

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

A. JUSTIFICATION

This request is to extend this information collection and update the Regulatory citations contained within the collection to be consistent with the new CCF Regulations implemented on June 29, 2017.

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

National Oceanic and Atmospheric Administration (NOAA) Form 34-82, NOAA Form 88-14 and the Certificate Family of Forms are used to facilitate meeting the continuing record keeping requirements of the Fishing Vessel Capital Construction Fund (FVCCF) program. The program was created under the Merchant Marine Act of 1970. The CCF was authorized by Section 607 of the Merchant Marine Act, 1936, as amended, 46 U.S.C. 1177 (now at [46 U.S.C. 53503](#) of the Shipping Act) and administered pursuant to [50 CFR Part 259](#). The data collected is required pursuant to 50 CFR Part 259.7 (Form 34-82) and 50 CFR Part 259.2 (Form 88-14 and Certificate Family of Forms) and is needed for responsible program administration. The FVCCF is a tax deferral program which allows participating fishermen to defer the tax on vessel income deposited into the fund and provides for the recapture of the deferred tax by reducing an agreement vessel's basis by the amount withdrawn for its construction, acquisition and/or reconstruction. Deposited income is separated into one of three bookkeeping accounts, and is withdrawn from them on a first-in first-out basis in accordance with the nature of the withdrawal as set forth in [26 CFR Part 3](#) Sec 3.6(b) and 3.7(c).

If withdrawn monies are not used for allowed purposes, the withdrawn amount (a nonqualified withdrawal) is considered income to the participant in the year withdrawn, and taxed at the highest marginal tax rate for the entity involved.

Under a Capital Construction Fund (CCF) Agreement, the participant cannot deposit more than the amount specified at 46 U.S.C 53505. National Marine Fisheries Service (NMFS) must approve any withdrawals made before they take place. It is essential that a reasonably detailed record be kept of each participant's deposit/withdrawal activity.

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

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

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

The information is used by the Government for the purpose of responsibly administering the FVCCF Program and for general program management purposes. NOAA Form 34-82 must be submitted by participants not later than 30 days after the deadline, with extensions, for filing the participant's tax return. A copy of the tax return must also be submitted at that time. NMFS compares the two documents to find any conflicting information on earned income, deductions taken for deposits, adjustments made to depreciation schedules, and the proper payment of additional tax for non-qualified withdrawals. The information is also checked to ensure that withdrawals have been approved, and that deposited income does not exceed the maximum limits specified at 46 U.S.C. 53505. There is no other way, except by direct audit, for us to check if participants are complying with deposit/withdrawal requirements and properly accounting for FVCCF activity on their tax returns. Incorrect reporting can be costly to the Government in lost rather than deferred tax revenue. The information may also be used for research to better understand the fishing industry and demands for the program.

NMFS collects information to determine whether an applicant is eligible for a formal Agreement.

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

NMFS will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with NOAA standards for confidentiality, privacy, and electronic information. See response to Question 10 of this Supporting Statement for more information on confidentiality and privacy. The information collection is designed to yield data that meet all applicable information quality guidelines. Although the information collected is not expected to be disseminated directly to the public, results may be used in scientific, management,

technical or general informational publications. Should NMFS decide to disseminate the information, it will be subject to the quality control measures and pre-dissemination review pursuant to [Section 515 of Public Law 106-554](#).

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

The fillable forms under this collection can be found at:
<https://www.fisheries.noaa.gov/national/funding-and-financial-services/capital-construction-fund-documents-and-forms>

Some items could be electronically submitted, such as the “Certificate of Construction/Reconstruction.” Other items could be electronically submitted but there would be no real benefit because supporting documentation is required. All information on the form is the minimum required by law. Because the information collected relates to financial transactions of individuals and businesses it is not disclosed to the public in any form.

4. Describe efforts to identify duplication.

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

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

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

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

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

The information for NOAA Form 88-14 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.

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

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

The collection is consistent with OMB guidelines.

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

A Federal Register notice published on November 13, 2018 (83 FR 56304) solicited public comments. No comments were received.

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

Availability of data:

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

Frequency of collection:

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

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

1. I would say that the instructions need some clarification. The example in the instructions could go into greater depth of offer additional examples or commentary. The examples given are usually too simplistic. (Response: the instructions provided are intended to cover the majority

of items that a program user would encounter. We do realize that occasionally transactions occur that are outside the scope of our general instructions. The CCF staff is always available by phone or email to give guidance on the proper recording of any transaction that occurs in their CCF accounts.)

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

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

Burden of Hour Estimates

1. I believe these are generally accurate.

2. CCF Application and Agreement about right. Certificate of Construction/Reconstruction about right. D/W Report - I would say about an hour if the account has activity. In some cases, the account has funds in investments that fluctuate in value. The work necessary to track unrealized gain and/or loss and tie back to the cost basis adds time to the form. Though not necessarily reported on the form, tracking of gains and/or losses adds to the time. Brokerage statements usually report at market value and the end of year statement showing actual realized gains need to be reconciled so that the proper reporting on the D/W statements is done. (Response: Tracking gains and losses if the brokerage account is active is a tedious exercise regardless of whether or not the account is a CCF account or a personal investment account. The CCF program cannot accept market value balances since this is not a "realized" taxable transaction, the value changes daily and the market value has no impact on the cost basis of the CCF funds until the investments are sold and incur a realized gain or loss.)

There were no changes that we deemed necessary in response to the comments. Most comments were positive in regards to our information collection. The only comments that could be construed as negative dealt with our asking for the tax basis in a vessel be tracked from the beginning and that the instructions for the Deposit/Withdrawal Report (NOAA Form 34-82) were too simplistic. Tracking the tax basis is necessary because this is a tax deferral program in which the Federal Government recovers the deferred tax by not allowing tax basis reductions on CCF expenditures. We rely on receiving an accurate and complete tax basis schedule to ensure that the tax basis was properly reduced for CCF activity. It is not reasonable to create instructions that would encompass any and all transactions that may occur in a CCF account. We believe that the instructions provided are a very good representation of most scenarios that CCF participants would encounter. As such, no changes were made in response to the comments and no adjustments were made to the burden estimates.

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 259.10(b) states: “All CCF information received by the Secretary shall be held strictly confidential to the extent permitted by law, except that it may be published or disclosed in statistical form provided such publication does not disclose, directly or indirectly, the identity of the fund holder.”

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

No sensitive questions are asked, however, the provision of the Agreement holder’s Social Security Number is required pursuant to 46 U.S.C. Sec. 53517 (b) which requires NMFS to report annually to the IRS on Capital Construction Funds including the name and taxpayer identification number of each Agreement holder.

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

Form #	# of Respondents	# of Responses	Response Time	Frequency of Response	Total Burden Hours
34-82	1,000 (active cases)	1	3.5 hours	Once per year	3,500
88-14	50 (applicants)	1	0.5 hours	One time when applying for program benefits	25
Certificate Family of Forms	500 (active) ----- - 50 (applicants)	1 ----- - 1	1.0 hour ----- ---- 1.0 hour	Varies ----- - When applying	500 ----- 50

Total annual response time based on 1,600 responses = 4,075 hours.

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

Form #	# of Respondents	Postage per Respondent	Copies/Supplies Per Respondent	Frequency of Response	Total Burden Cost
34-82	1,000 (active cases)	\$2.95	\$3.50	Once per year	\$6,450
88-14	50 (applicants)	\$2.95	\$4.25	One time when applying for program benefits	\$ 360
Certificate Family of Forms	500 (active) ----- 50 (applicants)	\$0.55 ----- \$0 (included in above cost)	\$1.00 ----- \$0 (included in above cost)	Varies	\$ 775

The total annual cost to the respondents or record-keepers based on 1,600 responses is \$7,585.

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

Form #	# of Responses	Average Time to Process	Average Cost of Labor	Overhead (estimated at 35% per hour)	Total Burden Cost
34-82	1,000 (active cases)	0.25 hours	\$36.00 /hour	\$12.60/hour	\$12,150
88-14	50 (applicants)	1.50 hours	\$36.00/hour	\$12.60/hour	\$ 3,645
Certificate Family of Forms	500 (active) ----- 50 (applicants)	1.0 hour ----- 0 hours (included in above time)	\$36.00/hour ----- \$0/hour (included in above cost)	\$12.60/hour	\$24,300

The total annual cost to the Federal government based on 1,600 responses is \$40,095.

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

New CCF Regulations were implemented on June 29, 2017, which necessitated that all regulatory citations contained within this collection be updated. Participation rate and associated costs to respondents and the Federal government have been changed to more accurately reflect current Program status and increased administrative costs. Annually, on average, there are 1,000 current CCF Agreements, and 50 new applicant submissions based on historical statistics. This represents a decrease in caseload resulting from the purge of noncompliant Agreements.

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

The information collected is not published.

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

The forms will display the expiration date of OMB approval.

18. Explain each exception to the certification statement.

There are no exceptions.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Statistical methods are not used for this collection.