

Act and would preclude a reduction vessel from tendering.

*Comment 21:* One comment asked if income from NMFS fisheries research charters can be included in landings for bid scoring.

*Response:* Yes, but only the income from the sale of the groundfish recorded on fish tickets.

*Comment 22:* One comment asked what happens to fish in deployed gear at the time of tender, when fishing must cease.

*Response:* Any fish caught within the 30 day time period may be legally retained and sold. After that date, the gear should have been pulled up and no longer fishing.

*Comment 23:* One comment implies that coastal Dungeness crab and pink shrimp gear should be included in the capacity reduction program.

*Response:* No statutory authority exists to buy back fishing gear.

*Comment 24:* One comment implies that accepted bidders should be prevented from using their reduction payments to buy existing coastal Dungeness crab or pink shrimp permits and crab or shrimp gear and leasing them to vessels already in these fisheries.

*Response:* No statutory authority exists to make this change.

*Comment 25:* One comment implies that the existence of latent permits in coastal Dungeness crab and pink shrimp fisheries exacerbates problems described in comments (23) and (24).

*Response:* Latent permits in these fisheries is an issue that should be addressed by state fisheries managers.

*Comment 26:* One comment implies that accepted bidders should, themselves, be prevented from ever fishing again.

*Response:* No statutory authority exists to make this change.

*Comment 27:* One comment suggested that all reduction vessels should be scrapped.

*Response:* The authorizing statute allows for retention of the reduction vessel as long as the fishery endorsement is cancelled. This affords more capacity removal from the targeted fisheries at less cost.

*Comment 28:* One comment stated that neither the notice nor its addenda indicate whether a reduction vessel which has a multi-year NMFS trawl-survey charter can continue with the charter after the buyback.

*Response:* The vessel's fishery endorsement will have been withdrawn and therefore the vessel can no longer fish. However, NMFS will work internally to ensure that any fishermen who is bought out will not be subject to

a Governmental action for breach of contract based on inability to fish due to the buyback.

*Comment 29:* One comment stated that NMFS lacks legal authority regarding the coastal Dungeness crab and pink shrimp fisheries noting that they are managed by the respective states.

*Response:* NMFS acknowledges that these are state-managed fisheries and will work with the states to implement this voluntary program as directed by the authorizing legislation to revoke the fee-share fishery reduction permits. Nevertheless, this does not affect fee payment and collection.

*Comment 30:* One comment questioned NMFS' legal authority regarding processors of trawl groundfish noting that there are no Federal requirements for permits or reporting groundfish landings.

*Response:* The Fishery Management Plan for Pacific Coast Groundfish incorporates by reference state requirements to record landings on state fish tickets.

*Comment 31:* One comment stated that Congress intended for NMFS to follow existing practices for fee collection.

*Response:* The authorizing legislation provides an option for the U.S. 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 the fees in accordance with the framework regulations.

*Comment 32:* One comment states that the volume and size of fish buyers dictates special circumstances to avoid an administrative nightmare for NMFS.

*Response:* NMFS believes that the fee collection system currently in place should be adequate.

*Comment 33:* One comment strongly suggests that NMFS enter into fee collection arrangements with the States.

*Response:* Because of specific statutory time constraints, NMFS must defer this matter's resolution until after the buyback, at which time we will explore optional state fee collection.

*Comment 34:* One comment states that the program's Environmental Assessment and Regulatory Impact Review (EA/RIR) does not estimate how many small businesses may be required to participate in the fee collection process.

*Response:* Section 3.6 of the EA/RIR discusses the processing sector by reviewing data on the 1,780 purchasers of fish from West coast harvesters during 2000. Fish buyers are categorized

according to "large" and "small" buyers based on the amount of fish purchased. However, available analyses on the diversity and size of the processing sector as well as state participation in the fee collection process precludes NMFS from developing definitive estimates of processor involvement. According to SBA (See Section 6.6), a "large" processor is a processor with more than 500 employees. NMFS does not have complete data on processing employment by processing site or by company. (Some companies control several sites). However, based on available descriptions of companies and ownership, NMFS believes that almost all of the processors on the West Coast would be considered "small" under the SBA definition. Sections 3.6 and 6.6 of the EA/RIR will be revised accordingly.

*Comment 35:* One comment questioned the analysis undertaken in Section 4.2 of the EA/RIR to show the remaining fishermen the benefit of the program will outweigh the program costs passed on to them.

*Response:* The program is statutorily mandated but participation is voluntary. It is difficult to quantify the effects of a capacity reduction program before it occurs due to many unknown variables. However, the success of a fishing capacity reduction program depends upon certain assumptions such as the number of fish after a reduction remaining constant, preventing new capacity from replacing retired capacity, and fish prices remaining constant. If these assumptions are true then revenue for the remaining participants after fee payment would likely increase. A majority of those voting in the referendum would need to support it in order for the industry fee system to be approved.

*Comment 36:* One comment asserted that the analysis in Section 4.8 of the EA/RIR repeats an untrue assumption that removing permits from the coastal Dungeness crab and pink shrimp fisheries will benefit fishermen by increasing access to a greater portion of management quotas and trip limits.

*Response:* The appropriate sections of the EA/RIR will be clarified to reflect that trip limits and quotas are not used in the management of coastal Dungeness Crab and Pink Shrimp. However, NMFS maintains that in general terms, these fisheries would benefit because fewer fishermen would remain fishing for the same amount of fish. In addition, if the Buyback Program provides conservation benefits to the groundfish fish stocks, current groundfish bycatch restrictions on the non-groundfish fisheries, particularly the Pink Shrimp fisheries may be relaxed. However, the