

NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Diana Hynek
Departmental Paperwork Clearance Officer
Office of the Chief Information Officer
14th and Constitution Ave. NW.
Room 6625
Washington, DC 20230

06/23/2006

In accordance with the Paperwork Reduction Act, OMB has taken the following action on your request for the extension of approval of an information collection received on 04/18/2006.

TITLE: Capital Construction Fund - Deposit/Withdrawal Report

AGENCY FORM NUMBER(S): 34-82

ACTION : APPROVED WITHOUT CHANGE

OMB NO.: 0648-0041

EXPIRATION DATE: 06/30/2009

BURDEN:	RESPONSES	HOURS	COSTS(\$,000)
Previous	3,600	1,200	20
New	3,600	1,200	20
Difference	0	0	0
Program Change		0	0
Adjustment		0	0

TERMS OF CLEARANCE: None

NOTE: The agency is required to display the OMB control number and inform respondents of its legal significance (see 5 CFR 1320.5(b)).

OMB Authorizing Official Title

John F. Morrall III Acting Deputy Administrator, Office of Information and Regulatory Affairs

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

19. Certification for Paperwork Reduction Act Submissions

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

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

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

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

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

Signature of Senior Official or designee

Date

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

Signature

Date

Signature of NOAA Clearance Officer

Signature

Date

**SUPPORTING STATEMENT
CAPITAL CONSTRUCTION FUND – DEPOSIT/WITHDRAWAL REPORT
OMB CONTROL NO.: 0648-0041**

A. JUSTIFICATION

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

NOAA Form 34-82 is used to facilitate meeting the continuing record keeping requirements of the Fishing Vessel Capital Construction Fund (FVCCF) program, which is statutorily mandated under Section 607 of the Merchant Marine Act, 1936, as amended. The data collected is required pursuant to 50 CFR, Part 259.35, and P.L. 99-514 (The Tax Reform Act, 1986), and is needed for responsible program management. The FVCCF is a tax deferral program, which allows participating fishermen to defer the tax on vessel income deposited into the fund and provides for the recapture of the deferred tax by reducing the agreement vessel's basis for depreciation by the amount withdrawn for its construction, acquisition, and/or reconstruction. Deposited income is separated into one of three bookkeeping accounts as set forth in P.L. 91-469, Sec 607(e), and is withdrawn from them on a first-in first-out basis in accordance with the nature of the withdrawal as set forth in 26 CFR Part 3 Sec 3.6(b) and 3.7(c).

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

Under a Capital Construction Fund agreement, the participant must deposit a minimum amount per year, and cannot deposit more than a set amount. NMFS must approve any withdrawals before the withdrawal takes place.

It is essential that a reasonably detailed record be kept of each participant's deposit/withdrawal activity. Copies of pertinent regulations are attached. Those regulations require both a preliminary and final report, but the preliminary report is no longer required. Participants are aware of this, but the regulation has not yet been revised.

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

The information is used by the Government for the purpose of responsibly administering the FVCCF Program and for general program management purposes. NOAA Form 34-82 must be submitted by participants not later than 30 days after the deadline, with extensions, for filing the participant's tax return. A copy of the tax return must also be submitted at that time. NMFS compares the two documents to find any conflicting information on earned income, deductions taken for deposits, adjustments made to depreciation schedules, and the proper payment of additional tax for non-qualified withdrawals. The information is also checked to ensure that withdrawals have been approved, and that the deposited income meets minimum and maximum limits. There is no other way, except by direct audit, for us to check if participants are

complying with deposit/withdrawal requirements and properly accounting for FVCCF activity on their tax returns. Incorrect reporting can be costly to the Government in lost rather than deferred tax revenue.

As explained in the preceding paragraph, the information gathered has utility. NOAA Fisheries 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 #10 of the Supporting Statement for more information on confidentiality and privacy. The information collection is designed to yield data that meet all applicable information quality guidelines. There is no plan to disseminate this information, but if dissemination is warranted the information will be subjected to quality control measures and a 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.

Although the Program, Automatic Data Processing (ADP) system, could be modified to accept electronic filing, there is no benefit in filing the reports electronically unless the copies of tax returns that must also be submitted at the same time also could be submitted electronically. The IRS does receive electronic tax return submissions in many different tax software programs that it converts into one format. We would have to acquire Internal Revenue Service's (IRS) electronic filing software if we were to allow agreement holders to submit their tax returns electronically at the same time as their Deposit/Withdrawal Reports.

4. Describe efforts to identify duplication.

There is no duplication. Information being collected is specific and relevant only to the FVCCF Program.

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

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

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

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

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

There are no special circumstances that require the collection to be conducted in a manner inconsistent with Office of Management and Budget (OMB) guidelines.

8. Provide a copy of 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 (copy attached) solicited public comment on this collection. One comment was received. The commenter objected to tax breaks for fishing vessels that the commenter asserts over fish our waters and denude the ocean of marine life. No other comments were received.

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

No gift or payment of any kind is provided to respondents.

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

No assurance of confidentiality is given.

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

No sensitive questions are asked.

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

Estimate in hours of the burden of the collection of information:

Number of respondents = 3,600
Frequency of response = once a year
Total number of responses expected = 3,600
Avg. response time per respondent = 20 minutes
Total annual response time = 1,200 hours

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

Annualized costs per respondent are estimated at \$5.55 (\$3.05 for postage and \$2.50 for copying). Total annual cost to the respondents or recordkeepers based on 3,600 responses is \$20,000.

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

There is no annualized cost to the Federal government for this information collection.

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB 83-I.

No change.

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

The results of the collection are not published.

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

The date will be displayed.

18. Explain each exception to the certification statement identified in Item 19 of the OMB 83-I.

There are no exceptions.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not employ statistical methods.

NOAA FORM 34-82
 OMB Control No.: 0648-0041
 Expiration Date: 06/30/2006

U.S. DEPARTMENT OF COMMERCE
 NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
 NOAA Fisheries

Mail report and tax return copy to:
 NOAA Fisheries F/SF2
 Capital Construction Fund Program
 1315 East-West Highway
 Silver Spring, MD 20910-3282
 301/713-2393 ext. 194

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

Prepare a separate Form 38-42 report for each account you maintain.
DEPOSITORY BANK, OR INVESTMENT FIRM

Name: _____
 City and State: _____
 Account Number: _____ Date Opened: _____
 Type of Investment Account: Savings Money Marker Checking
 Other: (describe) _____

AGREEMENT HOLDER:

Name: _____
 Address: _____

 Telephone No.: _____

CCF CASE NUMBER

CCF-____-____

REPORT OF DEPOSITORY
 ACTIVITY FOR TAX YEAR
 ENDED:

/ /

Did you reduce taxable income for the current tax year due to CCF activity? YES NO
Amount deferred \$
 Was a CCF deposit made during the current year for taxes deferred in the prior year? YES NO
Clearly identify this deposit in Account Activity section.

CLASSIFICATION OF DEPOSITS:

ORDINARY INCOME <i>(tax deferred)</i>		CAPITAL GAIN <i>(tax deferred)</i>		CAPITAL <i>(funds not tax deferred)</i>	
DEPOSIT	WITHDRAWAL	DEPOSIT	WITHDRAWAL	DEPOSIT	WITHDRAWAL

**SUMMARY
 BALANCE**

Notes:

BALANCE FORWARD-FROM PRIOR YEAR'S REPORT
*(Should be same as last year's "Balance - End of Year" amount.
 If different, attach a reconciling schedule.)*

ACCOUNT ACTIVITY FOR THE TAX YEAR
Summarize interest and dividend deposits. For deposits of vessel income, provide name of vessel and Schedule A page number. For all withdrawals, provide name of vessel and Schedule B page number for project.

DATE	DESCRIBE	SCH. A OR SCH. B PAGE #	DEPOSIT	WITHDRAWAL	DEPOSIT	WITHDRAWAL	DEPOSIT	WITHDRAWAL	
1									1
2									2
3									3
4									4
5									5
6									6
7									7
8									8
9									9
10									10
TOTAL EACH COLUMN <i>(include "Balance Forward" amount for each column)</i>			()	()	()	()	()	()	
WITHDRAWALS FOR THE YEAR <i>(copy totals from adjacent column)</i>			()	←	()	←	()	←	
BALANCE - END OF TAX YEAR <i>(net amounts and Summary Balance)</i>									

Public reporting burden for this collection of information is estimated to average 20 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to NOAA Fisheries F/SF2 1315 East-West Hwy., Silver Spring, MD 20910.

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

SIGNATURE: _____ **DATE:** _____ Agreement holder or officer Authorized representative

NOAA FORM 34-82 - *GENERAL INFORMATION*

CAPITAL CONSTRUCTION FUND - DEPOSIT/WITHDRAWAL REPORT

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

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

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

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

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

SUPPORTING DOCUMENTS REQUIRED:

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

AVOID FREQUENT ERRORS:

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

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

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

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

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

CAPITAL CONSTRUCTION FUND - DEPOSIT/WITHDRAWAL REPORT

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

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

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

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

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

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

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

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

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

Deposits: Enter the tax year for which the deposit is made, source of income (which Schedule A vessel) or details of transferred funds. EX: 1996 income - FV Dorothy. Summarize interest and dividend income. For deposit of proceeds of vessel sale, attach Net Proceeds Worksheet.

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

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

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

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

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

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

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

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

§ 259.35

effected, in which case minimum annual deposit compliance shall be audited at the end of each 3 year taxable period. In any taxable year, a Party may apply any eligible amount in excess of the 2 percent minimum annual deposit toward meeting the party's minimum annual deposit requirement in past or future years: *Provided, however,* At the end of each 3 year period, the aggregate amount in the fund must be in compliance with 2 percent minimum annual deposit rule (unless the 50 percent of taxable income situation applies).

(2) The Secretary may, at his discretion and for good and sufficient cause shown, consent to minimum annual deposits in any given tax year or combination of tax years in an amount lower than prescribed herein: *Provided,* The party demonstrates to the Secretary's satisfaction the availability of sufficient funds from any combination of sources to accomplish Schedule B objectives at the time they are scheduled for accomplishment.

(b) *Maximum deposits.* Other than the maximum annual ceilings established by the Act, the Secretary shall not establish a maximum annual ceiling: *Provided, however,* That deposits can no longer be made once a party has deposited 100 percent of the anticipated cost of all Schedule B objectives, unless the Interim CCF Agreement is then amended to establish additional Schedule B objectives.

(c) *Maximum time to deposit.* Ten years shall ordinarily be the maximum time the Secretary shall permit in which to accumulate deposits prior to commencement of any given Schedule B objective. A time longer than 10 years, either by original scheduling or by subsequent extension through amendment, may, however, be permitted at the Secretary's discretion and for good and sufficient cause shown.

§ 259.35 Annual deposit and withdrawal reports required.

(a) The Secretary will require from each Interim CCF Agreement holder (Party) the following annual deposit and withdrawal reports. Failure to submit such reports may be cause for involuntary termination of CCF Agreements.

(1) A preliminary deposit and withdrawal report at the end of each calendar year, which must be submitted not later than 45 days after the close of the calendar year. The report must give the amounts withdrawn from and deposited into the party's CCF during the subject year, and be in letter form showing the agreement holder's name, FVCCF identification number, and taxpayer identification number. Each report must bear certification that the deposit and withdrawal information given includes all deposit and withdrawal activity for the year and the account reported. Negative reports must be submitted in those cases where there is no deposit and/or withdrawal activity. If the party's tax year is the same as the calendar year, and if the final deposit and withdrawal report required under paragraph (a)(2) of this section is submitted before the due date for this preliminary report, then this report is not required.

(2) A final deposit and withdrawal report at the end of the tax year, which shall be submitted not later than 30 days after expiration of the due date, with extensions (if any), for filing the party's Federal income tax return. The report must be made on a form prescribed by the Secretary using a separate form for each FVCCF depository. Each report must bear certification that the deposit and withdrawal information given includes all deposit and withdrawal activity for the year and account reported. Negative reports must be submitted in those cases where there is no deposit and/or withdrawal activity.

(b) Failure to submit the required annual deposit and withdrawal reports shall be cause after due notice for either, or both, disqualification of withdrawals or involuntary termination of the Interim CCF Agreement, at the Secretary's discretion.

(c) Additionally, the Secretary shall require from each Interim CCF Agreement holder, not later than 30 days after expiration of the party's tax due date, with extensions (if any), a copy of the party's Federal Income Tax Return filed with IRS for the preceding tax year. Failure to submit shall after due notice be cause for the same adverse

action specified in the paragraph above.

[39 FR 33675, Sept. 19, 1974, as amended at 48 FR 57302, Dec. 29, 1983; 53 FR 35203, Sept. 12, 1988]

§ 259.36 CCF accounts.

(a) *General:* Each CCF account in each scheduled depository shall have an account number, which must be reflected on the reports required by § 259.35. All CCF accounts shall be reserved only for CCF transactions. There shall be no intermingling of CCF and non-CCF transactions and there shall be no pooling of 2 or more CCF accounts without prior consent of the Secretary. Safe deposit boxes, safes, or the like shall not be eligible CCF depositories without the Secretary's consent and then only under such conditions as the Secretary, in his discretion, prescribes.

(b) *Assignment:* The use of Fund assets for transactions in the nature of a countervailing balance, compensating balance, pledge, assignment, or similar security arrangement shall constitute a material breach of the Agreement unless prior written consent of the Secretary is obtained.

(c) *Depositories:* (1) Section 607(c) of the Act provides that amounts in a CCF must be kept in the depository or depositories specified in the Agreements and be subject to such trustee or other fiduciary requirements as the Secretary may specify.

(2) Unless otherwise specified in the Agreement, the party may select the type or types of accounts in which the assets of the Fund may be deposited.

(3) Non-cash deposits or investments of the Fund should be placed in control of a trustee under the following conditions:

(i) The trustee should be specified in the Agreement;

(ii) The trust instrument should provide that all investment restrictions stated in section 607(c) of the Act will be observed;

(iii) The trust instrument should provide that the trustee will give consideration to the party's withdrawal requirements under the Agreement when investing the Fund;

(iv) The trustee must agree to be bound by all rules and regulations

which have been or will be promulgated governing the investment or management of the Fund.

§ 259.37 Conditional consents to withdrawal qualification.

The Secretary may conditionally consent to the qualification of withdrawal, such consent being conditional upon the timely submission to the Secretary of such further proofs, assurances, and advices as the Secretary, in his discretion, may require. Failure of a party to comply with the conditions of such a consent within a reasonable time and after due notice shall, at the Secretary's discretion, be cause for either, or both, nonqualification of withdrawal or involuntary Interim CCF Agreement termination.

§ 259.38 Miscellaneous.

(a) Wherever the Secretary prescribes time constraints herein for the submission of any CCF transactions, the post-mark date shall control if mailed or, if personally delivered, the actual date of submission. All required materials may be submitted to any Financial Assistance Division office of the National Marine Fisheries Service.

(b) 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.

(c) While recognizing that precise regulations are necessary in order to treat similarly situated parties similarly, the Secretary also realizes that precision in regulations can often cause inequitable effects to result from unavoidable, unintended, or minor discrepancies between the regulations and the circumstances they attempt to govern. The Secretary will, consequently, at his discretion, as a matter of privilege and not as a matter of right, attempt to afford relief to parties where literal application of the purely procedural, as opposed to substantive, aspects of these regulations would otherwise work an inequitable hardship. This privilege will be sparingly granted and no party should be before the fact attempt to act in reliance on its being granted after the fact.

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 (26 U.S.C. 7518), 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.

Dated: December 30, 2005.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E5-8323 Filed 1-5-06; 8:45 am]

BILLING CODE 3510-13-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Capital Construction Fund—Deposit/Withdrawal Report

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 March 7, 2006.

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 Patsy A. Bearden, 907-586-7008 or patsy.bearden@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

The respondents will be commercial fishing industry individuals, partnerships, and corporations, which 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 deposit/withdrawal information collected from agreement holders are required pursuant to 50 CFR Part 259.35 and Public Law 99-514 (The Tax Reform Act, 1986). The information

collected is required to ensure that agreement holders are complying with fund deposit/withdrawal requirements established in program regulations and properly accounting for fund activity on their Federal income tax returns. The information collected must also be reported annually to the Secretary of Treasury in accordance with the Tax Reform Act, 1986.

II. Method of Collection

The information will be collected by mail.

III. Data

OMB Number: 0648-0041.

Form Number: NOAA Form 38-42.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 3,600.

Estimated Time Per Response: 20 minutes.

Estimated Total Annual Burden Hours: 1,200.

Estimated Total Annual Cost to Public: \$2,500.

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: December 30, 2005.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E5-8319 Filed 1-5-06; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Designation of Fishery Management Council Members and Application for Reinstatement of State Authority

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 March 7, 2006.

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 Linda Moon, 301-713-2337 or Linda.Moon@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), as amended in 1996, provides for the nomination for members of Fishery Management Councils by state governors and Indian treaty tribes, for the designation of a principal state fishery official who will perform duties under the Magnuson-Stevens Act, and for a request by a state for reinstatement of state authority over a managed fishery. Nominees for council membership must provide the governor or tribe with background documentation, which is then submitted to NOAA with the nomination. The information submitted with these actions will be used to ensure that the requirements of the Magnuson-Stevens Act are being met.

II. Method of Collection

State governors and Indian treaty tribes submit written nominations to the Secretary of Commerce, together with recommendations and statements of candidates' qualifications. Designations