 of such Code [2 6 U. S. C. 10 3] .

(3) The **capital** gain account shall consist of--

(A) amounts representing **capital** gains on assets held for more than 6 months and referred to in subsection (b) (1) (C) or (b) (1) (D) of this section reduced by
(B) amounts representing **capital** losses on assets held in the fund for more than 6 months.

(4) The ordinary income account shall consist of--
(A) amounts referred to in subsection (b)(1)(A) of this section, (B)(i) amounts representing **capital** gains on assets held for 6
months or less and referred to in subsection (b) (1) (C) or (b) (1) (D)
of this section, reduced by--
(ii) amounts representing **capital** losses on assets held in the fund for 6 months or less,
(C) interest (not including any tax-exempt interest referred to in paragraph (2)(D)) and other ordinary income (not including any dividend referred to in subparagraph (E)) received on assets held in the fund,
(D) ordinary income from a transaction described in subsection (b) (1) (C) of this section, and
(E) the portion of any dividend referred to in paragraph (2)(C) not taken into account under such paragraph.

(5) Except on termination of a fund, **capital** losses referred to in paragraph (3) (B) or in paragraph (4) (B) (ii) shall be allowed only as an of f set to gains referred to in paragraph (3)(A) or (4)(B)(i), respectively.

(f) Purposes of qualified withdrawals; nonqualified withdrawal treatment for nonfulfillment of substantial obligations

(1) A qualified withdrawal from the fund is one made in accordance

with the terms of the agreement but only if it is for:
(A) the acquisition, **construction,** or reconstruction of a qualified vessel,
(B) the acquisition, **construction,** or reconstruction of barges and containers which are part of the complement of a qualified vessel, or
(C) the payment of the principal on indebtedness incurred in connection with the acquisition, **construction** or reconstruction of a qualified vessel or a barge or container which is part of the complement of a qualified vessel.

Except to the extent provided in regulations prescribed by the Secretary, subparagraph (B), and so much of subparagraph (C) as relates only to barges and containers, shall apply only with respect to barges and containers constructed in the United States.
(2) Under joint regulations, if the Secretary determines that any substantial obligation under any agreement is not being fulfilled, he may, after notice and opportunity for hearing to the person maintaining the fund, treat the entire fund or any portion thereof as an amount withdrawn from the fund in a nonqualified withdrawal.

(g) Tax treatment of qualified withdrawals; basis: reduction

(1) Any qualified withdrawal from a fund shall be treated--
(A) first as made out of the **capital** account,
(B) second as made out of the **capital** gain account, and
(C) third as made out of the ordinary income account.

(2) If any portion of a qualified withdrawal for a vessel, barge, or container is made out of the ordinary income account, the basis of such vessel, barge, or container shall be reduced by an amount equal to such portion.
(3) If any portion of a qualified withdrawal for a vessel, barge, or container is made out of the **capital** gain account, the basis of such vessel, barge, or container shall be reduced by an amount equal to such portion.
(4) If any portion of a qualified withdrawal to pay the principal on any indebtedness is made out of the ordinary income account or the **capital** gain account, then an amount equal to the aggregate reduction which would be required by paragraphs (2) and (3) if this were a qualified withdrawal for a purpose described in such paragraphs shall be applied,in the order provided in joint regulations, to reduce the basis of vessels, barges, and containers owned by the person maintaining the fund. Any amount of a withdrawal remaining after the application of the preceding sentence shall be treated as a nonqualified withdrawal.
(5) If any property the basis of which was reduced under paragraph (2), (3), or (4) is disposed of, any gain realized on such disposition, to the extent it does not exceed the aggregate reduction in the basis of such property under such paragraphs, shall be treated as

an amount referred to in subsection (h)(3)(A) of this section which was withdrawn on the date of such disposition. Subject to such conditions and requirements as may be provided in joint regulations, the preceding sentence shall not apply to a disposition where there is a redeposit in an amount determined under joint regulations which will, insofar as practicable, restore the fund to the position it was in before the withdrawal.

(h) Tax treatment of nonqualified withdrawals; FIFO and LIFO bases; interest rate; amounts not withdrawn after 25 years; highest marginal rate of tax

(1) Except as provided in subsection (i) of this section, any withdrawal from a fund which is not a qualified withdrawal shall be treated as a nonqualified withdrawal.
(2) Any nonqualified withdrawal from a fund shall be treated--
(A) first as made out of the ordinary income account,
(B) second as made out of the **capital** gain account, and
(C) third as made out of the **capital** account.

For purposes of this section, items withdrawn from any account shall be treated as withdrawn on a first-in-first-out basis; except that (i) any nonqualified withdrawal for research, development, and design expenses incident to new and advanced ship design, machinery and equipment, and (ii) any amount treated as a nonqualified withdrawal under the second sentence of subsection (g)(4) of this section, shall be treated as withdrawn on a last-in-first-out basis.
(3) For purposes of the Internal Revenue Code of 1986--
(A) any amount referred to in paragraph (2)(A) shall be included in income as an item of ordinary income for the taxable year in which the withdrawal is made,
(B) any amount referred to in paragraph (2)(B) shall be included in income for the taxable year in which the withdrawal is made as an item of gain realized during such year from the disposition of an asset held for more than 6 months, and
(C) for the period on or before the last date prescribed for payment of tax for the taxable year in which this withdrawal is made--
(i) no interest shall be payable under section 6601 of such Code [26 U.S.C. 6601] and no addition to the tax shall be payable under section 6651 of such Code [26 U.S.C. 6651],
(ii) interest on the amount of the additional tax attributable to any item referred to in subparagraph (A) or (B) shall be paid at the applicable rate (as defined in paragraph (4)) from the last date prescribed for payment of the tax for the taxable year for which such item was deposited in the fund, and

(iii) no interest shall be payable on amounts referred to in clauses (i) and (ii) of paragraph (2) or in the case of any nonqualified withdrawal arising from the application of the recapture provision of section 1176(5) of this Appendix as in effect on December 31, 1969.

(4) For purposes of paragraph (3) (C) (ii) , the applicable rate of interest for any nonqualified withdrawal--
(A) made in a taxable year beginning in 1970 or 1971 is 8 percent, or
(B) made in a taxable year beginning after 1971, shall be determined and published jointly by the Secretary of the Treasury and the Secretary and shall bear a relationship to 8 percent which the Secretaries determine under joint regulations to be comparable to the relationship which the money rates and investment yields for the calendar year immediately preceding the beginning of the taxable year bear to the money rates and investment yields for the calendar year 1970.

(5) Amount not withdrawn from fund after 25 years from deposit taxed as nonqualified withdrawal.--
(A) In general.--The applicable percentage of any amount which remains in a **capital construction** fund at the close of the 26th, 27th, 28th, 29th, or 30th taxable year following the taxable year for which such amount was deposited shall be treated as a nonqualified withdrawal in accordance with the following table:

If the amount remains in the fund at the close of the--	The applicable percentage is--
26th taxable year	20 percent
27th taxable year	40 percent
28th taxable year	60 percent

29th taxable year .....80 percent

30th taxable year .....
.....100
percent.

(B) Earnings treated as deposits.--The earnings of any **capital construction** fund for any taxable year (other than net gains) shall be treated for purposes of this paragraph as an amount deposited for such taxable year.
(C) Amounts committed treated as withdrawn.--For purposes of subparagraph (A), an amount shall not be treated as remaining in a **capital construction** fund at the close of any taxable year to the extent there is a binding contract at the close of such year for a

qualified withdrawal of such amount with respect to an identified item for which such withdrawal may be made.
(D) Authority to treat excess funds as withdrawn.--If the Secretary determines that the balance in any **capital construction** fund exceeds the amount which is appropriate to meet the vessel **construction** program objectives of the person who established such fund, the amount of such excess shall be treated as a nonqualified withdrawal under subparagraph (A) unless such person develops appropriate program objectives within 3 years to dissipate such excess.
(E) Amounts in fund on January 1, 1987.--For purposes of this paragraph, all amounts in a **capital construction** fund on January 1, 1987, shall be treated as deposited in such fund on such date.

(6) Nonqualified withdrawals taxed at highest marginal rate.--
(A) In general.--In the case of any taxable year for which there is a nonqualified withdrawal (including any amount so treated under paragraph (5)), the tax imposed by chapter 1 of the Internal Revenue Code of 1986 [26 U.S.C. 1 et seq.] shall be determined--
(i) by excluding such withdrawal from gross income, and
(ii) by increasing the tax imposed by chapter 1 of such Code by the product of the amount of such withdrawal and the highest rate of tax specified in section 1 (section 11 in the case of a corporation) of such Code [26 U.S.C. 1, 11].

With respect to the portion of any nonqualified withdrawal made out of the **capital** gain account during a taxable year to which section 1(h) or 1201 (a) of such Code [26 U. S. C. 1(h) , 1201 (a)] applies, the rate of tax taken into account under the preceding sentence shall not exceed 20 percent (34 percent in the case of a corporation).
(B) Tax benefit rule.--If any portion of a nonqualified withdrawal is properly attributable to deposits (other than earnings on deposits) made by the taxpayer in any taxable year which did not reduce the taxpayer's liability for tax under chapter 1 [26 U.S.C. 1 et seq.] for any taxable year preceding the taxable year in which such withdrawal occurs--
(i) such portion shall not be taken into account under subparagraph (A), and
(ii) an amount equal to such portion shall be treated as allowed as a deduction under section 172 of such Code [26 U.S.C. 172] for the taxable year in which such withdrawal occurs.

(C) Coordination with deduction for net operating losses.--Any nonqualified withdrawal excluded from gross income under subparagraph (A) shall be excluded in determining taxable income under section 172(b)(2) of the Internal Revenue Code of 1986 [26 U.S.C. 172 (b) (2)] .

(i) Corporate reorganizations and partnership changes

Under joint regulations--
(1) a transfer of a fund from one person to another person in a transaction to which section 381 of the Internal Revenue Code of 1986 [26 U.S.C. 381] applies may be treated as if such transaction did not constitute a nonqualified withdrawal, and
(2) a similar rule shall be applied in the case of a continuation of a partnership (within the meaning of subchapter K \1\ of such Code [26 U.S.C. 701 et seq.]).
---\1\ So in original. Probably should be followed by ``of chapter 1''.

(j) Treatment of existing funds; relation of old to new fund

(1) Any person who was maintaining a fund or funds (hereinafter in this subsection referred to as ``old fund '') under this section (as in effect before the enactment of this subsection)

may elect to continue such old fund but--
(A) may not hold moneys in the old fund beyond the expiration date provided in the agreement under which such old fund is maintained (determined without regard to any extension or renewal entered into after April 14, 1970),
(B) may not simultaneously maintain such old fund and a new fund established under this section, and
(C) if he enters into an agreement under this section to establish a new fund, may agree to the extension of such agreement to some or all of the amounts in the old fund.

(2) In the case of any extension of an agreement pursuant to paragraph (1)(C), each item in the old fund to be transferred shall be transferred in a nontaxable transaction to the appropriate account in the new fund established under this section. For purposes of subsection (h)(3)(C) of this section, the date of the deposit of any item so transferred shall be July 1, 1971, or the date of the deposit in the old fund, whichever is the later.

(k) Definitions

For purposes of this section--
(1) The term ``eligible vessel '' means any vessel--
(A) constructed in the United States and, if reconstructed, reconstructed in the United States,
(B) documented under the laws of the United States, and
(C) operated in the foreign or domestic commerce of the United States or in the fisheries of the United States.

Any vessel which (i) was constructed outside of the United States but documented under the laws of the United States on April 15, 1970, or (ii) constructed outside the United States for use in the United States foreign trade pursuant to a contract entered into before April 15, 1970, shall be treated as satisfying the requirements of subparagraph (A) of this paragraph and the requirements of subparagraph (A) of paragraph
2
(2) The term ``qualified vessel '' means any vessel--
(A) constructed in the United States and, if reconstructed, reconstructed in the United States,
(B) documented under the laws of the United States, and
(C) which the person maintaining the fund agrees with the Secretary will be operated in the United States foreign, Great Lakes, or noncontiguous domestic trade or in the fisheries of the United States.

(3) The term ``agreement vessel '' means any eligible vessel or qualified vessel which is subject to an agreement entered into under this section.
(4) The term ``United States '', when used in a geographical sense, means the continental United States including Alaska, Hawaii, and Puerto Rico.
(5) The term ``United States foreign trade '' includes (but is not limited to) those areas in domestic trade in which a vessel built with **construction**-differential subsidy is permitted to operate under the first sentence of section 1156 of this Appendix.
(6) The term ``joint regulations '' means regulations prescribed under subsection (l) of this section.
(7) The term ``vessel '' includes cargo handling equipment which the Secretary determines is intended for use primarily on the vessel. The term ``vessel '' also includes an ocean-going towing vessel or an oceangoing barge or comparable towing vessel or barge operated on the Great Lakes.
(8) The term ``noncontiguous trade '' means (i) trade between the contiguous forty-eight States on the one hand and Alaska, Hawaii, Puerto Rico and the insular territories and possessions of the United States on the other hand, and (ii) trade from any point in Alaska, Hawaii, Puerto Rico, and such territories and possessions to any other point in Alaska, Hawaii, Puerto Rico, and such territories and possessions.
(9) The term ``Secretary '' means the Secretary of Commerce with respect to eligible or qualified vessels operated or to be operated in the fisheries of the United States, and the Secretary of Transportation with respect to all other vessels.

(l) Records; reports; rules and regulations; termination of agreement upon changes in regulations with substantial effect on rights or obligations.

Each person maintaining a fund under this section shall keep such records and shall make such reports as the Secretary or the Secretary of the Treasury shall require. The Secretary of the Treasury and the Secretary shall jointly prescribe all rules and regulations, not inconsistent with the foregoing provisions of this section, as may be necessary or appropriate to the determination of tax liability under this section. If, after an agreement has been entered into under this section, a change is made either in the joint regulations or in the regulations prescribed by the Secretary under this section which could have a substantial effect on the rights or obligations of any person maintaining a fund under this section, such person may terminate such agreement.

(m) Departmental reports and certification (1) In general

For each calendar year, the Secretaries shall each provide the Secretary of the Treasury, within 120 days after the close of such calendar year, a written report with respect to those **capital construction** funds that are under their jurisdiction.

(2) Contents of reports

Each report shall set forth the name and taxpayer identification number of each person--
(A) establishing a **capital construction** fund during such calendar year;
(B) maintaining a **capital construction** fund as of the last day of such calendar year;
(C) terminating a **capital construction** fund during such calendar year;
(D) making any withdrawal from or deposit into (and the amounts thereof) a **capital construction** fund during such calendar year; or
(E) with respect to which a determination has been made during such calendar year that such person has failed to fulfill a substantial obligation under any **capital construction** fund agreement to which such person is a party.

(June 29, 1936, ch. 858, title VI, Sec. 607, 49 Stat. 2005; June 23, 1938, ch. 600, Secs. 23-28, 52 Stat. 960, 961; Aug. 4, 1939,
ch. 417, Sec. 10, 53 Stat. 1185; July 17, 1952, ch. 939, Secs. 17-19, 66 Stat. 764, 765; Pub. L. 85-637, Aug. 14, 1958, 72 Stat. 592; Pub. L. 86-518, Sec. 1, June 12, 1960, 74 Stat. 216; Pub. L. 87-45, Sec. 6, May 27, 1961, 75 Stat. 91; Pub. L. 87-271, Sept. 21, 1961, 75 Stat. 570; Pub. L. 91-469, Sec. 21(a), Oct. 21, 1970, 84 Stat. 1026; Pub. L. 93-116, Oct. 1, 1973, 87 Stat. 421; Pub. L. 97-31, Sec. 12(97), Aug. 6, 1981, 95

Stat. 162; Pub. L. 99-514, Sec. 2, title II, Sec. 261(d), (e), Oct. 22, 1986, 100 Stat. 2095, 2214; Pub. L. 100-647, title I, Sec. 1002(m)(2), Nov. 10, 1988, 102 Stat. 3382; Pub. L. 101-508, title XI,
Sec. 11101(d)(7)(B), Nov. 5, 1990, 104 Stat. 1388-405; Pub. L. 105-34, title III, Sec. 311(c)(2), Aug. 5, 1997, 111 Stat. 835.)

References in Text

The Internal Revenue Code of 1986, referred to in subsecs. (d)(1) and (h)(3), is classified generally to Title 26, Internal Revenue Code.
Section 103, referred to in subsec. (e)(2)(D), which related to interest on certain governmental obligations was amended generally by Pub. L. 99-514, title XIII, Sec. 1301(a), Oct. 22, 1986, 100 Stat. 2602, and as so amended relates to interest on State and local bonds.

Amendments

1997--Subsec. (h)(6)(A). Pub. L. 105-34 substituted ``20 percent '' for ``28 percent '' in concluding provisions.
1990--Subsec. (h)(6)(A). Pub. L. 101-508 substituted ``section 1 (h) ' ' for ``section 1 (j) ' ' .
1988--Subsec. (h)(6)(A). Pub. L. 100-647 substituted ``section 1 (j ) '' for ``section 1 (i) ''.
1986--Subsec. (b)(1)(A), (B). Pub. L. 99-514, Sec. 2, substituted ``Internal Revenue Code of 1986'' for ``Internal Revenue Code of 1954 ''.
Subsec. (d)(1). Pub. L. 99-514, Sec. 2, substituted ``Internal Revenue Code of 1986'' for ``Internal Revenue Code of 1954 ''.
Subsec. (d) (1) (A) , (D) . Pub. L. 99-514, Sec. 261 (e) (1) , (2) , inserted ``and section 7518 of such

Code ''.
Subsec. (e) (2) (C) . Pub. L. 99-514, Sec. 261 (e) (3) , substituted ``the percentage applicable under section 243(a)(1) of the Internal Revenue Code of 1986'' for ``85 percent''.
Pub. L. 99-514, Sec. 2, substituted ``section 243 of the Internal Revenue Code of 1986'' for ``section 243 of the Internal Revenue Code of 1954 ''.
Subsec. (e) (4) (E) . Pub. L. 99-514, Sec. 261 (e) (4) , amended subpar. (E) generally. Prior to amendment, subpar. (E) read as follows: ``15 percent of any dividend referred to in paragraph (2)(C). ''
Subsec. (g) (3) . Pub. L. 99-514, Sec. 261 (e) (5) , amended par. (3) generally. Prior to amendment, par. (3) read as follows: ``If any portion of a qualified withdrawal for a vessel, barge, or container is made out of the **capital** gain account, the basis of such vessel, barge, or container shall be reduced by an amount equal to--
``(A) Five-eighths of such portion, in the case of a corporation (other than an electing small business corporation, as defined in section 1371 of the Internal Revenue Code of 1954, or
``(B) One-half of such portion, in the case of any other

person. ''
Subsec. (h)(3). Pub. L. 99-514, Sec. 2, substituted ``Internal Revenue Code of 1986'' for ``Internal Revenue Code of 1954 ''.
Subsec. (h) (5) , (6) . Pub. L. 99-514, Sec. 261 (e) (6) , added pars. (5) and (6) .
Subsec. (i)(1). Pub. L. 99-514, Sec. 2, substituted ``Internal Revenue Code of 1986'' for ``Internal Revenue Code of 1954 ''.
Subsec. (m). Pub. L. 99-514, Sec. 261(d), added subsec. (m).
1981--Subsecs. (a) , (c) , (f) , (h) (4) . Pub. L. 97-31, Sec. 12 (97) (A) , substituted ``Secretary '' for ``Secretary of Commerce '' wherever appearing.
Subsec. (k). Pub. L. 97-31, Sec. 12(97), substituted in pars. (2)(C) and (7) ``Secretary'' for ``Secretary of Commerce '' and added par . (9).
Subsec. (l). Pub. L. 97-31, Sec. 12(97)(A), substituted
``Secretary '' for ``Secretary of Commerce '' wherever appearing.
1973--Subsec. (k)(8). Pub. L. 93-116 substituted ``(ii) trade from any point in Alaska, Hawaii, Puerto Rico, and such territories and possessions to any other point in Alaska, Hawaii, Puerto Rico, and such territories and possessions. '' for ``(ii) trade between Alaska, Hawaii, and Puerto Rico and such territories and possessions and (iii) trade between the islands of Hawaii. ''
1970--Pub. L. 91-469 revised tax deferred reserve fund provisions generally, extended tax deferral privilege to vessels operated in nonsubsidized foreign trade, noncontiguous domestic trade, Great Lakes trade, and in fisheries, built in the United States, and documented under her laws, and substituted a new statutory framework consisting of subsecs. (a) to (l) for determination of tax status of deposits into and withdrawals from the fund for former subsecs. (a) to (h) and providing as follows:
Subsec. (a), a **capital construction** fund, agreement rules, persons eligible, replacement, additional, or reconstructed vessels for prescribed trade and fishery operations, amount of deposits, annual limitation, and conditions and requirements for deposits and withdrawals, subsec. (a) formerly permitting a 10 percent distribution of net profits;
Subsec. (b), ceiling on deposits, deposits of lessees, and definition of ``agreement vessel '', subsec. (b) formerly providing for a **capital** reserve fund, deposits, and allowable disbursements;
Subsec. (c), investment requirements, depositories, fiduciary requirements, investment in interest-bearing certificates (formerly provided in former subsec. (d)(2) of this section), stock investments, including common stock treatment of preferred issues, percentage for domestic issues, listing and registration, prudent man acquisitions (provisions formerly covered in former subsec. (d)(3)(A) of this section), and value and percentage equilibrium, subsec. (c) formerly providing for creation of a special reserve fund, deposits, and allowable disbursements;
Subsec. (d), nontaxability of deposits and eligible deposits,

subsec. (d) formerly providing rules and regulations for administration of reserve funds and investment of funds, now covered in subsec. (c) of this section;
Subsec. (e), **capital** account, **capital** gain account, and ordinary income account within the **capital construction** fund and limitation on losses, subsec. (e) formerly providing for withdrawals from **capital** reserve fund to meet needs due to operating losses;
Subsec. (f), purposes of qualified withdrawals and nonqualified withdrawal treatment for nonfulfillment of substantial obligations, subsec. (f) formerly providing for title to reserve funds on termination of contract;
Subsec. (g), tax treatment of qualified withdrawals and reduction of basis, subsec. (g) formerly providing for increase and transfer of reserve funds and interest on overpayment of taxes;
Subsec. (h), tax treatment of nonqualified withdrawals, FIFO and LIFO bases, and interest rate,

subsec. (h) formerly providing for exemption of reserve funds from taxation, in effect a tax deferral;
Subsec. (i), corporate reorganizations and partnership changes;
Subsec. (j), treatment of existing funds and relation of old to new funds;
Subsec. (k), definitions; and
Subsec. (l), records, reports, rules, and regulations, and termination of agreement upon changes in regulations with substantial effect on rights or obligations.
1961--Subsec. (b). Pub. L. 87-271 authorized the contractor, upon consent of the Secretary of Commerce, to pay amounts from the **capital** reserve fund for research, development, and design expenses for new and advanced ship design machinery and equipment, purchase of cargo containers delivered after June 30, 1959, payment of principal on indebtedness incurred for containers, and for reimbursing the contractor's general funds for expenditures for such purchases or payments, and required such cargo containers, to the extent paid for out of the **capital** reserve fund, to be treated as vessels for purpose of deposits and withdrawals from the fund, except that depreciation thereon shall be based on life expectancy used for such containers in determination of ``net earnings '' in subsec. (d)(1) of this section.
Pub. L. 87-45 inserted ``and on cruises, if any, authorized under section 1183 of this Appendix '' after ``route or service approved by the Secretary '' in second par.
1960--Subsec. (b). Pub. L. 86-518 substituted ``twenty-five-year life expectancy '' for ``twenty-year life expectancy ''.
1958--Subsec. (d). Pub. L. 85-637 designated first and second paragraphs as subdivisions (1) and (2), and added subdivision (3).
1952--Subsec. (b). Act July 17, 1952, Sec. 17, permitted recomputation of life-expectancy of a reconstructed or reconditioned vessel in use under an operating-differential subsidy contract, and provided for recomputation of depreciation changes.
Subsec. (d). Act July 17, 1952, Sec. 18, substituted ``as provided

for in section 1177(b) of this Appendix '' after ``life of the vessel'' for ``being twenty years''.
Subsec. (g). Act July 17, 1952, Sec. 19, barred payment of interest by Government on overpayment of taxes resulting from voluntary deposits of earnings.
1939--Subsec. (c)(3). Act Aug. 4, 1939, permitted payment from the **capital** reserve fund, and authorized payment from other assets of the contractor if assets have not been repaid to the reserve funds, or if prepayments of amounts not due before one year after the date of termination of the contract have been made from the **capital** reserve funds.
1938--Subsec. (b). Act June 23, 1938, Secs. 23, 24, substituted ``insurance and indemnities '' for ``insurance indemnities '' in first par., and inserted provisions requiring deposit of proceeds of any sale or other disposition of a vessel in the **capital** reserve funds, and to permit the contractor to pay from the fund any sums owing but not yet due on notes secured by mortgages on subsidized vessels.
Subsec. (c). Act June 23, 1938, Sec. 25, substituted ``If the profits, without regard to **capital** gains and **capital** losses, earned by the business of the subsidized vessels and services incident thereto exceed 10 per centum per annum and exceed the percentage of profits deposited in the **capital** reserve fund, as provided in subsection (b) of this section, the contractor shall deposit annually such excess profits in this reserve fund '' for ``In this reserve fund, the contractor shall deposit annually the profits earned by the business of the subsidized vessels and services incident thereto in excess of 10 per centum per annum and in excess of the percentage of profits deposited in the **capital** reserve fund, as provided in subsection (b) of this section '', in second par.
Subsec. (c)(2). Act June 23, 1938, Sec. 26, substituted ``will be made up'' for ``will not be made up''.
Subsecs. (f), (g). Act June 23, 1938, Sec. 27, added subsecs. (f) and (g) . Former subsec. (f) redesignated (h) .
Subsec. (h). Act June 23, 1938, Sec. 28, redesignated former subsec. (f) as subsec. (h) and made earnings withdrawn from the special reserve fund taxable as if earned during the year of withdrawal from the fund.

Effective Date of 1997 Amendment

Amendment by Pub. L. 105-34 applicable to taxable years ending after May 6, 1997, see section 311(d) of Pub. L. 105-34, set out as a note under section 1 of Title 26, Internal Revenue Code.

Effective Date of 1990 Amendment

Amendment by Pub. L. 101-508 applicable to taxable years beginning after Dec. 31, 1990, see section 11101(e) of Pub. L. 101-508, set out as a note under section 1 of Title 26, Internal Revenue Code.

Effective Date of 1988 Amendment

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986,
P 9 to which such amendment relates, see section 1019(a) of
u 0
P 1 set out as a note under section 1 of Title 26, Internal
u 0
b 0

Effective Date of 1986 Amendment

For provisions relating to computation of depreciation with respect and as a

Amendment by section 261(d), (e) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 261(g) of Pub. L. 99-514, set out as an Effective Date note under section 7518 of Title 26, Internal Revenue Code.

Effective Date of 1970 Amendment

Section 21(b) of Pub. L. 91-469 provided that: ``The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1969. ''

Effective Date of 1960 Amendment

Amendment by Pub. L. 86-518 applicable only to vessels delivered by the shipbuilder on or after Jan. 1, 1946, and with respect to such vessels shall become effective on Jan. 1, 1960, and with respect to vessels delivered by the shipbuilder before Jan. 1, 1946, the provisions of this chapter existing immediately before June 12, 1960, shall continue in effect, see section 8(a) of Pub. L. 86-518, set out as a note under section 1125 of this Appendix.

Merchant Marine **Capital Construction** Funds

For coordination of application of Internal Revenue Code of 1986 with **capital construction** program under this chapter, see section 261(a) of Pub. L. 99-514, set out as a note under section 7518 of Title 26, Internal Revenue Code.

Deposits Into **Capital** Reserve Fund

Pub. L. 92-507, Sec. 6, Oct. 19, 1972, 86 Stat. 917, provided that: ``Nothing in this Act [enacting this note and amending subchapter XI of this chapter] shall limit or affect the right of an obligor who maintains a **capital** reserve fund under section 607 of the Merchant Marine Act, 1936 [this section] to make deposits of the proceeds of guaranteed obligations into such **capital** reserve fund as provided in subparagraph (c) of condition (6) of section 1107 of the Merchant Marine Act, 1936 [subparagraph (c) of condition (6) of section 1276a of former Title 46, Shipping], as in effect prior to the effective date of this Act [Oct . 9, 1972].

Rate of Depreciation for Vessels Delivered by Shipbuilder On or After January 1, 1946, and Before January 1, 1960.

For provisions relating to computation of depreciation with respect to vessels delivered by the shipbuilder on or after Jan. 1, 1946, and before Jan. 1, 1960, see section 8(b) of Pub. L. 86-518, set out as a note under section 1125 of this Appendix.

Revision of Contracts, Commitments to Insure Mortgages, Mortgages, and Mortgage Insurance Contracts Entered Into Prior to June 12, 1960

For provisions authorizing revision, see section 8(c) of Pub. L. 86-518, set out as a note under section 1125 of this Appendix.

Commercial Expectancy or Period of Depreciation of Tankers and Other Liquid Bulk Carriers

Nothing in any amendment made by Pub. L. 86-518 to operate or be interpreted to change from 20 to 25 years the provisions of this chapter relating to the commercial expectancy or period of depreciation of any tanker or other liquid bulk carrier, see section 9 of Pub. L. 86-518, set out as a note under section 1125 of this Appendix.

Section Referred to in Other Sections

This section is referred to in sections 1177-1, 1185, 1244 of this Appendix; title 26 sections 56, 139, 543, 7518; title 42 section 9141.

Seventh, that this Order shall be served on the Denied Person and shall be published in the **Federal Register**.

This Order, which constitutes the final BIS action in this matter, is effective immediately.

Issued this 2nd day of March 2010.

David W. Mills,

Assistant Secretary of Commerce for Export Enforcement.

[FR Doc. 2010–5107 Filed 3–9–10; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Reporting Requirements for Sea Otter Interactions with the Pacific Sardine Fishery; Coastal Pelagic Species Fishery Management Plan

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

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 May 10, 2010.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov).*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Gary Rule, (503) 230–5424 or *Gary.Rule@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

In accordance with the regulations implementing the Endangered Species Act (ESA), National Marine Fisheries Service (NMFS) initiated an ESA section 7 consultation with the United States Fish and Wildlife Service (USFWS) regarding the possible effects of implementing Amendment 11 (71 FR 36999) to the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP). USFWS determined that formal consultation was necessary on the possible effects to the threatened southern sea otter. USFWS completed a biological opinion for this action and although it was concluded that fishing activities were not likely to jeopardize the continued existence of the southern sea otter there remained the potential to incidentally take southern sea otters. USFWS determined that certain measures should be put in place to ensure the continued protection of the species. Therefore on May 30, 2007, NMFS published a final rule (72 FR 29891) implementing new reporting requirements and conservation measures under the CPS FMP. This included the requirement to report any interactions that may occur between a CPS vessel and/or fishing gear and sea otters.

Specifically, these reporting requirements are:

1. If a southern sea otter is entangled in a net, regardless of whether the animal is injured or killed, such an occurrence must be reported within 24 hours to the Regional Administrator, NMFS Southwest Region.

2. While fishing for CPS, vessel operators must record all observations of otter interactions (defined as otters within encircled nets or coming into contact with nets or vessels, including but not limited to entanglement) with their purse seine net(s) or vessel(s). With the exception of an entanglement, which will be initially reported as described in #2 above, all other observations must be reported within 20 days to the Regional Administrator.

When contacting NMFS after an interaction, fishermen are required to provide information regarding the location, specifically latitude and longitude, of the interaction and a description of the interaction itself. If available, location information should also include: Water depth; distance from shore; and, relation to port or other landmarks. Descriptive information of the interaction should include: Whether or not the otters were seen inside or outside the net; if inside the net, had the net been completely encircled; did contact occur with net or vessel; the number of otters present; duration of interaction; otter's behavior during interaction; and, measures taken to avoid interaction.

II. Method of Collection

The information will be collected on forms submitted by mail, phone, facsimile or e-mail.

III. Data

OMB Control Number: 0648–0566.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 2.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 1.

Estimated Total Annual Cost to Public: $10.

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: March 5, 2010.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2010–5117 Filed 3–9–10; 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 and Certificate Family of Forms

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

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 May 10, 2010.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@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, (301) 713–2393 or *Richard.Vangorder@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The respondents will be commercial fishing industry individuals, partnerships, and corporations which are applying for or have entered into Capital Construction Fund 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 information collected from agreement holders is used to determine their eligibility to participate in the Capital Construction Fund Program pursuant to 50 CFR part 259.

At the completion of construction/reconstruction, a certificate to that effect must be submitted.

II. Method of Collection

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

III. Data

OMB Control Number: 0648–0090.

Form Number: NOAA Form 88–14.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 1,000.

Estimated Time per Response: 3.5 hours for agreements; and 1 hour for certificate.

Estimated Total Annual Burden Hours: 2,250.

Estimated Total Annual Cost to Public: $3,600 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: March 5, 2010.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2010–5116 Filed 3–9–10; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–818]

Certain Pasta from Italy: Notice of Amended Final Results of the Twelfth Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On February 9, 2010, the Department of Commerce (the Department) published its final results of the twelfth administrative review for certain pasta from Italy for the period of review (POR) of July 1, 2007, through June 30, 2008. *See Certain Pasta from Italy: Notice of Final Results of the Twelfth Administrative Review*, 75 FR 6352 (February 9, 2010) (Final Results). We are amending our final results to correct ministerial errors made in the calculation of the dumping margins for Pastificio Lucio Garofalo S.p.A.(Garofalo) and PAM S.p.A. (PAM), pursuant to section 751(h) of the Tariff Act of 1930, as amended (the Act).

EFFECTIVE DATE: March 10, 2010.

FOR FURTHER INFORMATION CONTACT: Christopher Hargett, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4161.

SUPPLEMENTARY INFORMATION:

Background

On February 9, 2010, the Department published the final results of this administrative review. On February 9 and February 12, 2010, pursuant to 19 CFR 351.224(c), PAM and Garofalo submitted comments alleging ministerial errors, and requested that the Department correct these alleged ministerial errors. On February 18, 2010, petitioners submitted rebuttal briefs to PAM's ministerial error allegation. No party submitted comments regarding Garofalo's request to correct alleged ministerial errors.

Scope of the Order

Imports covered by this order are shipments of certain non–egg dry pasta in packages of five pounds four ounces or less, whether or not enriched or fortified or containing milk or other optional ingredients such as chopped vegetables, vegetable purees, milk, gluten, diastasis, vitamins, coloring and flavorings, and up to two percent egg white. The pasta covered by this scope is typically sold in the retail market, in fiberboard or cardboard cartons, or polyethylene or polypropylene bags of varying dimensions.

Excluded from the scope of this order are refrigerated, frozen, or canned pastas, as well as all forms of egg pasta, with the exception of non–egg dry pasta containing up to two percent egg white. Also excluded are imports of organic pasta from Italy that are accompanied by the appropriate certificate issued by the Instituto Mediterraneo Di Certificazione, by QC&I International Services, by Ecocert Italia, by Consorzio per il Controllo dei Prodotti Biologici, by Associazione Italiana per l'Agricoltura Biologica, by Codex S.r.L., by Bioagricert S.r.L., or by Instituto per la Certificazione Etica e Ambientale. Effective July 1, 2008, gluten free pasta is also excluded from this order. *See Certain Pasta from Italy: Notice of Final Results of Antidumping Duty Changed Circumstances Review and Revocation, in Part*, 74 FR 41120 (August 14, 2009). The merchandise subject to this order is currently classifiable under items 1902.19.20 and 1901.90.9095 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to the order is dispositive.

Amended Final Results of Review

In the *Final Results*, the Department incorrectly stated that it would apply the average percent margin of the two reviewed companies in this review to all