



**Billing Code 3510-22**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**[Docket No. 160606490-6490-01]**

**Privacy Act of 1974; System of Records**

**AGENCY:** National Oceanic and Atmospheric Administration, U.S Department of Commerce.

**ACTION:** Notice of a New Privacy Act System of Records: COMMERCE/NOAA-21, Financial Systems Division.

**SUMMARY:** This notice announces the Department of Commerce's (Department's) proposal for a new system of records under the Privacy Act. The National Oceanic and Atmospheric Administration's (NOAA's) National Marine Fisheries Service (NMFS) is creating a new system of records for the Financial Services Division's financial assistance programs. Information will be collected from individuals and businesses under the authority of title XI of the Merchant Marine Act of 1936, as amended and codified, and the Magnuson-Stevens Fishery Conservation and Management Act, as amended. This new record system is necessary to determine whether applicants for program financing, Fishermen's Contingency claims, or participants in Capital Construction Fund accounts or Fishery Capacity Reduction programs are eligible and are creditworthy.

**DATES:** To be considered, written comments must be submitted on or before **[INSERT DATE 30 DAYS FROM PUBLICATION IN THE FEDERAL REGISTER]**. Unless comments are received, the new system of records will become effective as proposed on **[INSERT DATE 40 DAYS FROM PUBLICATION IN THE FEDERAL REGISTER]**. If comments are received, the Department will publish a subsequent notice in the **Federal Register** within 10 days after the

comment period closes, stating that the current system of records will remain in effect until publication of a final action in the **Federal Register**.

**ADDRESSES:** Comments may be mailed to: Paul Marx, Chief, Financial Services Division, National Marine Fisheries Service, 1315 East West Highway, Silver Spring, MD 20910.

**FOR FURTHER INFORMATION CONTACT:** Paul Marx, Chief, Financial Services Division, National Marine Fisheries Service, 1315 East West Highway, Silver Spring, MD 20910.

**SUPPLEMENTARY INFORMATION:** NMFS will use the information contained in this system of records to determine whether applicants for the Fisheries Financing Program (FFP) are both eligible and creditworthy; whether applicants for fishing gear reimbursements under the Fishermen's Contingency Fund (FCF) are eligible and present valid claims; whether participants under the Capital Construction Fund (CCF) are eligible to participate; and whether participants in Fisheries Capacity Reduction programs (Buyback) are providing correct information. The information collected is essential for financial assistance and program eligibility determinations. It is comparable to what is usually required by commercial lending institutions when making lending decisions, or insurance institutions when adjusting claims. Applicants with a history of credit problems (including delinquent Federal debt), litigation or bankruptcy, lack of capital, etc., may be unable to meet the FFP's stringent credit standards and may be denied financing. Applicants for CCF accounts with an ineligible vessel or an ineligible project may be unable to meet the CCF program requirements. Claimants with insufficient or incorrect documentation may be ineligible to receive reimbursements for fishing gear lost on the Outer Continental Shelf. Participants in the Capacity Reduction programs who fail to remit fees or fail to remit them timely may face penalties and late charges.

The information collection is requested from individuals and businesses under the authority of title XI of the Merchant Marine Act of 1936, as amended and codified, and the Magnuson-Stevens Fishery Conservation and Management Act, as amended. The information collection includes collecting each applicant's Tax Identification Number (TIN), either an Employer Identification Number (EIN) or Social Security Number (SSN). Collection of a TIN is required under 31 U.S.C. 7701. The primary purpose for requesting the TIN is to correctly identify the applicant for background and credit investigations and program eligibility, and may be used to report or collect any delinquent amounts arising out of an applicant's relationship with the Government.

**COMMERCE/NOAA-21**

**System Name:** COMMERCE/NOAA-21, Financial Services Division

**Security Classification:** Moderate

**System Locations:**

- a. NMFS Northeast Financial Services Branch, MB51, 55 Great Republic Drive, Suite 02-700, Gloucester, MA 01930-2209.
- b. NMFS Southeast Financial Services Branch, MB52, 263 – 13th Avenue South, St. Petersburg, FL 33702-2432.
- c. NMFS Northwest Financial Services Branch, MB53, 7600 Sand Point Way, NW, Bin C15700, Building #1, Seattle, WA 98115.
- d. NMFS Financial Services Division, 1315 East West Highway, Silver Spring, MD 20910.

**Categories of Individuals Covered by the System:** Applicants for Fisheries Finance Program financial assistance, including: direct loans for vessels, shoreside facilities, aquaculture, mariculture, and individual fishing quota (IFQ) loans; applicants for Capital Construction Fund

(CCF) accounts; fishers and fish buyers participating in Capacity Reduction loan (Buyback) programs; and claimants under the Fishermen's Contingency Fund.

**Categories of Records in the System:**

The system will include general personal and financial data including: the loan applicant's identity (including full name, address, and, as applicable, the SSN or EIN); the amount of financing applied for, the purpose of the loan; an appraisal of the vessel, facility or project being financed; Coast Guard documentation or Abstracts of title to vessels; income and financial information, including the applicant's last three Federal tax returns; LLC or Partnership agreements; a list of creditors and buyers with relevant credit terms; identification of authorized representatives (accountant, attorney, insurance agent); loan servicing actions and financial transactions; and the applicant's legal and credit history (status regarding bankruptcy, litigation, delinquency on debt, etc.). This information will be collected and maintained by the Financial Services Division and its branches.

The system will also include the CCF account holder's identity (including full name, address, and as applicable, the SSN or EIN); the nature of the account, banking information, the description of the project for which the account is to be created; income, business and financial information including the applicant and/or account holder's tax return, LLC and Partnership agreements; Coast Guard documentation, bills of sale, mortgages, etc.; identification of authorized representatives (accountant, attorney); and reports of account activity including all deposits and withdrawals. The system of records will include FCF claimants' identity (including full name, address, and, as applicable, the SSN or EIN); Vessel name and characteristics; fishing results for the three most recent trips; receipts for gear and equipment replaced; and information about the claimant's prior claims. The system of records will include Capacity Reduction

program participants' identity (including full name, address, and, as applicable, the SSN or EIN); processor number, fish ticket information, receipt and payment information, and banking information.

**Authorities for Maintenance of the System:** Title XI of the Merchant Marine Act of 1936 as amended and codified, 46 U.S.C. 1177 and 46 U.S.C. 53701 et seq., the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 et seq., and provisions of the Debt Collection Improvement Act as codified at 31 U.S.C. 7701.

**Purpose(s):** This information will allow NMFS to identify applicants and program participants and evaluate them for Financial Services Division financial assistance.

**Routine Uses of Records Maintained in the System, Including Categories of Users and the Purposes of Such Uses:**

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside of the Department. These records or information contained therein may specifically be disclosed as a routine use as stated below. The Department will, when so authorized, make the determination as to the relevancy of a record prior to its decision to disclose a document.

1. In the event that a system of records maintained by the Department to carry out its functions indicates a violation or potential violation of law or contract, whether civil, criminal or regulatory in nature and whether arising by general statute or particular program statute or contract, rule, regulation, or order issued pursuant thereto, or the necessity to protect an interest of the Department, the relevant records in the system of records may be referred to the appropriate agency, whether Federal, State, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the

statute, contract or rule, regulation or order issued pursuant thereto, or protecting the interests of the Department.

2. A record from this system of records may be disclosed in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed to the Department of Justice in connection with determining whether the Freedom of Information Act (5 U.S.C. 552) requires disclosure thereof.

4. A record from this system of records may be disclosed, as a routine use, to a Federal, state, local, or international agency, in response to its request, in connection with the assignment, hiring or retention of an individual, the issuance of a security clearance, the reporting of an investigation of an individual, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

5. A record in this system will be disclosed to the Department of Treasury for the purpose of reporting and recouping delinquent debts owed to the United States pursuant to the Debt Collection Improvement Act of 1996.

6. A record in this system of records may be disclosed to a contractor of the Department having need for the information in the performance of the contract but not operating a system of records within the meaning of 5 U.S.C. 552a(m).

7. A record in this system of records may be disclosed to appropriate agencies, entities, and persons when: (1) it is suspected or confirmed that the security of confidentiality of information in the system of records has been compromised; (2) the Department has determined that, as a

result of the suspected or confirmed compromise, there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

8. A record or information in this system of records may be disclosed to private sector appraisers, marine architects, attorneys, accountants, banks, lending institutions, real estate agents, brokers, title companies, state or local agencies, commercial registries, credit bureaus, rating agencies, and/or other persons and entities for the purpose of making credit and eligibility evaluations; lender due diligence investigations; CCF account validations; FCF claim adjustments; and/or the creation, attachment, perfection, maintenance, realization, or foreclosure of security interests.

9. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual when the individual has requested assistance from the Member with respect to the subject matter of the record.

10. A record in this system of records may be disclosed, as a routine use, to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

11. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services Administration (GSA), or his designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in

records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e. GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

**Disclosure to Consumer Reporting Agencies:** Disclosure pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to “consumer reporting agencies” as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) and the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

**Policies and Practices for Storing, Retrieving, Accessing, Retaining, and Disposing of Records in the System:**

**Storage:** Financial Services Divisions applications and related information are stored in a computerized database; CDs or DVDs; paper records stored in file folders in locked metal cabinets and/or locked rooms.

**Retrievability:** Records are organized and retrieved by an NMFS internal identification number, name of entity, case number, vessel name or identification number, plant name, processor number, or claim number. Records can be accessed by any file element or any combination thereof.

**Safeguards:** The system of records is stored in a building with doors that are locked during and after business hours. Visitors to the facility must register with security guards and must be accompanied by Federal personnel at all times. Paper records are stored in a locked room and/or a locked file cabinet. Electronic records containing Privacy Act information are protected by a user identification/password, and reside on an internal computer system protected by an

electronic “firewall” to prevent access from outside the Federal facility. The user identification/password is issued to individuals by authorized personnel.

All electronic information disseminated by NOAA adheres to the standards set out in Appendix III, Security of Automated Information Resources, OMB Circular A-130; the Computer Security Act (15 U.S.C. 278g-3 and 278g-4); and the Government Information Security Reform Act, Public Law 106-398; and follows NIST SP 800-18, Guide for Developing Security Plans for Federal Information Systems; NIST SP 800-26, Security Self-Assessment Guide for Information Technology Systems; and NITS SP 800-53, Recommended Security Controls for Federal Information Systems.

**Retention and Disposal:** All records are retained and disposed of in accordance with National Archives and Records Administration regulations (35 CFR chapter XII, subchapter B – Records Management); Departmental directives and comprehensive records schedules; NOAA Administrative Order 205-01; and the NMFS Records Disposition Schedule, Chapter 1500.

**System Managers and Addresses:**

For records at location a.: Chief, Northeast Financial Services Branch, 55 Great Republic Drive, Suite 02-700, Gloucester, MA 01930-2209.

For records at location b.: Chief, Southeast Financial Services Branch, 263 – 13th Avenue, South, St. Petersburg, FL 33702-2432.

For records at location c.: Chief, Northwest Financial Services Branch, 7600 Sand Point Way NW, (Bin C15700) Bldg. #1, Seattle, WA 98115.

For records at location d.: Chief, Financial Services Division, 1315 East West Highway, Silver Spring, MD 20910.

**Notification Procedure:** Individuals or businesses seeking to determine whether information about themselves is contained in this system should address written inquiries to the NOAA Privacy Act Officer: Privacy Act Officer, NOAA, 1315 East West Highway, Room 10641, Silver Spring, MD 20910

Written requests must be signed by the requesting individual. Requestor must make the request in writing and provide his/her name, address, and date of the request and the nature of the record sought. All such requests must comply with the inquiry provisions of the Department's Privacy Act rules which appear at 15 CFR part 4, Appendix A.

**Record Access Procedures:** Requests for access to records maintained in this system of records should be addressed to the same address given in the Notification section above.

**Contesting Record Procedures:** The Department's rules for access, for contesting content, and for appealing initial determinations by the individual or business concerned are provided for in 15 CFR part 4, Appendix A.

**Record Source Categories:** Information in this system will be collected from individuals and businesses applying for Financial Systems Division financial assistance.

**Exemption Claims for System:** None.

Dated: July 5, 2016.

Michael J. Toland  
Department of Commerce  
Freedom of Information/Privacy Act Officer

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