Federal Register document. If you have questions, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

List of Subjects in 40 CFR Part 60

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: May 22, 2003.

Robert Brenner,

Acting Assistant Administrator for Office of Air and Radiation.

[FR Doc. 03–13416 Filed 5–27–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 61 and 63

[FRL–7490–5]

Approval of the Clean Air Act, Section 112(l), Authority for Hazardous Air Pollutants: Management and Control of Asbestos Disposal Sites Not Operated After July 9, 1981: State of New Hampshire Department of Environmental Services

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve New Hampshire Department of Environmental Services' (NHDES) request to implement and enforce its regulation entitled ''Management and Control of Asbestos Disposal Sites Not Operated After July 9, 1981'' in lieu of the National Emission Standard for Asbestos (Asbestos NESHAP) as it applies to certain inactive waste disposal sites. Approval of this request would make NHDES' rules Federally enforceable and would apply only to those inactive waste disposal sites not operating after July 9, 1981, which are subject to the Asbestos NESHAP (*i.e.,* sites operated by certain asbestos mills, manufacturers, and fabricating facilities). NHDES' request seeks no change in delegation relative to inactive asbestos waste disposal sites operating after July 9, 1981 (*i.e.,* NHDES will continue to regulate such facilities according to the Asbestos NESHAP).

In the final rules section of this **Federal Register**, EPA is approving NHDES' request as a direct final rule without prior proposal because the Agency views this as a noncontroversial action and anticipates no relevant adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, EPA will take action on this proposed rule. If the EPA receives relevant adverse comments, EPA will withdraw the direct final rule and it will not take effect. EPA will then address all public comments received in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period in this action.

DATES: Written comments must be received on or before June 27, 2003.

ADDRESSES: Written comments should be mailed concurrently to the addresses below: Steven Rapp, Chief, Air Permits, Toxics, and Indoor Programs Unit (CAP), U.S. Environmental Protection Agency, Region I, One Congress Street, Suite 1100, Boston, MA 02114 and Philip J. O'Brien, PhD, Director, Waste Management Division, New Hampshire Department of Environmental Services, 6 Hazen Drive, P.O. Box 95, Concord, NH 03302–0095. Copies of the requests for approval are available for public inspection at EPA's Region I Office, Air Permits, Toxics, and Indoor Programs Unit, during normal business hours.

FOR FURTHER INFORMATION CONTACT: Ida McDonnell, Air Permits, Toxics, and Indoor Programs Unit, U.S. EPA Region I, One Congress St., Suite 1100 (CAP), Boston, MA 02114, (617) 918–1653.

SUPPLEMENTARY INFORMATION: In the final rules section of this **Federal Register**, EPA is approving the State's submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

For additional information, *see* the direct final rule which is located in the rules section of this **Federal Register**.

Dated: April 15, 2003.

Robert W. Varney,

Regional Administrator, EPA New England.

[FR Doc. 03–13175 Filed 5–27–03; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[Docket No. 030509119–3119–01; I.D. 032603D]

RIN 0648–AQ99

Magnuson-Stevens Act Provisions; Fishing Capacity Reduction Program; Pacific Coast Groundfish Fishery; California, Washington, and Oregon Fisheries for Dungeness Crab and Pink Shrimp

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

ACTION: Notice of proposed fishing capacity reduction program; request for public comments.

SUMMARY: NMFS issues this notice about a voluntary fishing capacity reduction program in the Pacific Coast groundfish fishery. After a successful referendum, harvesters that are accepted to participate would be paid to surrender their fishing permits and restrict their vessels. A loan, which would be repaid by fishermen remaining in the fishery, will finance the majority of the program's cost. The program will invite bids from permit owners of groundfish trawl permits (except those harvesting whiting and processing it at sea) that are willing to surrender their fishing privileges, score the bids in a reverse auction against the value of bidders' harvests, and then conduct a referendum regarding repayment of the loan. If the referendum is successful, accepted bidders must relinquish their California, Oregon, and Washington fishing licenses for Dungeness crab and pink shrimp; accepted bidders must also surrender their Federal groundfish permit, as well as all other Federal fishing licenses associated with the fishing vessel named in their bids. The fishing vessels involved will never again be eligible to fish. If the referendum is not successful, bidders are excused from all such obligations. The groundfish program aims to increase the remaining harvesters' productivity, help financially stabilize the fishery, and help conserve and manage its fish. This

notice also contains the groundfish program's pro forma invitation to bid and bidding document.

DATES: NMFS must receive comments by June 27, 2003.

ADDRESSES: Mail or fax written comments about the proposed groundfish program to Michael L. Grable. In addition to public comments about the program's substance, NMFS also seeks public comment about any ambiguity or unnecessary complexity in this notice. Copies of a draft environmental assessment and regulatory impact review are available from NMFS upon request. The mailing address is: Michael L. Grable, Chief, Financial Services Division, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3282. The primary fax number is (301) 713–1306. The secondary fax number is (301) 713–1939. NMFS will not accept e-mail or Internet comments. If a comment involves any aspect of this notice's collection of information requirements, send the comment both to Michael L. Grable and to the National Oceanic and Atmospheric Administration Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Michael L. Grable, (301) 713–2390.

SUPPLEMENTARY INFORMATION:

I. General

Enacted on February 20, 2003, Section 212 of Division B, Title II, of Public Law 108–7 (section 212) authorizes a fishing capacity reduction program (program) for that portion of the limited entry trawl fishery under the Pacific Coast Groundfish Fishery Management Plan whose permits, excluding those registered to whiting catcher-processors, are endorsed for trawl gear operation (reduction fishery). The program's objective is to reduce the number of vessels and permits endorsed for the operation of groundfish trawl gear. Vessels that catch and process whiting at sea are ineligible to participate. The program also involves corollary fishing capacity reduction in the California, Oregon, and Washington fisheries for Dungeness crab and pink shrimp (fee-share fisheries). Sections 1111 and 1112 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1279f and 1279g) (Title XI) authorize loans for financing the cost of fishing capacity reduction programs (reduction loans). The program has two appropriations. A $10 million appropriation, found at section 501(b) of Division N, Title V, of Public Law 108–7, directly funds part of the program's cost. The second, a $0.5 million appropriation, included in Public Law 107–206, funds the Federal Credit Reform Act cost of authorizing a $36 million reduction loan.

Although largely consistent with the framework regulations for fishing capacity reduction (promulgated pursuant to section 312 of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1861a(b)–(e) (found at 50 CFR 600.1000 *et seq.*), section 212 supersedes some of the provisions of both the framework regulations and the Magnuson-Stevens Act.

When fishing capacity reduction is undertaken pursuant to the Magnuson-Stevens Act provisions, NMFS implements each reduction program by adding an implementing section to the framework regulations. However section 212 renders some of the Magnuson-Stevens Act provisions and much of the framework regulations inapplicable. Among other things, the groundfish program applies to more than one fishery. Section 212 also requires NMFS to implement the groundfish program by publishing a notification and an invitation to bid in the **Federal Register** rather than by promulgating additional regulations. In addition, section 212 supersedes one provision of Title XI, by extending the reduction loan's term to 30 years.

II. Reduction Cost

The amount paid to harvesters in exchange for surrender of their fishery privileges (reduction cost) may equal, but may not exceed, $46 million. A $10 million appropriation will fund part of the reduction, and future harvesters will finance any remainder.

III. Program Summary

NMFS will mail to each ''permit owner'' (as 50 CFR 660.302 defines the term ''permit owner'') of a groundfish permit endorsed for trawl gear operation (other than those issued to whiting catcher-processors) an advance notice that NMFS will formally invite bids for capacity reduction by mailing them a bidding package. Such notice and the bidding package will be mailed to the permit owner at the owner's address of record.

The bidding package will contain, among other things, an invitation to bid and a bidding document. The invitation to bid will specify the terms and conditions under which bids are made and accepted. If the Secretary formally accepts a bid, the bidding document, in conjunction with the invitation to bid, will constitute a reduction contract between the bidder and the United States.

No bidder may bid before receiving the bidding package. Bidders must submit bids on provided forms and in strict conformance with the requirements of the invitation to bid. NMFS will reject any nonconforming bids.

The invitation to bid and bidding document will be similar to the pro forma invitation to bid and bidding document (see addenda to this notification). What follows is a general summary of the relevant provisions.

To submit a bid, bidders must mail or otherwise deliver their bids to NMFS at the address specified in the invitation to bid. Each bidder is responsible for ensuring that NMFS receives his or her bid before the specified bid receipt deadline. NMFS will reject any bid that arrives after the bid receipt deadline; such a bid will be deemed unresponsive to the invitation to bid. All terms and conditions of the invitation to bid or the bidding document are final at the time NMFS mails the bidding package. Thereafter, NMFS will not alter or negotiate any term or condition.

Each bid must specify:

(a) The exact bid amount,

(b) The reduction vessel the bidder proposes to remove from fishing (reduction vessel),

(c) The groundfish reduction permit,

(d) Any other Federal permits registered to or used on the reduction vessel,

(e) All California, Oregon, or Washington issued permits for Dungeness crab or pink shrimp registered to or used on the reduction vessel (fee-share reduction permits), and

(f) Any catch history used as the basis of permit issuance that was accrued on the reduction vessel.

The bidder must both own the reduction vessel and be the permit owner, as well as be the registered holder of all other reduction permits. The groundfish reduction permit must be registered for use on the reduction vessel. However, the bidder need not include any non-Federal permit that neither is registered to nor used on the reduction vessel.

By completing and submitting a bidding document to NMFS, each bidder makes an irrevocable offer to the United States. No bidder, once having submitted a bid to NMFS, is entitled to withdraw or in any way amend the bid.

Each bidder must offer to relinquish all of his or her Federal permits and any state permits for pink shrimp or Dungeness crab. Additionally, each person submitting a bid must offer to relinquish the reduction vessel's legal

authority to participate in any fishery, by offering to permanently:

(a) Allow imposition of title restrictions that remove the reduction vessel's fisheries endorsement,

(b) Relinquish eligibility for any present or future U.S. Government approval under section (9)(c)(2) of the Shipping Act, 1916 (46 U.S.C. App. 808(c)(2)) for placement of the reduction vessel under foreign registry or operation under the authority of a foreign country, and

(c) Relinquish any other present or future reduction vessel fishing privilege or fishery eligibility claim of any kind, including any based on the reduction vessel's catch.

If a reduction vessel is registered only under state jurisdiction (*i.e.*, it is not Federally documented) it must be scrapped.

After bidding, the bidder must continue to hold all reduction permits and own the reduction vessel until: NMFS notifies the bidder that NMFS rejects the bid, the bid expires without NMFS having accepted or rejected it, NMFS notifies the bidder that a reduction contract between the bidder and the United States no longer exists, or NMFS tenders reduction payment to the bidder and the bidder relinquishes all reduction permits and the reduction vessel's fishing privileges.

NMFS will determine which bids it accepts by using a reverse auction. Upon receipt of each bid, NMFS will determine a bid score by dividing each bid amount by the average annual total ex-vessel dollar value of the Pacific groundfish, Dungeness crab, and pink shrimp landed by the bidder's reduction vessel. NMFS will average the three highest total annual revenues from groundfish, Dungeness crab, and pink shrimp during 1998, 1999, 2000, or 2001.

NMFS will accept the responsive bid with the lowest bid score and then successively accept each additional responsive bid with the next lowest bid score until either there are no more bids to accept or acceptance of the bid with the next lowest bid score would cause the reduction cost to exceed the maximum reduction cost. If any two or more bid scores are exactly the same, NMFS will first accept the bid it received first.

NMFS will mail each bidder either a bid acceptance notice or a bid rejection notice. NMFS'' acceptance of a bid offer will form a fully binding reduction contract between the bidder and the United States. Each party's obligation to perform in accordance with the terms and conditions of any reduction contract will, however, be subject to the results of the fee referendum.

After bids are formally accepted, NMFS will establish up to seven reduction loan sub-amounts, one for the reduction fishery and one for each of the fee share fisheries. A reduction sub-amount is a fishery's share of the reduction loan and is in proportion to the fishery's share of the total ex-vessel dollar value of the groundfish, Dungeness crab, and pink shrimp which all reduction vessels landed during the four-year period from 1998 through 2001. Post-reduction fees from each of these fisheries will repay its respective reduction loan sub-amount.

Specifically, NMFS will calculate each reduction loan sub-amount as follows. NMFS will separately add up the total ex-vessel values of landings, for the four-year period 1998 through 2001, for the reduction fishery (*i.e.*, groundfish trawl fishery) and the fee-share fisheries (the three Dungeness crab fisheries and the three pink shrimp fisheries). Then NMFS will divide each of the seven totals by the aggregate value of all of the landings from all seven fisheries to derive seven quotients. NMFS will then multiply the reduction loan amount by each of the quotients to determine the loan sub-amount that each of these fisheries must repay.

NMFS will conduct the referendum as soon as practicable after bid acceptance. The referendum's sole purpose will be to determine whether the voters who cast referendum ballots authorize the fee required to repay the reduction loan.

NMFS will mail referendum information, voting instructions, and a referendum ballot(s) to the permit owner of each groundfish permit in the reduction fishery and to the person who is the holder of record of each state-issued pink shrimp or Dungeness crab permit (collectively, eligible voters). NMFS will include information about the following bid acceptance results:

(a) The program's reduction cost,

(b) The seven reduction loan sub-amounts,

(c) The number of permits that will be relinquished,

(e) The number of reduction vessels, and

(f) The total ex-vessel dollar values of reduction vessel landings, in the reduction fishery and in each of the six fee-share fisheries, during each year from 1998 through 2001.

NMFS will mail eligible voters a separate referendum ballot for each groundfish permit they own and every pink shrimp or Dungeness crab permit they hold. In other words, eligible voters will have one ballot for every such permit they hold.

Immediately after the deadline for NMFS' receipt of ballots, NMFS will tally votes, fishery by fishery, and multiply each tally by the quotients used in calculating the reduction loan sub-amounts. The products of this multiplication will be the vote tallies for the respective fisheries weighted in proportion to each fishery's reduction loan sub-amount.

If the weighted total of approving votes is greater than the weighted total of disapproving votes, the referendum is successful. The referendum is unsuccessful if the weighted total of disapproving votes is the same as or exceeds the weighted total of approving votes. NMFS will mail each eligible voter a notice about the referendum's outcome.

If the referendum is unsuccessful, the fee will not be approved; and NMFS will mail a notice to each accepted bidder that neither the accepted bidder nor the United States has any further obligation under any reduction contract.

If the referendum is successful, NMFS will request, from each accepted bidder, specific and written payment instructions for disbursing the reduction payment. Upon a bidder's receipt of such a request for payment instructions, the bidder must stop fishing and must retrieve all fishing gear previously deployed from the reduction vessel. Bidders must relinquish their permits and return their groundfish permit and any other Federal permit associated with the reduction vessel to NMFS. The bidder must also certify that they have complied with the requirements of the reduction contract.

NMFS will:

(a) Revoke all groundfish permits and all other reduction permits,

(b) Notify California, Oregon, and Washington that accepted bidders have relinquished their fee-share reduction permits,

(c) Request the Secretary under whom the U.S. Coast Guard operates to revoke the fisheries endorsements of all Federally-documented reduction vessels, and

(d) Request the Secretary under whom the U.S. Maritime Administration operates to make all Federally-documented reduction vessels permanently ineligible for any present or future U.S. Government approval under section (9)(c)(2) of the Shipping Act, 1916 (46 U.S.C. App. 808(c)(2)) for placement of a reduction vessel under foreign registry or operation under the authority of a foreign country.

These reduction vessel revocations and restrictions run with the vessels' titles and bind subsequent owners.

The bidder must immediately scrap the state-registered reduction vessel and allow NMFS to observe and certify the scrapping.

After receiving a bidder's payment instructions and certification of compliance, NMFS will disburse the reduction payment, unless NMFS has reason to believe that the bidder has not performed in accordance with his or her duties and obligations. NMFS will disburse reduction payments only to accepted bidders, unless they explicitly instruct NMFS to do otherwise. If a reduction vessel needs to be scrapped, NMFS will withhold funds sufficient to cover the cost of such scrapping until its completion.

IV. Program Process

The following table outlines, in chronological order, the program's process:

Step	Action
One	NMFS publishes this notice in the **Federal Register**, together with a pro forma invitation to bid and bidding document.
Two	NMFS receives and analyzes public comments.
Three	NMFS publishes a final notice in the **Federal Register**, together with the final draft of the invitation to bid and bidding document.
Four	NMFS mails each permit owner of a groundfish trawl permit (other than those issued to whiting catcher-processors) a notice that indicates that NMFS will subsequently mail him or her a bidding package.
Five	NMFS formally invites each qualified bidder to bid by mailing to him or her a bidding package that also informs him or her that a referendum will occur after NMFS has accepted bids.
Six	NMFS mails a notice to persons holding any fee-share fishery permit (other than those to whom NMFS sent the mailing in step five) indicating that NMFS has invited bids. The notice will also state that NMFS will, without further notice, mail him or her a referendum ballot(s) and voting instructions after NMFS has accepted bids.
Seven	Bidders submit bids.
Eight	NMFS receives bids until the bid receipt deadline.
Nine	NMFS scores, tallies, and accepts or rejects each bid and mails to each bidder an acceptance or rejection notice.
Ten	NMFS mails to each person eligible to vote in the referendum a ballot(s) and voting instructions.
Eleven	The referendum occurs.
Twelve	NMFS receives votes until the vote receipt deadline and afterwards tallies the votes.
Thirteen (A)	If the referendum fails: (a) NMFS mails to each eligible voter a notice that the referendum is unsuccessful, and (b) NMFS mails to each accepted bidder a notice that the reduction contracts are without force and/or effect.
Thirteen (B)	If the referendum is successful: (a) NMFS mails to each accepted bidder a notice that the referendum is successful and reminds him or her that he or she must perform the reduction contract duties and obligations, (b) NMFS mails to each person who voted a notice indicating that the referendum was successful, (c) NMFS publishes a reduction payment tender notification in the **Federal Register**, (d) NMFS tenders reduction payments to each accepted bidder by requesting the bidder's payment instructions, (e) Accepted bidders relinquish their reduction permits and reduction vessel fishing privileges, and (f) Accepted bidders certify their compliance with their contractual obligations.
Fourteen	NMFS disburses reduction payments upon its receipt of payment instructions and certification of compliance.
Fifteen	NMFS undertakes a separate rulemaking about fee payment and collection.
Sixteen	NMFS establishes fee amounts.
Seventeen	(a) NMFS mails fish sellers and fish buyers a reduction loan fee payment and collection notice, (b) Fish sellers begin paying the fees, and fish buyers begin collecting and disbursing the fees to NMFS, and (c) NMFS receives collected-fee disbursements from fish buyers.

V. Reduction Loan

The reduction loan's repayment maturity will be 30 years. Its principal amount will be the total of all reduction payments made under this program, less $10 million. NMFS will determine the reduction loan's interest rate in accordance with the framework regulations at 50 CFR 600.1012.

VI. Fee Payment and Collection

Section 212 provides that the United States may enter into agreements with California, Oregon, and Washington to collect the fees that repay the reduction loan. Unless and until NMFS arranges to do so, however, fish sellers will pay the fees and fish buyers will collect, deposit, disburse, record, and report on the fees in accordance with the applicable portions of the framework regulations.

NMFS will establish any fee rates necessary for fish sellers to repay the reduction loan sub-amount applicable to the reduction fishery and to each of the six fee-share fisheries. NMFS will undertake a separate rulemaking to do this. The fee rates may not exceed five percent of the delivery value of fee fish from each of these fisheries, but will be less if NMFS determines that smaller percentages are sufficient to amortize the respective reduction loan sub-amounts over the 30-year reduction loan's term.

VII. Sample Invitation To Bid and Bidding Document

The addenda to this notification are the pro forma invitation to bid and bidding document.

Classification

The Assistant Administrator for Fisheries, NMFS, determined that this action is consistent with Public Law 107–206, Public Law 108–7, the Magnuson-Stevens Fishery Conservation and Management Act, and other applicable laws.

In compliance with the National Environmental Policy Act, NMFS prepared a draft environmental assessment for this action. The assessment discusses the program's impact on the natural and human environment. NMFS will send the draft assessment to anyone who requests NMFS to do so (*see* **ADDRESSES**).

The Office of Management and Budget has determined that this notice is significant under Executive Order 12866. NMFS has prepared a Regulatory Impact Review (RIR) for this action (*see* **ADDRESSES**).

NMFS believes any Federalism implications arising from this notice are highly unlikely, however, consultations with the States of Washington, Oregon, and California are ongoing.

This notice contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). The Office of Management and Budget (OMB) has approved these information collections under OMB control number 0648–0376. NMFS estimates that the public reporting burden for these requirements will average 4 hours for submitting a bid, 4 hours for voting in a referendum, and 1 hour for advice (if any) about a conflict on a vessel ownership or permit claim. Persons affected by this action would also be subject to other collection-of-information requirements referred to in this action and also approved under 0648–0376. These requirements and their associated response times are 10 minutes for completing and filing a fish ticket, 2 hours for submitting a monthly fish buyer report, 4 hours for submitting an annual fish buyer report, and 2 hours for making a fish buyer/fish seller report when one party fails to either pay or collect the fee.

These response estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information collection. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to both NMFS and OMB (*see* **ADDRESSES**).

Notwithstanding any other provision of law, no person is required to respond to, and no person is subject to a penalty for failure to comply with, an information collection subject to the requirements of the PRA unless that information collection displays a currently valid OMB control number.

NMFS has determined that this notice will not significantly affect the coastal zone of any state with an approved coastal zone management program. This determination has been submitted for review by the States of Washington, Oregon, and California.

In addition to public comment about the substance of this action, NMFS also seeks public comment on any ambiguity or unnecessary complexity arising from the action's language.

Authority : Pub. L. 107–206, Pub. L. 108–7, 16 U.S.C. 1861a(b–e), and 50 CFR 600.1000 *et seq.*

Dated: May 21, 2003.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[These addenda will not be codified in the Code of Federal Regulations.]

BILLING CODE 3510–22–P

ADDENDUM 1-INVITATION TO BID: FISHING CAPACITY REDUCTION PROGRAM FOR THE PACIFIC COAST GROUNDFISH FISHERY

I. Invitation:

The United States of America, acting by and through the Secretary of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Financial Services Division (referred to herein as "NMFS"), does hereby extend an invitation to those holding limited entry fishing permits endorsed for the operation of trawl gear and issued under the Federal Pacific Coast Groundfish Fishery Management Plan, other than those issued for vessels harvesting and processing whiting in the catcher-processors sector (as defined under section 660.323(a)(4)(A) of title 50, Code of Federal Regulations), to submit bids for the West Coast Groundfish Fishing Capacity Reduction Program (Program), in response to this invitation.

After a successful industry referendum, and in exchange for the payments specified in their respective bids, those accepted for participation shall relinquish their abovementioned groundfish trawl permits, other than permits for whiting catcher-processors, (herein referenced as "groundfish reduction permit"); relinquish all permits for pink shrimp or Dungeness crab issued by the States of Washington, Oregon or California (herein referenced collectively as "fee-share reduction permits"); relinquish all other Federal fishery permits stemming from the use or ownership of the vessels named in their respective bids; scrap or allow the revocation of fishing endorsements and the restriction of title of the vessels named in their respective bids (herein referenced as "reduction vessel"); and surrender any other present or future rights, entitlements, privileges, fishing permits or harvest authorizations derived, in whole or in part, from the use or ownership of the vessel named in their respective bids or from any harvests made under any permit, license or other harvest authorization. Those participating shall do so voluntarily.

II. Eligible Parties:

NMFS invites, as qualified bidders, all those who possess groundfish reduction permits to submit bids for capacity reduction. All those submitting bids must be able to relinquish such groundfish reduction permits, fee-share reduction permits, other Federal permits, as well as relinquish or surrender any claim to any future harvest privileges stemming from such permits or from catch history. In addition bidders must be able to agree to title restrictions that permanently revoke their vessels' legal authority to fish. Although only qualified bidders may submit bids in response to this invitation, all persons holding permits for any reduction fishery or fee-share fishery may vote in the abovementioned referendum. Each such person will have one vote for every permit he or she holds.

III. Bid Submissions:

To submit a bid, you must complete the section of the "Fishing Capacity Reduction Bid and Terms of Agreement for Capacity Reduction" entitled "Fishing Capacity Bid Submission" (also referenced herein as "bidding document") by providing the requested information, entering the dollar amount of the desired reduction payment, and signing where indicated. Upon completion, send this bidding document to the address found below.

A bid may not be submitted on any form other than the bidding document that NMFS mailed to you.

Complete and submit the bidding document only if it is your intention to create an irrevocable offer to the United States to permanently relinquish your groundfish reduction permit, fee-share reduction permits, and other Federal permits associated with your reduction vessel, as well as allow either the scrapping (at your expense) or the revocation of your reduction vessel's legal authority to fish anywhere in the world.

NMFS will not accept bids that fail to reflect the terms and conditions set forth in this invitation to bid, although NMFS may, at its option, contact a bidder in an attempt to correct deficiencies. The submission of any bid containing false information may subject the bidder to substantial penalties as described in the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. §1801 et seq., and other applicable law.

IV. Required Bid Contents

Groundfish reduction permit. You must identify and offer your groundfish reduction permit. At the time of bidding, you must be the permit owner, as that term is defined in 50 C.F.R. 660.302, of such groundfish reduction permit.

Reduction Vessel. You must identify the vessel for whose operation your groundfish reduction permit is registered at the time you bid. You must be, at the time you bid, the owner of record of the reduction vessel.

If, at the time of reduction payment tender, your reduction vessel is not documented under Federal law, you must immediately scrap the reduction vessel at your own expense and afford NMFS full opportunity to observe and confirm such scrapping.

Reduction Vessel's Fishing Privileges. You must offer to relinquish the reduction vessel's legal authority to fish anywhere in the world by agreeing to restrictions that remove: (1) fisheries trade endorsement, pursuant to 46 U.S.C. §12108; (2) any qualification for any present or future U.S. Government approval for placing the vessel under foreign registry or operating under the authority of a foreign country, pursuant to section (9)(c)(2) of the Shipping Act, 1916 (46 U.S.C. App. §808(c)(2)); and (3) any other privilege, right or entitlement that allows your reduction vessel to fish anywhere else in the world.

The abovementioned restrictions shall run with the reduction vessel's title, such that you or any future owners may never use the reduction vessel for fishing. After reduction payment

tender, the reduction vessel may only operate under United States flag. If your reduction vessel is ever re-flagged or ever again used for fishing after reduction payment tender, the reduction vessel is subject to being scrapped at your expense.

Fee-share Reduction Permit. Your bidding document must identify and include each fee-share reduction permit (if any) that the official permit records of California, Oregon, or Washington indicate that you hold on *[DATE OF FEDERAL REGISTER PUBLICATION OF INITIAL NOTICE TO BE LATER DETERMINED AND INSERTED HERE]* and which was registered to your bid's reduction vessel on such date or, if such permit was not then so registered, which you ever used for fishing on your reduction vessel.

Other reduction permit. Your bidding document must identify and include any and all other Federal permits (if any) that NMFS' permit records show you hold on *[DATE OF FEDERAL REGISTER PUBLICATION OF INITIAL NOTICE TO BE DETERMINED AND INSERTED HERE]* and which was registered to your reduction vessel on such date or, if such permit was not then so registered, which you ever used for fishing from your reduction vessel.

V. Bidding Document Completion

In the bidding document entitled, "Fishing Capacity Reduction Bid and Terms of Agreement for Capacity Reduction," you must:

(1) State your name, business address of record, telephone number, and (if available) electronic mail address;

(2) State your bid amount in U.S. dollars;

(3) Identify, by groundfish permit number, your bid's groundfish reduction permit and include an exact photocopy of this permit (which NMFS issued);

(4) If your bid's reduction vessel is Federally documented, identify it by vessel name and official number and include an exact photocopy of the vessel's official document (which the National Vessel Documentation Center issued);

(5) If your bid's reduction vessel is not Federally documented, identify it by vessel name and state registration or other identification number and include an exact photocopy of whatever official vessel registration, identification, or other documentation the controlling authority issued;

(6) Identify, by permit number, each of your fee-share reduction permits that the appropriate state fishery management authority issued, and include an exact photocopy of each of them;

(7) Identify, by permit number, each of your other Federal permits and include an exact photocopy of each of them (which NMFS issued);

(8) Identify any liens or security interests on any item specified in your bid;

(9) Make certain statements, declarations, and affirmations with respect to your reduction fishing interest and provide any other information that the bidding document may require;

(10) Sign the bidding document; and

(11) Acknowledge your signature of the bidding document before a notary public.

In the event that you are submitting a bid on behalf of another person or entity, include proof that you are authorized to bind such person or entity. For instance, if you are signing for a corporation, include a photocopy of your corporate by-laws, articles of incorporation, board resolution, or other document indicating that you are authorized to submit a bid and thereby bind the corporation. If necessary, please consult your legal advisor for assistance.

Your signature and submission of the bidding document constitutes an irrevocable offer, consistent with the bidding document's terms and conditions, to the United States.

VI. Bidding Procedures:

Bidding Package Mailing Date. On or before *[BIDDING PACKAGE MAILING DATE TO BE LATER DETERMINED AND INSERTED HERE],* NMFS will mail a bidding package to each groundfish reduction permit owner. The mailing will include, among other things, this document, a bidding document, and further instructions for completing your bid and submitting it to NMFS. You may not submit a bid until after you have received your bidding package.

Bidding Opening Date. The bidding opening date is *[BIDDING OPENING DATE TO BE LATER DETERMINED AND INSERTED HERE].* You should not submit your bid before this date.

Bidding Closing Date. The bidding closing date is *[BIDDING CLOSING DATE TO BE LATER DETERMINED AND INSERTED HERE].* You must mail or otherwise deliver your bid so that NMFS physically receives it on or before this date. NMFS will stamp your bid with the date and time NMFS first receives your bid. Your bid will be rejected if its stamped date and time is later than the bidding closing date.

Bid Expiration Date. The bid expiration date is *[BID EXPIRATION DATE TO BE LATER DETERMINED AND INSERTED HERE].* Your bid will expire on this date unless NMFS notifies you that NMFS has accepted your bid by mailing its written acceptance notice to you at your address of record.

Delivering Your Bid. You must mail or otherwise deliver your bid to NMFS. You may choose to use U.S. mail, deliver it by an express mail service, or deliver it in person. However, you solely bear any risk associated with your method of delivery. NMFS is not responsible for mail or deliveries that are lost or misdirected. NMFS will deem your bid to be "submitted" only when NMFS receives your bid.

All bids must be addressed and delivered to:

Michael L. Grable
Chief, Financial Services Division
National Marine Fisheries Service
National Oceanic and Atmospheric Administration
Room 13100
1315 East-West Highway
Silver Spring, MD 20910

Bid Scoring and Acceptance.

NMFS will determine the bid score of any bid by dividing each bid's dollar amount by the average of the three greatest annual revenues earned from groundfish, Dungeness crab, and pink shrimp (as measured as total ex-vessel dollar value of catch landed by the reduction vessel) during 1998, 1999, 2000, or 2001.

NMFS will determine which responsive bids it will formally accept by using a reverse auction in which NMFS first accepts the responsive bid with the lowest bid score and successively accepts each additional responsive bid with the next lowest bid score until either there are no more responsive bids to accept or acceptance of the last responsive bid with the next lowest bid score would cause the reduction cost to exceed the maximum reduction cost. If any two or more bid scores are exactly the same, NMFS will first accept the bid that NMFS first received.

As soon as possible after the reverse auction, NMFS will mail each bidder, at their address of record, either a bid acceptance notice or a bid rejection notice.

NMFS's formal acceptance of your bid will create a binding contract between you and the United States (referred to herein as "reduction contract"). In case of a breach of a reduction contract provision, the reduction contract may be specifically enforced, as provided by applicable law.

If NMFS accepts your bid, NMFS will not transfer any groundfish reduction permit or other reduction permit in your bid to any other person unless, and until, the reduction contract is no longer in effect and such permits no longer need to be relinquished.

Bid Rejection. You must complete the bidding document in strict compliance with the requirements in this invitation to bid. NMFS will, regardless of bid scores, reject any bid that is unresponsive to, or does not fully accord with, this invitation to bid and other applicable law. NMFS will reject a bid that:

(1) Is incomplete or inaccurate;

(2) Is submitted on a document other than the bidding document;

(3) Specifies a qualified bidder that is not the permit owner of the required groundfish reduction permit;

(4) Specifies a qualified bidder that is not the holder of record of any required fee-share reduction permit(s) or other reduction permit(s);

(5) Specifies a qualified bidder that is not the owner of record of the required reduction vessel;

(6) Fails to include an element the groundfish program requires;

(7) Attempts to revise, alter, or negotiate any provision of the bidding document or of the bidding package;

(8) Is late; or

(9) Is otherwise not responsive to the bidding package and consistent with applicable law.

VII. Other Program Rules:

All bid scorings, rankings, rejections, and acceptances shall constitute final agency action at the time NMFS acts.

Once you deliver your bid to NMFS, your bid is irrevocable. You may not alter, rescind, or substitute any aspect of your bid and your bid will remain in effect until the bid expiration date.

If an industry referendum approves the industry fee system, the United States will tender reduction payment by requesting written payment instructions from you. The United States shall, thereafter, disburse reduction payments equal to the bid amounts specified in each bid once you have certified your compliance with your contractual duties and obligations.

You must hold, own, or retain all of your reduction fishing interest, as included or specified in your bid, and remain fully and legally entitled to offer the same until:

(1) The bid expires;

(2) NMFS notifies you that NMFS rejects the bid;

(3) NMFS notifies you that a reduction contract does not exist; or

(4) NMFS tenders reduction payment and you comply with your reduction contract obligations.

You are directed to review the documents included in the bidding package, including this Invitation to Bid and the bidding document entitled “Fishing Capacity Reduction Bid and

Terms of Agreement for Capacity Reduction", as well as the applicable law, for specific terms and conditions affecting this bid. Bidders are solely responsible for being aware of and understanding the full legal effects and implications of a bid submission. NMFS strongly suggests that you review these documents with your legal advisor.

Public reporting burden for this collection of information is estimated to average 4 hours 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 Michael L. Grable, Chief, Financial Services Division, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3282.

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.

(OMB Control No. 0648-0376, expiring 07/31/2005)

ADDENDUM 2-FISHING CAPACITY REDUCTION BID and TERMS OF AGREEMENT FOR CAPACITY REDUCTION

I.

THIS AGREEMENT, entered into this ___ day of_____, by and between the Person(s) named in the portion of this document entitled "Fishing Capacity Reduction Bid Signature" as the Qualified Bidder (herein referenced as "Bidder") and the United States of America, acting by and through the Secretary of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NMFS), Financial Services Division (referenced herein as the "Secretary").

WITNESSETH:

Whereas, the Secretary has sent an Invitation to Bid for the Fishing Capacity Reduction Program (Program) to those holding limited entry fishing permits issued under the Federal Pacific Coast Groundfish Fishery Management Plan (Groundfish FMP) endorsed for the operation of trawl gear (other than whiting catcher-processors);

Whereas, such Program is carried out pursuant to authority found in Division B, Title II, § 212 of Pub. Law 108-7; Division N, Title V, § 501(b) of Pub. Law 108-7; § 212 of Pub. Law 107-206; as well as authority found in 16 U.S.C. §1861a (b)-(e) and other applicable law;

Whereas, in accordance with such authority, a notification was published in the Federal Register announcing Program requirements;

Whereas, the Secretary has promulgated framework regulations generally applicable to all fishing capacity reduction programs, portions of which are applicable to this Program, and such framework regulations are found at 50 CFR §600.1000 et seq.;

Whereas, the key terms, "Reduction Fishery" and "Fee-Share Fishery" are statutorily defined for this Program;

Whereas, such Program can only remove fishing capacity after an industry referendum approves an industry fee system;

Whereas, this Document will be submitted by the bidder in direct response to such aforementioned Invitation To Bid and is expressly subject to requirements in such Invitation To Bid and the requirements of the aforementioned regulations and other applicable law;

Whereas, the Groundfish Program's express objective is to permanently reduce harvesting capacity in the reduction fishery and the fee-share fisheries; and

Whereas, it is the expressed sense of Congress that the States of Washington, Oregon, and California should revoke and render void all state permits relinquished as a part of this program immediately after disbursement of reduction payment.

NOW, THEREFORE, for good and valuable consideration and the premises and covenants hereinafter set forth, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, the parties hereto agree as follows:

1. Incorporation of Recitals. The foregoing recitals are true and correct and are expressly incorporated herein by this reference.

2. Incorporation of Invitation to Bid. The requirements of the Invitation to Bid are expressly incorporated herein by this reference.

3. Bidding Document. By completing the portion of this Document entitled the "Fishing Capacity Reduction Bid Submission" and submitting this Document to the Secretary in the manner the Invitation to Bid describes, the bidder hereby, irrevocably offers to relinquish its Federal fishing permit(s), as well as all of its Dungeness crab permit(s) and pink shrimp permit(s) issued by the States of Washington, Oregon, or California; offers to permanently remove its reduction vessel from fishing by either scrapping or allowing the placement of title restrictions; and offers to relinquish any other right, entitlement, fishery permit, fishery license, area and species endorsement, and any other fishery privilege or harvest authorization, if any, derived, in whole or in part, from either the use or ownership of its Reduction Vessel. (Such items offered shall be collectively referenced herein as "Reduction Fishing Interest".) If any deficiencies in a bid are discovered, prior to rejection, NMFS may, at its sole discretion, contact the bidder in an attempt to correct a bid deficiency.

4. Groundfish Reduction Permit. The bidder will specify, as a Groundfish Reduction Permit, a valid limited entry permit endorsed for the operation of groundfish trawl gear under the Pacific Coast Groundfish Fishery Management Plan. Such specification shall not include any permits registered to vessels harvesting and processing whiting in the catcher-processors sector, as defined in §660.323(a)(4)(A) of title 50, Code of Federal Regulations. The bidder acknowledges that it offers such Groundfish Reduction Permit for permanent revocation.

5. Fee-Share Reduction Permits. The bidder will specify any and all of its Dungeness crab permit(s) and pink shrimp permits(s) for fisheries in the States of Washington, Oregon, or California (herein referenced, collectively, as "Fee-Share Reduction Permits") that have been issued to the bidder or the Reduction Vessel. The bidder acknowledges that it offers to permanently relinquish the aforementioned Fee-Share Reduction Permits with the expectation that the issuing authorities will ultimately revoke them or otherwise permanently render them invalid.

6. Other Reduction Permits. The bidder will specify any and all Federal fishery permits, licenses, area and species endorsements, harvest authorizations, or fishery privileges, other than the Groundfish Reduction Permit, (herein referenced as "Other Reduction Permits") issued to either the Reduction Vessel or to persons on the basis of their operation or ownership of that Reduction Vessel. The bidder

will offer to relinquish, offer to surrender, or offer for revocation any such permits, licenses, endorsements, authorizations, or privileges, as well as any Reduction Vessel fishing histories, if any, or other present or future claims of eligibility for any fishery based upon such permits, licenses, endorsements, authorizations, privileges or histories.

7. Reduction Permit(s) Held by Bidder. The bidder shall not specify in any bid any Groundfish Reduction Permit, Fee-Share Reduction Permit, or Other Reduction Permit for which the bidder is not the person to whom any such permit is issued according to NMFS' official permit records or the official permit records of California, Oregon, or Washington.

8. Reduction Vessel. The bidder will specify a Reduction Vessel. The Reduction Vessel must exist, i.e., neither be lost nor destroyed. The bidder shall only specify a Reduction Vessel for which it is the owner of record. If the bidder should specify a Reduction Vessel that lacks Federal documentation, the bidder shall offer to scrap such vessel at the bidder's expense.

9. Reduction Vessel Fishing Privileges. In the event that the bidder specifies a Federally documented vessel as a Reduction Vessel, the bidder will offer to impose or allow title restrictions that have the effect of permanently revoking or relinquishing such Reduction Vessel's legal ability to fish anywhere in the world. Such items subject to revocation or relinquishment (herein referenced collectively as "Reduction Vessel Fishing Privileges") are as follows: Reduction Vessel's fisheries trade endorsement under 46 U.S.C. §12108; the Reduction Vessel's eligibility for the approval required under section 9(c)(2) of the Shipping Act, 1916 (46 U.S.C. App. §808(c)(2)), for the placement of a vessel under foreign flag or registry, as well as its operation under the authority of a foreign country; and the Reduction Vessel's ability to fish under U.S. flag outside the U.S. Exclusive Economic Zone or anywhere else in the world.

10. Reduction Payment. The bidder will specify a dollar amount (herein referenced as "Reduction Payment") in exchange for which it is willing to surrender, relinquish, restrict, or allow the revocation of such items, including, but not necessarily limited to, the aforementioned Groundfish Reduction Permit, Fee-Share Reduction Permits, Other Reduction Permits, Reduction Vessel Fishing Privileges, and relevant fishery histories (if any). In the event that the bidder specifies a non-Federally documented vessel as a reduction vessel, the bidder must also be willing to scrap such vessel (in addition to surrendering, relinquishing, restricting, or allowing the revocation of such items detailed above) in exchange for such specified dollar amount.

11. Additional Elements. The bidder shall include with its bid an exact photocopy of each Reduction Vessel's official registration or vessel documentation (e.g. that issued by the U.S. Coast Guard's National Vessel Documentation Center (NVDC) for Federally documented vessels), and an exact photocopy of each Groundfish Reduction Permit, Fee-Share Reduction Permit, and Other Reduction Permit.

12. Use of Official Permit Databases. The Secretary shall use the appropriate official

permit database to determine the bidder's address of record, verify the bidder's eligibility to bid, determine the record holder of the bid's various specified Permits, and verify that every Groundfish Reduction Permit, Fee-Share Reduction Permit, or Other Reduction Permit associated with a specified Reduction Vessel is included in the bid.

13. Use of NVDC. The bidder acknowledges that the Secretary will use the records of the NVDC to determine the owner of record for a Federally documented Reduction Vessel and the appropriate State records to determine the owner of record of a non Federally documented vessel.

14. Bidder to Ensure Accurate Records. The bidder, to the best of its ability, will ensure that the records of the relevant permitting authorities and the NVDC are accurate and correct.

15. Bid Submissions are Irrevocable. The parties hereto acknowledge as the essence hereof that the bidder voluntarily submits to the United States a firm and irrevocable bid specifying a Reduction Payment for which the bidder is willing to relinquish, restrict, or allow the revocation of the Reduction Fishing Interest. Upon submission of a bid, the bidder hereby waives any privilege or right to change, modify, alter, rescind or cancel such bid. The Parties further agree that the time marked on the bid by NMFS upon the receipt thereof, pursuant to the terms of the Invitation to Bid, shall constitute the time of bid submission.

16. Bidder Retains Bid Elements. After submitting a bid, the bidder shall continue to hold, own, or retain each Groundfish Reduction Permit, Fee-Share Reduction Permit, Other Reduction Permit, Reduction Vessel and any other aspect of the Reduction Fishing Interest specified in this Document until such time as the bid expires, the bid is rejected, the bid or bidder is determined ineligible for participation, the Reduction Payment is tendered and the bidder complies with its obligations under the Reduction Contract, or the bidder's performance is otherwise excused by the Secretary.

17. Bid Rejection. A bid that fails to provide all of the required information or is deemed in any way unresponsive or not in conformance with the Invitation to Bid or applicable law will be deemed ineligible for consideration and will be rejected, unless the defect is corrected prior to the close of the Bid Submission Period.

18. Notarized Signatures of All Parties Required. A bid that fails to contain the notarized signatures of all parties will be deemed ineligible for consideration and will be rejected.

19. Rejections Constitute Final Agency Action. Rejections are conclusive and constitute final agency action as of the date of rejection.

20. Effect of Bid Submission. By submitting a bid, which constitutes an irrevocable offer, that conforms to the requirements, as stated within the Invitation to Bid and herein, the bidder is entitled to have its bid considered for acceptance by the Secretary.

21. Acceptance by Reverse Auction. In accordance with applicable requirements, such as those stated in this Document, the Invitation to Bid, and applicable law, the Secretary shall accept bids using a reverse auction. The Secretary shall formally notify the bidder if its bid is accepted.

22. Reduction Contract Formed. The bidder acknowledges that the formal acceptance of a bid by the Secretary shall form a binding contract. Such binding contract constitutes a Reduction Contract. The terms of such Reduction Contract are contained in this Document and also incorporate the requirements of the Invitation to bid by reference exactly as if they had been fully and exactly stated within this Document.

23. Reduction Contract Binding. Upon such acceptance, the Reduction Contract will become enforceable against and binding on the parties. The Parties will abide by the terms and conditions of the resultant Reduction Contract unless the Secretary provides the bidder with written notice indicating that the bidder is excused from the performance of any or all such terms and conditions.

24. Reduction Contract Subject to Federal Law. Any Reduction Contract so formed will be subject to applicable Federal law.

25. Notice to Creditors. Upon notice of bid acceptance, the bidder agrees to notify creditors or other parties with interests in Reduction Vessels or Groundfish Reduction Permits, Fee-Share Reduction Permits, or Other Reduction Permits that it has entered into a Reduction Contract.

26. Industry Referendum. Referendum approval of the industry fee system is an occurrence over which neither the bidder nor the Secretary has control.

27. Referendum Results. After an Industry Referendum, the Secretary shall inform the bidder of the results of such referendum.

28. Unsuccessful Referendum Excuses Performance. An unsuccessful referendum, wherein the weighted total of disapproving votes is the same as or exceeds the weighted total of approving votes, excuses the parties hereto from their obligations to perform their duties under any Reduction Contract formed by acceptance of this bid. In the event of such occurrence, the United States need not tender Reduction Payment nor does the bidder need to relinquish, transfer, restrict or allow the revocation of any element named below in the section entitled "Fishing Capacity Bid Submission."

29. Expiration of Reduction Contract. In the event that the aforementioned Referendum is unsuccessful, any reduction Contract or outstanding bid shall expire and be of no further force or effect.

30. Bidder Responsibilities upon Successful Referendum. Upon notice of a successful Industry Referendum, the bidder shall immediately become ready to relinquish, restrict, or allow the revocation of, as appropriate, all Groundfish Reduction Permits,

Fee-Share Reduction Permits, Other Reduction Permits, or Reduction Vessel Fishing Interests.

31. Written Payment Instructions. After a successful Industry Referendum, the Secretary shall request and the bidder shall give NMFS written payment instructions for Reduction Payment disbursement.

32. Request for Payment Instructions Constitutes Tender. Such aforementioned request for written payment instructions constitutes tender of Reduction Payment, as such is specified in 50 C.F.R. 1011.

33. Bidder Responsibilities upon Tender. Upon such aforementioned tender of Reduction Payment, the bidder shall immediately relinquish, restrict, or allow the revocation of, as appropriate, its Groundfish Reduction Permit, Fee-Share Reduction Permit(s), Other Reduction Permit(s), and Reduction Vessel Fishing Interest. The bidder must return its Groundfish Reduction Permit and Other Reduction Permits (if any) to NMFS. Also upon such tender, the bidder shall forever cease all fishing for any species with the Reduction Vessel and immediately retrieve all of its fixed fishing gear deployed in any fishery. The bidder shall certify compliance with its duties and obligations under the Reduction Contract and shall include such certification with the aforementioned payment instructions.

34. Reduction Vessel Lacking Federal Documentation. Upon Reduction Payment tender, the bidder shall immediately scrap any vessel that it specified as a Reduction Vessel that is documented solely under state law or otherwise lacks documentation under Federal law. Such vessel shall be scrapped at the bidder's expense. The bidder shall allow NMFS, its agents, or its appointees reasonable opportunity to observe and confirm such scrapping. The bidder shall conclude such scrapping within a reasonable time.

35. Future Harvest Privilege Extinguished. Upon Reduction Payment tender, the bidder shall waive, surrender, withdraw, or extinguish by other means any other claim derived, in whole or in part, either from the use or ownership of the Reduction Vessel or from any harvests made under any permit, license or other harvest authorization, as specified below, that could ever qualify the bidder for any future limited access fishing license, fishing permit, harvest authorization.

36. Post Tender Use of Federally Documented Reduction Vessel. After Reduction Payment tender, the bidder may continue to use a Federally documented Reduction Vessel for any legal purpose except fishing and can transfer the vessel, subject to all restrictions imposed by the Reduction Contract and applicable law, to a new owner. The bidder or any subsequent owner shall only operate such Reduction Vessel under the United States flag. In the event the bidder or subsequent owners fail to abide by such restrictions, the bidder acknowledges and agrees to allow the United States to pursue any and all remedies available to it, including seizing the Reduction Vessel and scrapping it at the expense of the bidder.

37. Secretary's Actions upon Tender. Contemporaneously with tendering Reduction Payment, without regard to any party's refusal or failure to perform its duties and

obligations under a Reduction Contract, the Secretary will permanently render void the bidder's Groundfish Reduction Permit and any Other Reduction Permits, notify the relevant states that the bidder has relinquished its Fee-Share Reduction Permits, notify the NVDC in order to revoke the Reduction Vessel's fisheries trade endorsements, notify the U.S. Maritime Administration in order to make the Reduction Vessel ineligible for the approval of requests to place it under foreign registry or operate under a foreign country's authority; note in the appropriate NMFS records that any fishing histories, if any, accrued on the Reduction Vessel will never again be available to anyone for any fisheries purpose; and implement any other restrictions imposed by applicable law.

38. Material Disputes to be Identified. Members of the public shall be able to advise NMFS in writing of any material dispute with regard to any aspect of any bid, up until NMFS receives such aforementioned payment instructions. Such a material dispute shall neither relieve the bidder of any duties or obligations under any Reduction Contract nor shall it affect the United States' right to enforce performance of the terms and conditions of any Reduction Contract.

39. Reduction Payment Disbursement. Once the bidder's payment instructions and certification of compliance are received, the United States shall disburse to the bidder the amount specified as a Reduction Payment as soon as practicable, unless such disbursement is otherwise excused. Any Reduction Payment disbursement shall be in strict accordance with the bidder's payment instructions. Unless bidder's payment instructions direct NMFS to the contrary, the United States shall disburse the whole of the Reduction Payment to the bidder.

40. Reduction Payment Withheld for Scrapping or for Other Reasons. In the event that a Reduction Vessel must be scrapped, the Secretary shall withhold from disbursement an amount sufficient to scrap such vessel. The Secretary shall withhold such sum until the vessel is completely scrapped. The Secretary may confirm, if the Secretary so chooses, that the vessel has been scrapped before disbursing any amount withheld. If the Secretary has reason to believe that the bidder has failed to comply with any of the terms and conditions as stated herein, the Secretary shall withhold disbursement until such time as the bidder performs in accordance with the terms and conditions of the Reduction Contract.

41. Bidder Assistance with Restriction. The bidder shall, upon the United States' request, furnish such additional documents, undertakings, assurances, or take such other actions as may be reasonably required to enable the United States to restrict, invalidate, or revoke any component of the bid's Reduction Fishing Interest in accordance with the terms and conditions of a Reduction Contract or requirements of applicable law.

42. Recordation of Restrictions. Upon revocation of all the Reduction Vessel Fishing Privileges, the bidder shall ensure that such revocation is recorded with the Reduction Vessel's title, such that the Reduction Vessel, regardless of its subsequent ownership, may never again fish for any species anywhere in the world under any conditions. Such term "fishing" includes the full range of activities defined in 16 U.S.C. §1802.

43. Lack of State Revocation Notwithstanding. In the event that California, Oregon, or Washington should fail to permanently revoke any Fee-Share Reduction Permit, the bidder will nevertheless be permanently barred from ever exercising any fishing privilege or claim associated with any such Fee-Share Reduction Permit. Moreover, the bidder will neither transfer nor allow any other person to exercise any fishing privilege or claim associated with any such Fee-Share Reduction Permit.

44. Reduction Element Omission. In the event that the Secretary accepts a bid wherein the bidder failed, for any reason, to specify and designate any Groundfish Reduction Permit, Fee-Share Reduction Permit, Other Reduction Permit, or Reduction Vessel that should have been specified in this Document, any requirements or terms and conditions that should have otherwise applied to such omitted item shall nevertheless still be applicable. Upon discovery by either or both parties, the bidder shall act in accordance with Program requirements.

45. Remedy for Breach. As money damages may not be a sufficient remedy for breach of the terms and conditions as set forth in this Document, the Parties explicitly agree and authorize specific performance, in addition to any money damages, as a remedy for any breach of Reduction Contract terms. In the event of breach by the bidder, the Secretary will take any reasonable action he deems necessary to carry out the Program's purpose as set forth above.

46. Waiver of Data Confidentiality. The bidder consents to the public release of any information the bidder may provide pursuant to Program requirements, including any information provided as a part of this bid or any other means, so long as the Secretary finds that the release of such information is necessary to achieve this Program's stated goals. The bidder shall and hereby explicitly waives any claim of confidentiality otherwise afforded to financial, catch, or harvest data, as well as trade secrets, fishing histories, or other personal information, otherwise protected from release under 16 U.S.C. §1881a(b) or any other law. In the event such information is released, the bidder shall and hereby does forever fully and unconditionally release and hold harmless the United States and its officers, agents, employees, representatives, of and from any and all claims, demands, debts, damages, duties, causes of action, actions and suits whatsoever, in law or equity, on account of any act, failure to act, or event arising from, out of, or in any way related to, the release of any information associated with this Program.

47. Oral Agreements Invalid. This Document and the Invitation to Bid contain the final terms of any Reduction Contract between the bidder and the United States. They represent the entire and exclusive agreement between the parties. All parties hereto forever waive all right to sue, or otherwise counterclaim against each other based on any claim of past, present, or future oral agreement between the parties.

48. Severable Provisions. The provisions of this contract are severable and, in the event any portion thereof is held to be void, invalid, non-binding, or otherwise unenforceable, the remaining portion thereof shall remain fully valid, binding, and enforceable against all parties hereto.

49. Disputes. Any and all disputes arising in connection with the Fishing Capacity Reduction Program, including, but not limited to, the Invitation to Bid, this bid or any Reduction Contract shall in all respects be governed by the Federal laws of the United States, and the bidders and all other parties to the Reduction Contract irrevocably submit themselves to the jurisdiction of the Federal courts of the United States and/or to any other Federal administrative body authorized to adjudicate such disputes, as set forth under applicable law.

50. Fishing Capacity Bid Submission:

I. Completion and submission. The bidder must fully, faithfully, and accurately complete this portion of this Document and thereafter submit this full Document to NMFS in accordance with the Invitation to Bid.

II. Bidder information.

(a) Insert the Qualified Bidder's name [must be the full legal name of the person, partnership, or corporation who is, at the time of bidding, the owner of record of the Bid's Reduction Vessel and the permit owner of the Groundfish Reduction Permit, the holder of record of each other Reduction Permit (if any), and the holder of record of each Fee-Share Reduction Permit (if any)]:

(b) Insert the Bidder's full address of record:

(c) Insert the Bidder's full business telephone number:

(d) Insert the Bidder's business full electronic mail address (if available):

III. Groundfish Reduction Permit number. Insert the full permit number of the Bid's Groundfish Reduction Permit. Enclose with this document an exact photocopy of such permit:

IV. Other Reduction Permit (if any). Insert the full permit number of each of the Bid's other Reduction Permits. Enclose with this document an exact photocopy of each such permit:

V. Fee-Share Reduction Permit (if any). Insert the full permit number, issuing state, and Fee-Share fishery for each of the bid's Fee-Share Reduction Permits. Enclose with this document an exact photocopy of each such permit:

PERMIT NUMBER	ISSUING STATE	FISHERY

VI. Reduction Vessel. Insert the full official name of the bid's Reduction Vessel and:

(a) If such vessel is Federally documented, insert the vessel's full official number. Enclose with this document an exact photocopy of such vessel's official document:

VESSEL'S NAME	VESSEL'S NUMBER

(b) If such vessel is state registered or otherwise documented, insert the vessel's full registration or other documentation number. Enclose with this document an exact photocopy of such vessel's official registration certificate or other form of official documentation:

VESSEL'S NAME	VESSEL'S NUMBER	STATE OF REGISTRATION

VII. Bid Price. Insert, in U.S. dollars, the Bidder's full bid amount:

VII. Bid signature.
In compliance with applicable law, this Document and the Invitation to Bid, I, the Qualified Bidder, submit the above written Bid Price as an irrevocable offer to the United States for the permanent revocation and surrender of the Groundfish Reduction Permit, any Fee-Share Reduction Permit(s), any Other Reduction Permits, and the Reduction Vessel's Fishing Privileges, all as identified in this bid or as required under applicable law.

I acknowledge that the acceptance of this bid by the United States and tender of the Reduction Payment to bidder in the amount written above (less any sum withheld for scrapping any Reduction Vessel lacking Federal documentation) will, among other things, permanently render the Reduction Vessel ineligible for any fisheries worldwide, including, but not limited to, fishing on the high seas or in the jurisdiction of any foreign country while operating under United States flag, and will impose or create other legal and contractual restrictions and obligations that restrict or revoke the complete Reduction Fishing Interest, as well as revoke or restrict any other fishery privileges or claims associated with the Reduction Vessel, Groundfish Reduction Permit, any Fee-Share Reduction Permit, or Other Reduction Permit, as more fully set forth in the Invitation to Bid and applicable law.

By completing the sections above and signing below, I acknowledge that I have fully and completely reviewed this Document and the Invitation to Bid. I attest and warrant that I am fully able to enter into a Reduction Contract, and if I am completing the sections above and signing below on behalf of another person or

entity, I attest and warrant that I have express, written permission or grant of authority to bind such person or entity to the terms and conditions of a Reduction Contract. I expressly represent to the United States that I fully understand the consequences of a bid submission, pledge to abide by the terms and conditions of any Reduction Contract, and are aware of and consent to any and all remedies available upon the breach of any Reduction Contract or submission of a bid that fails to conform with applicable law. I expressly warrant and attest that all information included herein is accurate.

IN WITNESS WHEREOF, I, the Qualified Bidder, have executed this Document, in accordance with the requirements as specified above, on the date written below. Moreover, the Parties, hereto, execute an agreement which constitutes a Reduction Contract as of the date the Document is signed by the United States.

Signature	
Print Name	
Print Title	
Date	

State of _____

County of _____

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me and said person acknowledged that he/she signed this "FISHING CAPACITY REDUCTION BID and TERMS OF AGREEMENT FOR CAPACITY REDUCTION," on oath stated that he/she was authorized to execute the instrument and acknowledged it to be the free and voluntary act of his/hers for the uses and purposes mentioned in the document.

Dated: _____ _____

Notary Public

_____

My appointment expires

United States of America,
Acting by and through the Secretary of Commerce,
National Atmospheric Administration,
National Marine Fisheries Service,
Financial Services Division

By:_____
Chief, Financial Services Division

Date: _____

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