

as amended, require a continuing review of the performance of coastal states with respect to approved coastal management programs and the operation and management of NERRs.

The State of Wisconsin and the Territory of Guam were found to be adhering to and implementing and enforcing their Federally approved coastal management programs, addressing the national coastal management objectives identified in CZMA Section 303(a)(A)–(K), and adhering to the programmatic terms of their financial assistance awards.

Hudson River, Tijuana River, North Inlet/Winyah Bay, Narragansett Bay and North Carolina NERRs were found to be adhering to programmatic requirements of the NERR system. Weeks Bay was found to be not fully adhering to the NERR System goals, the Federally approved NERR management plan, and to the terms of its financial assistance awards.

Copies of these final evaluation findings may be obtained upon written request from: Vickie Allin, Chief, Policy Coordination Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, 11th Floor, Silver Spring, Maryland 20910 (301) 713-3087x126.

(Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration)

Dated: August 21, 1996.

W. Stanley Wilson,

Assistant Administrator for Ocean Services and Coastal Zone Management.

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[Docket No. 95106161159-6230-04; I.D. 0820961]

RIN 0648-ZA16

The Fishing Capacity Reduction Initiative (FCRI); Final Program Notice and Announcement of Availability of Federal Assistance

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final program notice.

SUMMARY: NMFS issues this notice to respond to comments on the proposed FCRI, describe the final program requirements, and announce the availability of Federal assistance. The Department of Commerce (Commerce) has made \$25 million available for a grant program for fishermen who hold Northeast multispecies limited access groundfish fishery permits, and who scrap or make their vessels permanently

ineligible to participate in any fishery and surrender all associated Federal fish harvesting permits. The FCRI's objectives are to provide grants to eligible fishermen adversely impacted by the groundfish fishery disaster, and to aid the long-term viability of the groundfish fishery resource through the reduction of active harvesting capacity at the lowest cost.

DATES: Applications must be postmarked by October 28, 1996.

ADDRESSES: Application forms may be obtained from, and completed applications sent to, the Northeast Financial Services Branch, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930-2298.

FOR FURTHER INFORMATION CONTACT: Leo Erwin, NMFS, (508) 281-9203.

SUPPLEMENTARY INFORMATION:

I. Background

As a result of the August 2, 1995, declaration of a fishery resource disaster by the Secretary of Commerce (Secretary), \$25 million in emergency disaster assistance has been made available to NOAA for the FCRI. The authority for this program is contained in section 308(d) of the Interjurisdictional Fisheries Act (IFA) of 1986 (16 U.S.C. 4107(d)), as amended.

The IFA requires that before providing financial assistance under a fishing capacity reduction program, the Secretary determine that adequate conservation and management measures are in place in that fishery. On May 15, 1996, the Secretary approved Amendment 7 to the Northeast Multispecies Groundfish Management Plan, which implements several major measures designed to rebuild overfished groundfish resources. The Secretary hereby determines, therefore, that the measures contained in Amendment 7 are adequate conservation and management measures for purposes of implementing a fishing capacity reduction program.

On June 4, 1996, NMFS published a Federal Register notice (61 FR 28177) announcing the proposed FCRI and requesting comments on a number of issues including eligibility, scoring methods, vessel reuse, scrapping, and program mission. The background for this program is provided in the June 4, 1996, notice and is not repeated here.

II. Comments and Responses

Fifteen comments were received from the following entities: U.S. Coast Guard Station, Portland, ME; Atlantic Trawlers Fishing, Inc.; Associated Fisheries of Maine, The Groundfish Group; Athearn Marine Agency, Inc.; Endangered Seas

Campaign, World Wildlife Fund International; Atlantic Salmon of Maine; Chairman, Board of Supervisors, Cochise County, AZ; Environmental Defense Fund; Conservation Law Foundation; New England Fishery Management Council; and five individuals. Similar comments have been combined.

Comment 1: Two commenters suggested NMFS should not proceed with the \$25 million program until the agency had established appropriate means to evaluate whether the Fishing Capacity Reduction Demonstration Program (FCRDP) achieved its objective and was able to ensure that a larger program would not cause substantial damage to other fisheries.

Response 1: The objectives of the FCRDP were to demonstrate that such a program could be successfully designed and implemented, and that the fishing industry was interested in participating in the program. Under the \$2 million FCRDP, NMFS successfully removed 11 vessels and 26 permits from the fishery, and received bids from fishermen worth over \$52 million. Clearly the objectives of the program were met. With respect to harming other fisheries, NMFS relies on sound conservation and management plans to protect fishery resources. Many New England fisheries are under limited entry schemes, which means that anyone wishing to enter one of those fisheries must purchase an existing permitted vessel. A fisherman participating in the FCRI may only enter the groundfish fishery if he purchases a vessel that is already permitted for that fishery. However, the FCRI does not restrict a participant's privilege to fish. Participants are free to purchase a permitted groundfish vessel, or fish with a different vessel in an open access fishery. Finally, under the FCRDP, NMFS removed 15 limited access permits from other fisheries and anticipates that the larger program will provide substantial spillover benefits to the non-groundfish fisheries because vessel owners are required to surrender all Federal fishing permits.

Comment 2: Several commenters believed that the program's design to remove active fishing capacity has no long-term utility and should be changed to remove potential fishing capacity.

Response 2: NMFS believes that focusing the program on reducing active fishing capacity is an appropriate design to aid in the long-term viability of the groundfish fishery resource. The program gauges active fishing capacity in terms of a vessel's performance, as measured by its groundfish revenues. In this manner, the program should target those vessels associated with higher

landings. Potential or latent fishing capacity is difficult to measure, particularly since the skill of individual vessel captains plays a key role. However, NMFS recognizes that latent fishing capacity is a concern and may address it in future programs.

Comment 3: Several comments reflected the view that using revenues as a measure of capacity does not necessarily mean that the boats with the most capacity will be removed.

Response 3: NMFS believes using revenues as a measure of capacity is simple and provides a cost-effective standard. Measuring fishing capacity can involve many complicated variables and NMFS remains convinced that the program objective of removing active fishing capacity at the least cost is best achieved by using revenues as a measure of capacity.

Comment 4: A number of comments discussed the various scoring proposals. Comments were fairly evenly divided in support of Scoring Alternatives I and III. No comments supported Alternative II.

Response 4: NMFS outlined three alternative scoring proposals in the proposed program notice and, based on the comments received, sees no compelling reason to change the scoring method used in the demonstration program. NMFS believes Alternative I, which was used in the demonstration program, is the most effective way to remove active groundfish capacity at the least cost.

Comment 5: One commenter wanted NMFS to prohibit eligibility of corporations owned by Fishery Management Council members.

Response 5: NMFS agrees and has incorporated this prohibition into the final program.

Comment 6: A fisherman commented that he would like to see a clear statement that recipients of FCRI financial assistance are not giving up their rights to fish.

Response 6: NMFS agrees that the FCRI is not intended to eliminate a participant's privilege to fish, and has incorporated this comment into the final program.

Comment 7: NMFS received the most comments on the issues associated with vessel reuse, mandatory scrapping, and the transfer of fishing vessels abroad. Some commenters supported a continuation of the mandatory scrapping requirement; some wanted foreign transfers prohibited because of vessel tracking and enforcement concerns, while others wanted NMFS to allow vessels to be reused for any activity.

Response 7: At the time of implementation of the pilot program, mandatory scrapping or sinking were

the only ways for NMFS to ensure that fishing vessels did not reenter another fishery. Subsequently, Congress amended the IFA to provide NMFS with statutory authority to ensure that vessels do not reenter any fishery after receiving a FCRI grant. The IFA now allows for vessel reuse and specifically identifies vessel transfers to nonprofit organizations for purposes of research, education, and training. The IFA also authorizes the Secretary to allow other appropriate non-fishing uses. As described in the proposed program notice, NMFS proposed allowing vessels to also be reused for humanitarian, safety, or law enforcement purposes, and requested comments on allowing foreign transfers to public and private entities. Based on the comments, NMFS will allow vessel transfers to a U.S. public entity, a U.S. nonprofit organization, and foreign national governments for research (including fisheries research), education, training, humanitarian, safety, or law enforcement purposes. Transfers to foreign private entities will not be allowed due to tracking and enforcement problems.

Comment 8: One fishing group strongly opposed releasing any information on applicants until after the selection process is over.

Response 8: NMFS intends to provide legal notice of the names of vessels and their owners for which a successful investigation has been completed. During program implementation, all scores and bids will be treated as proprietary information and will only be disclosed to Federal officials who are responsible for the FCRI or otherwise when required by court order or other applicable law, such as the Freedom of Information Act (FOIA). The amount of the bids of successful applicants will be released after completion of the program, and not prior to selection. The FOIA prohibits NMFS from releasing commercial or financial information that is privileged or confidential.

Comment 9: One commenter argued that in view of the Nation's financial status and cuts in various programs such as Medicare, Social Security, and education programs, the Federal government should not be spending \$25 million on a vessel and permit buy out.

Response 9: The FCRI is an integral part of the Administration's response to the groundfish disaster in New England. The FCRI is specifically aimed at providing economic assistance to people, in this case fishermen and their families, who have been harmed as a result of the fishery disaster. The funds being used for the FCRI are statutorily restricted to provide financial assistance

to fishermen adversely impacted by fishing resource disasters and cannot be used for other purposes.

Comment 10: One commenter worried that the FCRI would dislocate highly skilled fishermen with no provisions for retraining.

Response 10: As stated earlier in this notice, the FCRI is intended to provide fishermen with an alternative to remaining in the fishery. The program is not intended to force people into unemployment. The FCRI is a voluntary program. Fishermen choose to submit bids and relinquish their permits and vessels. Presumably, the fishermen who participate in the program have thought through the pros and cons of offering their vessels and permits.

Comment 11: One commenter was concerned that no environmental impact statement on the FCRI had been prepared.

Response 11: NMFS has prepared an Environmental Assessment (EA) of the FCRI. An EA is required for compliance with the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4371 *et seq.*, which is a condition for the grant. The purpose of an EA is to determine whether significant impacts on the quality of the human environment could result from the proposed action. The environmental analysis in this EA provides the basis for this determination and must evaluate the intensity or severity of the impact of an action and the significance of an action with respect to society as a whole, the affected region and interests, and the locality. If the action is determined not to be significant, the EA and resulting finding of no significant impact would be the final environmental documents required by NEPA. An Environmental Impact Statement (EIS) must be prepared only if the proposed action may cause a significant impact to the quality of the human environment. With respect to the FCRI, the EA prepared by NMFS found that the proposed action would not have a significant impact on the quality of the human environment. Therefore, no EIS was prepared.

Comment 12: One commenter suggested NMFS should match landings slips with tax records as a way to validate groundfish landings because some boats may have slipped by last time.

Response 12: NMFS will continue to use every means available to validate landings and, as in the pilot program, landings that cannot be verified will not be allowed.

Comment 13: One commenter expressed concern that fishing vessels should be "fishable" at the time of grant award closing.

Response 13: NMFS agrees with this comment and has incorporated a relevant provision into the final program.

Comment 14: One commenter stated that the pilot program allowed fishermen to receive more than the fair market value of their vessel, which then allowed for the fisherman to purchase a better vessel and continue fishing.

Response 14: The FCRI does not use a fair market value test or vessel survey because the fair market value of the vessel would not capture the full value of the fisherman's bid. The bid includes the vessel's worth and the value of the associated permits. Each fisherman's bid is scored in relation to the groundfish revenues associated with the vessel being offered. All bids receive a score and are ranked against all other bids. Successful applicants are not prevented from purchasing another fishing vessel just as they can today. However, the net effect is that, because there is a moratorium on new vessels entering the fishery, there would be one less vessel and permit in the fishery.

III. Definitions

Eligible multispecies limited access permit means those limited access permits defined in the regulations implementing the Northeast Multispecies Fishery Management Plan, as amended by Amendment 7, 50 CFR 651.4(b). To be eligible, a permit must be free of all permit sanctions or Notice of Permit Sanction, at the time of application and at grant award closing. Owners of permits who have been issued a permit sanction or a Notice of Permit Sanction are not eligible for consideration because compensation of fishermen who violate fishery regulations would contravene the program's objective to aid the long-term viability of the fishery resource.

Fisherman means any natural or legal person who (1) owns a fishing vessel with an eligible multispecies limited access permit, (2) has less than \$2,000,000 in net revenues from commercial fishing annually, and (3) is a U.S. citizen or permanent resident alien.

Qualifying period means the calendar years of 1991, 1992, 1993 and 1994.

Regulated groundfish species means those species that are regulated under the Northeast Multispecies Fishery Management Plan and are limited to cod, haddock, pollock, yellowtail flounder, winter flounder, gray sole, American plaice, windowpane flounder, white hake, and redfish.

U.S. citizen means a U.S. citizen for the purpose of documenting vessels in the U.S. coastwise trade. Coastwise trade documentation requires: (1) All

sole proprietors to be U.S. citizens, (2) 75 percent of all partners (and 100 percent of all general partners) in a partnership to be U.S. citizens, and (3) 75 percent of all owners of a corporation (as well as its chief executive officer and the minority of its directors necessary to constitute a quorum) to be U.S. citizens. 46 CFR 67, Subpart C.

IV. FCRI Program Overview

The objectives of the FCRI are to provide grants to eligible fishermen adversely impacted by the groundfish fishery disaster, and to aid the long-term viability of the fishery resource through the reduction of active fishing capacity at the lowest cost. All fishing vessels with an eligible valid multispecies limited access permit may apply. The FCRI allows the applicant to establish a price for offered vessels and permits that will be scored in a competitive manner. Although the FCRI is designed to remove vessels and permits from the groundfish fishery, successful applicants do not forfeit their privilege to fish.

A successful applicant with an undocumented vessel will be required to scrap the vessel. Sinking will also be allowed, so long as it is conducted in compliance with all applicable Federal, state, and local environmental laws and regulations. A successful applicant with a documented vessel will be required to scrap or sink the vessel or transfer it to a U.S. public entity, a U.S. nonprofit organization, or a foreign national government for research (including fisheries research), education, training, humanitarian, safety, or law enforcement purposes. If a vessel is transferred to an eligible entity, NMFS will require that the title include a provision that the vessel be scrapped by that entity once it has served the purpose for which it was transferred. Before any vessel may be transferred, NMFS will require that the vessel's Coast Guard document has a permanent restriction prohibiting that vessel from holding a fishery endorsement. NMFS reserves the right to approve all vessel transfers.

Vessel Transfers

Recognizing that limited Federal funding is available for this program, the fishermen may leverage these monies with non-Federal resources. NMFS will allow vessels to be either donated or sold to a U.S. public entity, a U.S. nonprofit organization, or a foreign national government. The ability to sell their vessels should allow fishermen to submit lower bids, and consequently exit the fishery at a lower cost to the government. Because the fishermen will have been partially

compensated by the government through the purchase of their permits, acquiring entities may be able to purchase the vessels at below market value, allowing these entities to obtain vessels that otherwise would have been beyond their limited budgets. In engaging in these transfers, fishermen have the opportunity to receive the best value for the loss of their vessels and permits. Vessel transfers will benefit all parties and enhance the government's ability to remove the greatest capacity at the least cost.

Regardless of the manner in which a vessel is disposed of or transferred, all Federal fishing permits associated with that vessel must be surrendered at the time of grant award closing.

V. How to Apply

A. Eligible Applications

Applications for FCRI grants will only be considered from eligible fishermen, as defined in this notice, who are owners of eligible vessels, which meet the conditions stated below. Federal Government agencies or employees, including full-time, part-time, and intermittent personnel, and Fishery Management Council members (or corporations owned by them) and employees are not eligible to submit an application.

For a vessel to be eligible for the FCRI, it must meet the following conditions:

1. Have an eligible multispecies limited access fishing permit. Vessel owners will be required to surrender such permits along with ALL other Federal fishing permits issued to that vessel if awarded financial assistance under the FCRI. Although pending or assessed civil penalties for state or Federal fisheries violations do not disqualify a vessel owner from application, all outstanding and/or pending investigations, charges, and penalties must be resolved within a reasonable period of time prior to grant award closing. The Secretary retains discretion to determine the applicant's integrity and responsibility to receive Federal assistance funds and to comply with the terms and conditions of the FCRI award, and may deny funding or impose special award conditions pursuant to any pending or outstanding state or Federal fishery violation.

2. Be active and functioning. Successful applicants will be required to show proof that their vessel made at least two (2) fishing trips (of any duration for any species) during the 60 days prior to the date for the submission of applications for FCRI assistance and that the vessel is capable of fishing for groundfish in Federal waters under its

own power at the time of application and grant award closing.

3. Have derived 65 percent or more of its gross annual revenues from the sale of regulated groundfish species in each of the 3 years during the qualifying period. This means that in 1991, 1992, 1993, and 1994, successful applicants must be able to prove that 65 percent or more of the gross revenues (for the vessel involved) in each of the 3 years chosen during the qualifying period was from the sale of regulated groundfish species.

B. Submission of Applications

Applicants are limited to one bid per vessel under the FCRI. If the amount of a bid is predicated upon a transfer for money to a third party, but that transfer is not approved, applicants may not submit a new bid.

Vessel owners will be given 60 days from the date of filing for public

inspection at the Office of the Federal Register of this final FCRI notice to submit a FCRI application form. Proof of eligibility need not be submitted with the application. Applicants will be required to submit one signed original application. No facsimile applications will be accepted. NMFS will provide applicants with proof of receipt. The anticipated time required to process applications is 120 days from the date of this notice.

All multispecies limited access fishing permit holders will be mailed a copy of the FCRI application form along with a copy of this Federal Register notice. FCRI application forms are also available at the NMFS Regional Office (See ADDRESSES).

VI. Application Review and Scoring

All timely submitted and completed applications will be assigned a score calculated by the following method:

$$\text{SCORE} = \frac{\text{Bid}}{(\text{average annual revenues from sale of regulated groundfish species in highest 3 years})}$$

Determining a bid amount is extremely important, since this will be a key factor in the success of an applicant. If the bid is too high in relation to the vessel's overall performance, the bid may not be competitive. In the pilot program, successful applicants submitted bids that resulted in scores between 0.494 and 0.725. Applicants will need to carefully consider all costs involved with receiving financial assistance under the FCRI; these costs include satisfying vessel liens, vessel scrapping or vessel transfer costs, and tax liabilities. Applicants will also need to consider whether they are willing to accept a bid that was predicated upon a transfer agreement that may not subsequently be approved. Applicants may wish to consider selling vessel gear and equipment separately as a way of reducing the amount of a bid. Vessel owners may retain any removable gear and equipment for private disposition, as long as it was not purchased under another Federal grant. In that situation, the equipment must be disposed of in accordance with the original grant terms.

VII. Ranking of Applications

Applications will be ranked, starting with the lowest score. The Assistant Administrator for Fisheries, NOAA, will determine which applications are eligible for further consideration based on the ranking of the applications. NMFS may initially find eligible more

applications than it can fund but will investigate all such applications in order of their ranking. NMFS reserves the right to reject any or all applications if it is determined by NMFS that such action is in the best interests of the program or if revisions to the program are warranted in the future. NMFS may also solicit additional applications. If additional applications are solicited, all applications submitted previously and not determined to be eligible will be considered rejected. NMFS will notify eligible applicants in writing. However, eligible applicants are not guaranteed funding by simply having a competitive bid; they will be subject to a thorough investigation as described in section VII.

VIII. Investigation of Applications

A representative from the NMFS Financial Services Division will contact eligible applicants with competitive bids regarding the following:

1. Ensuring that applicants meet all eligibility requirements and can document all claims made in their applications.
2. Determining what debts exist against the vessel offered in the application, including any outstanding civil penalties or fines.
3. Determining how applicants will satisfy all vessel liens before scrapping or transferring the vessels. Eligible applicants will have to provide written evidence of vessel lienors' willingness to satisfy vessel liens for specific amounts.

Step A. Identify Bid

The bid is the dollar amount submitted by the applicant in the application.

Step B. Calculate Vessel Performance

Vessel performance will be determined by averaging the annual revenues from the sale of regulated groundfish species harvested by that vessel for the highest 3 years during the qualifying period. Applicants may only use revenues from those years in which 65 percent or more of gross revenues were derived from the sale of regulated groundfish species.

Step C. Determine Vessel Score

A vessel score will be calculated using the following formula:

4. Ensuring availability of documentation required to support eligible applications, including the following:

a. Multispecies limited access fishing permit. The applicant may provide a copy of the permit to NMFS, but the actual permit must be surrendered at the time of grant award closing.

b. Proof of landings of regulated species. NMFS will require proof that 65 percent or more of a vessel's gross revenues came from the sale of regulated groundfish species in 3 years during the qualifying period. Landing slips or sales tickets may be used to verify claimed revenues.

c. Proof of gross revenues for highest 3 years. Vessel owners must be able to prove the annual gross revenues from the sale of fish for the vessel involved for the 3 years used on the application. Documentation to support income may include, but is not limited to, individual or corporate tax returns, or fish sale receipts accompanied by vessel settlement reports. NMFS may require sworn affidavits from the reporting party regarding the accuracy of the information contained in supporting documentation. Sales that cannot be substantiated *will not be included* in the calculation of either gross revenues or revenues from regulated groundfish species.

d. Documentation of active and functioning fishing vessel. NMFS will require documentation that the vessel made at least two fishing trips (of any

duration for any species) within 60 days prior to October 28, 1996. NMFS will also ascertain that the vessel is capable of fishing for groundfish in Federal waters under its own power at the time of grant award closing.

NMFS will provide legal notice of names of vessels and their owners for which an investigation has been successfully completed, and in order to facilitate vessel transfers, may provide copies of the published legal notices to interested eligible entities. Publication of the legal notice does not obligate NOAA to make an award. NOAA may also establish a World Wide Web Internet site prior to termination of the application period in order to facilitate communication between potential participants in vessel transfer agreements.

Proprietary information submitted by applicants will only be disclosed to Federal officials who are responsible for the FCRI or otherwise when required by court order or other applicable law, such as the Freedom of Information Act (FOIA). The FOIA prohibits NMFS from releasing commercial or financial information that is privileged or confidential.

IX. Establishment of Award Terms

Representatives from the NMFS Financial Services Division will establish the programmatic terms of each financial assistance award for eligible applications validated during the investigation process. These terms will be binding on the applicants and will control the applicant's post award rights and obligations. Terms of the award will address such matters as how the outstanding liens on the vessels will be satisfied and how the vessel covered in the application will be scrapped or transferred to an eligible entity for an eligible use. NMFS reserves the right to approve all transfers. If a bid is submitted that relies upon an unapproved transfer, and that transfer is subsequently disapproved, an applicant cannot submit another bid. NOAA also reserves the right to terminate financial assistance as a result of any enforcement actions that NMFS regards as indicating a lack of grantee integrity and responsibility to receive Federal assistance funds and comply with the terms and conditions of the FCRI award.

X. Grant Award Procedures

After NMFS Financial Services Division and the NOAA Grants Management Division have reviewed and approved the terms of eligible and validated applications, then applicants will be notified in writing of the award and a grant award closing date will be set. Applicants may be required to have

an attorney present at the grant award closing. To the extent necessary, attorneys will be required to pay grant funds to vessel lienors in return for lien releases. Should vessel liens exceed the amount of the FCRI award, attorneys must obtain funds from applicants and exchange them for lien releases. If a vessel is going to be scrapped, 75 percent of the award will be available at the grant award closing. The remaining 25 percent will be available only when applicants have made arrangements for vessel scrapping and other prescraping dispositions acceptable to NMFS. If these arrangements have been made by the time of grant award closing, 100 percent of the award may be available at that time. Vessel scrapping must occur promptly. If a vessel is going to be transferred to an eligible entity, the transfer must also occur at the grant award closing and 75 percent of the award will be available at that time. The remaining 25 percent will be available when the applicant shows proof that the transferred vessel has a permanent restriction on its certificate of documentation prohibiting that vessel from participating in the fisheries of the U.S. If these arrangements have been made by the grant award closing, 100 percent of the award may be available at that time. NMFS reserves the right to terminate financial assistance negotiations with an applicant, if in the opinion of NMFS there are material adverse changes in an applicant's ability to meet the terms and conditions of a FCRI award agreement, including any outstanding and/or pending investigation, charge, or penalty relating to a violation of state or Federal fisheries laws. As a precaution against insured vessel losses, NOAA reserves the right to reduce financial assistance awards by the amount recovered by the applicant through insurance claims.

XI. Administrative Requirements

A. Primary Applicant Certification

Applicants whose applications are recommended for funding will be required to submit a completed Standard Form 424B, "Assurances—Non-Construction Programs" and Form CD-511, "Certification Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying," and the following explanations are hereby provided:

1. Nonprocurement debarment and suspension. Prospective participants (as defined at 15 CFR 26.105) are subject to 15 CFR part 26, "Nonprocurement Debarment and Suspension" and the related section of the certification form prescribed above applies.

2. Drug-free workplace. Grantees (as defined at 15 CFR 26.605) are subject to 15 CFR part 26, subpart F, "Governmentwide Requirements for Drug-Free Workplace (Grants)" and the related section of the certification form prescribed above applies.

3. Anti-lobbying. Persons (as defined at 15 CFR 28.105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than \$100,000, and loans and loan guarantees for more than \$150,000, or the single family maximum mortgage limit for affected programs, whichever is greater.

4. Anti-lobbying disclosure. Any applicant who has paid or will pay for lobbying using any funds must submit an SF-LLL, "Disclosure of Lobbying Activities," as required under 15 CFR part 28, Appendix B.

5. Lower tier certifications.

Applicants shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD-512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying," and disclosure form SF-LLL, "Disclosure of Lobbying Activities." Form CD-512 is intended for the use of recipients and should not be transmitted to Commerce. SF-LLL submitted by any tier recipient or subrecipient should be submitted to the Department in accordance with the instructions contained in the award document.

B. Other Requirements

1. Federal policies and procedures. FCRI grant recipients and subrecipients are subject to all Federal laws and Federal and Department policies, regulations, and procedures applicable to Federal financial assistance awards. Federal assistance funds cannot be used to pay a Federal debt.

2. Name check review. Applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the recipient have been convicted of, or are presently facing, criminal charges such as fraud, theft, perjury, or other matters that significantly reflect on the recipient's management, honesty, or financial integrity.

3. A false statement on the application is grounds for denial or termination of funds and grounds for possible

punishment by a fine or imprisonment (18 U.S.C. 1001).

4. Financial management certification/preaward accounting survey. Applicants, at the discretion of the NOAA Grants Officer, may be required to have their financial management systems certified by an independent public accountant as being in compliance with Federal standards specified in the applicable Office of Management and Budget (OMB) Circulars prior to execution of the award. Any first-time applicant for Federal grant funds may be subject to a pre-award accounting survey by the Department prior to execution of the award.

5. Past performance. Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

6. Delinquent Federal debts. No award of Federal funds shall be made to an applicant or to its subrecipients who have an outstanding delinquent Federal debt or fine until either:

a. The delinquent account is paid in full,

b. A negotiated repayment schedule is established and at least one payment is received, or

c. Other arrangements satisfactory to the Department are made.

7. Buy American-made equipment or products. Applicants are hereby notified that they are encouraged, to the extent feasible, to purchase American-made equipment and products with funding under this program.

8. Pre-award activities. If applicants incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal or written assurance that may have been received, there is no obligation on the part of the Department to cover pre-award costs.

Catalogue of Federal Domestic Assistance

The FCRI is listed in the "Catalogue of Federal Domestic Assistance" under No. 11.452, unallied Industry Projects.

Classification

This action has been determined to be not significant for purposes of E.O. 12866. Applications under this program are subject to E.O. 12372, "Intergovernmental Review of Federal Programs." This notice contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA). The collection of this information has been approved by OMB under control number 0648-0289. Public reporting burden for preparation of the grant application is estimated to

be 1 hour per response including the time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection of information. An additional 15-hour reporting burden is estimated for those applicants who are accepted by NMFS including time for documenting the income claims on their applications, how outstanding liens on their vessels will be satisfied, and how the vessels will be scrapped. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to NMFS (See ADDRESSES).

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 PRA, unless that collection of information displays a currently valid OMB control number.

The Assistant General Counsel for Legislation and Regulation of the Department certified to the Chief Counsel for Advocacy of the Small Business Administration that this notice would not have a significant economic impact on a substantial number of small entities. As of August 20, 1996, 1,664 fishermen held multispecies limited access permits, representing the entire universe of fishermen potentially eligible to participate in the FCRI. The FCRI is expected to result in the elimination of approximately 80 vessels, along with their associated permits.

There is no doubt that the FCRI will have a significant economic impact, as defined under the Regulatory Flexibility Act (RFA), on those fishermen who participate in this program. The FCRI, however, will not affect a "substantial number" of small entities, defined as more than 20 percent of the business entities which are potentially eligible for participation in the program. Indeed, assuming 80 fishermen are ultimately bought out, these fishermen would represent only 4.8 percent of the small entities potentially affected by the FCRI. Therefore, the impacts of the notice are not significant within the meaning of the RFA. They are not likely to lead to a reduction in the annual gross revenues by more than 5 percent or an increase in total costs of production by more than 5 percent, nor would this action result in any greater compliance costs.

Dated: August 22, 1996.
Charles Karnella,
*Acting Assistant Administrator for Fisheries,
National Marine Fisheries Service.*
[FR Doc. 96-21875 Filed 8-23-96; 1:01 pm]
BILLING CODE 3510-22-P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Friday, September 6, 1996.

PLACE: 1155 21st St., N.W., Washington, D.C. 9th Fl. Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202-418-5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 96-22072 Filed 8-26-96; 12:45 pm]

BILLING CODE 6351-01-M

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Friday, September 13, 1996.

PLACE: 1155 21st St., N.W., Washington, D.C. 9th Fl. Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202-418-5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 96-22073 Filed 8-26-96; 12:45 pm]

BILLING CODE 6351-01-M

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Friday, September 20, 1996.

PLACE: 1155 21st St., N.W., Washington, D.C. 9th Fl. Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202-418-5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 96-22074 Filed 8-26-96; 12:45 pm]

BILLING CODE 6351-01-M

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.