

commenter raises valid issues in noting that benefits to non-groundfish fee share fisheries may be limited by the extent that latent capacity is activated, purchased capacity is replaced through the issuance of new state permits, or effort is increased as the result of buyback program. The Commenter estimates that at least 100 of the the Oregon Dungeness Crab fishery permits are latent permits. As described in the EA/RIR, the Oregon Pink shrimp fishery has a requirement that if the number of active permits falls below 150, a lottery is to be held to return the number of issued permits to 150. Currently, there are 186 Oregon permits issued. Therefore, depending on the state fishery, the benefits will be hard to assess until it is known what permits are to be purchased and how the States are to respond to the statutory language that states: "It is the sense of Congress that the States of Washington, Oregon, and California should revoke all relinquishment permits in each of the fee-share fisheries immediately after the reduction payment, and otherwise to implement appropriate State fisheries management and conservation provisions in each of the fee-share fisheries that establishes a program that meets the requirements of 16 U.S.C. 141861a(b)(1)(B) as if it were applicable to fee-share fisheries."

IV. Summary of Revisions

The following sections of this final notice revise the proposed notice.

(1) The term co-bidder has been added to include third parties who own and/or hold reduction components and will participate in the bidding with the qualifying bidder.

(2) Bid-scoring includes the average landings values of only those fee-share fisheries that match the bidder's fee-share reduction permits included in the bid.

(3) For identical bid scores where there is not sufficient reduction funding to accept both, NMFS will accept the bid that removes the greatest amount of capacity without exceeding funding limits or if both bids remove identical amounts of capacity, the first received.

(4) Notification of accepted bidders will occur after the referendum.

(5) Accepted bidders must have stopped fishing and must have retrieved all fishing gear previously deployed from the reduction vessel 30 days after NMFS publishes the reduction payment tender notice in the **Federal Register**.

V. 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 permit 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 closing date. NMFS will reject any bid that arrives after the bid closing date; 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 price (also referenced as Reduction Payment),
- (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 coastal Dungeness crab or pink shrimp registered to or used on the reduction vessel (fee-share reduction permits).

Parties other than the qualifying groundfish permit owner who hold or own the other different components required for a bid may be co-bidders. Between them, bidders or co-bidders must own or hold all required bid

components. The groundfish reduction permit must be registered for use on the reduction vessel. The bidder must also include in the bid all Federal fishery licenses, fishery permits, area and species endorsements, and any other fishing privileges issued to a reduction vessel or to the bidder co-bidder on the basis of its operation or ownership of 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 coastal 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 history.

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, coastal Dungeness crab, and pink shrimp landed by the bidder's reduction vessel that corresponds to the bidder's fee-share reduction permits. NMFS will average the three highest total annual revenues from groundfish,