

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 648**

[Docket No. 070817467-8554-02]

RIN 0648-X152

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; Closure of the Elephant Trunk Scallop Access Area to General Category Scallop Vessels

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS announces that the Elephant Trunk Scallop Access Area (ETAA) will close to general category scallop vessels until it re-opens on March 1, 2009, under current regulations. This action is based on the determination that 1,671 general category scallop trips into the ETAA are projected to be taken as of 1200 hr (noon) local time, June 18, 2008. This action is being taken to prevent the allocation of general category trips in the ETAA from being exceeded during the 2008 fishing year, in accordance with the regulations implementing Framework 18 to the Atlantic Sea Scallop Fishery Management Plan (FMP) and the Magnuson-Stevens Fishery Conservation and Management Act.

DATES: The closure of the ETAA to all general category scallop vessels is effective 1200 hr local time, June 18, 2008, through February 28, 2009.

FOR FURTHER INFORMATION CONTACT: Don Frei, Fishery Management Specialist, (978) 281-9221, fax (978) 281-9135.

SUPPLEMENTARY INFORMATION:

Regulations governing fishing activity in the Sea Scallop Access Areas are found at §§ 648.59 and 648.60. Regulations specifically governing general category scallop vessel operations in the ETAA are specified at § 648.59(e)(4)(ii). These regulations authorize vessels issued a valid general category scallop permit to fish in the ETAA under specific conditions, including a total of 1,671 trips that may be taken by general category vessels during the 2008 fishing year. The regulations at § 648.59(e)(4)(ii) require the ETAA to be closed to general category scallop vessels once the Northeast Regional Administrator has

determined that the allowed number of trips are projected to be taken.

Based on Vessel Monitoring System (VMS) trip declarations by general category scallop vessels fishing in the ETAA, and analysis of fishing effort, a projection concluded that, given current activity levels by general category scallop vessels in the area, 1,671 trips will have been taken on June 18, 2008. Therefore, in accordance with the regulations at § 648.59(e)(4)(ii), the ETAA is closed to all general category scallop vessels as of 1200 hr local time, June 18, 2008. Any vessel that has declared into the general category ETAA fishery, complied with all trip notification and observer requirements, and crossed the VMS demarcation line on the way to the area, may complete the trip. This closure is in effect for the remainder of the 2008 scallop fishing year under current regulations. The ETAA is scheduled to re-open to scallop fishing, including trips for general category scallop vessels, on March 1, 2009, unless the schedule for scallop access areas is modified by the New England Fishery Management Council.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

This action closes the ETAA to all general category scallop vessels until March 1, 2009, under current regulations. The regulations at § 648.59(e)(4)(ii) allow such action to ensure that general category scallop vessels do not take more than their allocated number of trips in the ETAA. The ETAA opened for the 2008 fishing year at 0001 hours on June 1, 2008. Data indicating the general category scallop fleet has taken all of the ETAA trips have only recently become available. To allow general category scallop vessels to continue to take trips in the ETAA during the period necessary to publish and receive comments on a proposed rule would result in vessels taking much more than the allowed number of trips in the ETAA. Excessive trips and harvest from the ETAA would result in excessive fishing effort in the ETAA, where effort controls are critical, thereby undermining conservation objectives of the FMP. Should excessive effort occur in the ETAA, future management measures would need to be more restrictive. Based on the above, under 5 U.S.C. 553(d)(3), proposed rulemaking is waived because it would be impracticable and contrary to the public interest to allow a period for public comment. Furthermore, for the same reasons, there is good cause under 5 U.S.C. 553(d)(3) to waive the 30-day

delayed effectiveness period for this action.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: June 17, 2008.

Emily H. Menashes,
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
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DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 680**

[Docket No. 080129098-8743-02]

RIN 0648-AW45

Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands Crab Rationalization Program

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

ACTION: Final rule.

SUMMARY: NMFS issues regulations implementing Amendment 26 to the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs (FMP). These regulations amend the Crab Rationalization Program. Amendment 26 amends the FMP to exempt permanently quota share issued to crew members, and the annual harvest privileges derived from that quota share, from requirements for delivery to specific processors, delivery within specific geographic regions, and participation in an arbitration system to resolve price disputes. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), the FMP, and other applicable law.

DATES: Effective July 21, 2008.

ADDRESSES: Copies of Amendment 26, the Regulatory Impact Review (RIR)/ Final Regulatory Flexibility Analysis (FRFA) prepared for this action, and the Environmental Impact Statement (EIS) prepared for the Crab Rationalization Program may be obtained from the NMFS Alaska Region, P. O. Box 21668, Juneau, AK 99802 or from the Alaska Region website at <http://www.fakr.noaa.gov>.

FOR FURTHER INFORMATION CONTACT: Glenn Merrill, 907-586-7228.

SUPPLEMENTARY INFORMATION: The king and Tanner crab fisheries in the

exclusive economic zone of the Bering Sea and Aleutian Islands (BSAI) are managed under the FMP. The FMP was prepared by the North Pacific Fishery Management Council (Council) under the MSA as amended by the Consolidated Appropriations Act of 2004 (Public Law 108-199, section 801). Amendments 18 and 19 to the FMP implemented the BSAI Crab Rationalization Program (Program). Regulations implementing Amendments 18 and 19 were published on March 2, 2005 (70 FR 10174), and are located at 50 CFR part 680.

Crab Rationalization Program Overview

Under the Program, NMFS issued four types of quota share (QS) to persons based on their qualifying harvest histories in the BSAI crab fisheries during a specific period of time defined under the Program. The first two types of QS were issued to holders of license limitation program (LLP) licenses endorsed for a crab fishery. Catcher/processor LLP license holders were issued catcher/processor vessel owner (CPO) QS based on the catch history of catcher processors using an LLP license, and catcher vessel LLP license holders were issued catcher vessel owner (CVO) QS based on the catch history of catcher vessels using an LLP license. Under the Program, 97 percent of the QS was initially issued as CVO and CPO QS. The remaining 3 percent of the QS was initially issued to vessel captains and crew as "C shares," based on their harvest histories as crew members onboard crab fishing vessels. Captains and crew onboard catcher/processor vessels were issued catcher/processor crew (CPC) QS; and captains and crew onboard catcher vessels were issued catcher vessel crew (CVC) QS.

Each year, the QS issued to a person yields an amount of individual fishing quota (IFQ), which is a permit that provides an exclusive harvest privilege for a specific amount of raw crab pounds, in a specific crab fishery, in a given season. The size of each annual IFQ allocation is based on the amount of QS held by a person in relation to the total QS pool in a crab fishery. As an example, a person holding QS equal to one percent of the QS pool in a crab fishery would receive IFQ to harvest 1 percent of the annual total allowable catch (TAC) in that crab fishery. NMFS can issue the resulting IFQ to the QS holder directly, or to a crab harvesting cooperative comprised of multiple QS holders. Crab harvesting cooperatives have been used extensively by QS holders to allow them to receive a larger IFQ pool and coordinate deliveries and

price negotiations among numerous vessels. Most QS holders, including CVC and CPC QS holders, have joined cooperatives in the first two years of the Program, and are likely to continue to do so because of the economic and administrative benefits of consolidating their IFQ.

The IFQ derived from CPO and CPC QS may be harvested and processed at sea and is not required to be delivered to a specific onshore processor or stationary floating crab processor, or within a specific geographic region. However, the IFQ derived from CVO QS is subject to (1) delivery requirements to a specific onshore processor or stationary floating crab processor, (2) delivery within specific geographic regions, also known as regionalization, and (3) requirements to participate in an arbitration system. The IFQ derived from CVC QS must be delivered to onshore or stationary floating crab processors, but is currently exempt from delivery requirements to specific processors, regionalization requirements, and requirements to participate in the arbitration system. However, under the existing regulations, CVC QS and the resulting IFQ will be subject to the same delivery, regionalization, and arbitration system requirements as CVO QS/IFQ after June 30, 2008.

When the Program was adopted in 2004, the Council recommended regularly scheduled reviews of the Program 18 months, three years, and five years after its implementation to assess specific issues. Beginning in February 2007, Council staff began preparation of the 18-month review. Among other issues examined during this review, Council staff provided a summary of the key issues and concerns relevant to applying delivery, regionalization, and arbitration system requirements to CVC QS/IFQ holders. Members of the public noted that applying these requirements to CVC QS/IFQ holders after June 30, 2008, would limit their ability to address logistical complications, not provide flexibility for CVC IFQ holders to deliver to alternative markets if desired, substantially increase the costs of operation, and not provide substantial additional stability to processors and communities. Based on these concerns, in April 2007, the Council tasked staff to prepare an analysis that would review the implications of permanently exempting CVC QS/IFQ from delivery, regionalization, and arbitration system requirements. The Council deliberated over the issue at subsequent meetings, and in December 2007, recommended permanently exempting CVC QS/IFQ

from all three of these Program requirements.

Notice of Availability and Proposed Rule

NMFS published the notice of availability for Amendment 26 on March 21, 2008 (73 FR 15118), with a public comment period that closed on May 20, 2008. NMFS received no public comments on Amendment 26. The Secretary of Commerce approved Amendment 26 on June 6, 2008. NMFS published the proposed rule for this action on March 31, 2008 (73 FR 16830), with a public comment period that closed on May 15, 2008. NMFS received one public comment on the proposed rule, which is summarized and responded to below.

Effects of the Action

The following sections briefly describe the effects of permanently exempting CVC QS/IFQ holders from delivery, regionalization, and the arbitration system requirements. Additional discussion of the rationale and effects of this action is provided in the preamble to the proposed rule (73 FR 16830) and is not repeated here.

Processor delivery requirements. The Program recognizes the historic participation of processors and communities dependent on crab processing in the BSAI crab fisheries by requiring that a portion of the annual TAC be delivered to specific onshore or stationary floating crab processors. The Program established this linkage by issuing processor quota shares (PQS) to processors with historic participation in crab processing during a specific period. PQS yields individual processor quota (IPQ) on an annual basis that represents a privilege to receive a certain amount of crab harvested. Currently, 90 percent of the IFQ derived from CVO QS holders is issued as Class A IFQ. NMFS issues one pound of IPQ for each pound of Class A IFQ, creating a one-to-one correspondence between Class A IFQ and IPQ. The remaining 10 percent of the annual CVO IFQ is issued as Class B IFQ, which may be delivered to any processor and are not required to be delivered to a processor with unused IPQ.

The Council also recommended that because CVC QS was generated based on deliveries to onshore or stationary floating crab processors, it also should be issued as 90 percent Class A IFQ and 10 percent Class B IFQ. To facilitate CVC QS/IFQ holders and reduce the complex process matching of Class A IFQ to specific processors with IPQ, the Program exempted CVC IFQ from issuance as Class A/B IFQ and the

prohibitions on CVC IFQ leasing for the first three crab fishing years. This period expires on June 30, 2008 (see 50 CFR 680.41(e) and 50 CFR 680.42(b)(6) and (c)(5)), and was intended to provide CVC QS/IFQ holders time to adapt to the Program before phasing in these additional restrictions. Further, the Council recommended that the appropriateness of applying Class A and B IFQ restrictions should be reviewed 18 months after the implementation of the Program. The Council anticipated that applying these restrictions to CVC QS may not be necessary to achieve the goals of providing additional stability to the processing sector and communities and could impose additional costs and complexity on CVC QS/IFQ holders.

The RIR/FRFA prepared for this action by Council and NMFS staff indicates that the application of Class A IFQ delivery requirements to CVC IFQ would logistically complicate use of those shares (see **ADDRESSES**). Public testimony received during the Council's deliberations that led to the adoption of Amendment 26 noted concerns about the complexity of matching shares and asserted that the potential advantages to processors and communities by establishing these delivery requirements were outweighed by the additional costs that CVC QS/IFQ holders would incur. Public testimony from processors and communities with processing facilities did not dispute this assertion and supported permanently exempting CVC QS from the requirements that it be issued as Class A and B IFQ.

Permanently extending the exemption of the Class A/B IFQ delivery requirements to CVC QS/IFQ holders is not anticipated to have adverse effects on other participants given the limited number of these shares relative to CVO, CPO, and CPC QS/IFQ. This thesis is further supported by the fact that CVC QS/IFQ has been exempt from the Class A IFQ delivery requirement for the first three years of the Program and no negative effects were indicated in the RIR/FRFA prepared for this action. Public testimony provided during Council review of this issue did not indicate that there would be negative effects on processors or communities as a result of a permanent exemption from Class A/B designation for CVC IFQ.

Additionally, based on a review of recent harvest patterns provided in the RIR/FRFA prepared for this action, CVC IFQ delivery patterns seem similar to those of Class A IFQ. These patterns could change in the future so that CVC IFQ would be more likely to be delivered independently of Class A IFQ to other markets; however, given the relatively small percentage of the total

landings that are assigned to CVC IFQ onboard a vessel, NMFS does not expect delivery patterns for CVC IFQ to differ from the delivery patterns currently observed. Furthermore, even if the delivery patterns of CVC IFQ were to change in the future, NMFS believes that a shift in such a relatively small amount of IFQ likely would not have an appreciable effect on overall processor operations or deliveries to specific communities.

Regionalization. In addition to processor share landing requirements, Class A IFQ and IPQ are subject to regional landing requirements. Those shares must be landed and processed in specified geographic regions. Those regions are described in the EIS prepared for the Program and the RIR/FRFA prepared for this action (see **ADDRESSES**). The Class A IFQ regional delivery requirements vary depending on the specific crab fishery but generally ensure that a portion of the catch is delivered within areas that have communities that are active in crab processing. For most crab fisheries, there are two regions. One region is typically considered the more remote region. The requirement to land within the more remote region provides some assurance that the small number of processors and communities historically active within that region will continue to receive catch that could otherwise be diverted to the less remote region.

If CVC IFQ were subject to a Class A/B IFQ designation, then 90 percent of the CVC IFQ would be defined as Class A IFQ and therefore subject to regionalization. Because the Program exempted CVC IFQ from a Class A/B IFQ designation through June 30, 2008, to reduce the initial complexities of matching shares and for the other reasons mentioned in the previous section, CVC IFQ also was exempted from regionalization.

Given that CVC IFQ is currently exempt from regionalization, and CVC IFQ is delivered in conjunction with CVO Class A IFQ currently, NMFS believes that permanently exempting CVC IFQ from regionalization requirements will not have any noticeable effect on the overall delivery of CVC IFQ within a given region. Permanently exempting CVC IFQ from regionalization requirements could provide opportunities to CVC IFQ holders to use additional markets that would be foreclosed if those shares were subject to regionalization.

Arbitration System. To aid participants in resolving price and delivery disputes that may arise among Class A IFQ and IPQ holders, the Council developed an arbitration

system. Regulations at 50 CFR 680.20 require that Class A IFQ and IPQ holders join private arbitration organizations. These arbitration organizations, in turn, must enter into contracts that define the procedure for resolving price disputes. The arbitration system serves several functions to resolve price and delivery disputes, including establishing a mechanism for the orderly matching of Class A IFQ with IPQ, developing a market report and non-binding price formula to inform price negotiations, and providing a binding arbitration procedure to resolve impasses in negotiations. A more complete description of the arbitration system is provided in the RIR/FRFA prepared for this action and the EIS prepared for the Program (see **ADDRESSES**). Because the arbitration system applies only to Class A IFQ, exempting CVC IFQ from Class A/B IFQ designation effectively exempts CVC IFQ from the arbitration system.

Summary. This rule implements a permanent exemption to delivery, regionalization, and arbitration system requirements for CVC QS/IFQ holders. As described in greater detail in the preamble to the proposed rule (73 FR 16830) and the RIR/FRFA prepared for this action, permanently extending the exemption from delivery, regionalization, and arbitration system requirements will allow CVC QS/IFQ holders to avoid the additional costs and complexity that would result to them if these exemptions are not granted. Furthermore, providing these exemptions would not deprive processors and communities of any appreciable benefits if the delivery, regionalization, and arbitration system requirements were applied to CVC QS/IFQ.

NMFS modified the Program regulations to remove all instances that either require or refer to CVC IFQ being redesignated as Class A/B IFQ after June 30, 2008. These references occur in regulatory text at 50 CFR 680.2, 680.20, 680.21, 680.40, and 680.42.

Response to Comments

Comment 1: Cut all quotas by 50 percent this year and by 10 percent each year thereafter. The commenter notes that NMFS also permitted harvests in the Alaska herring fishery and asserts that the herring fishery adversely affects marine life.

Response: This final rule does not address the allocation of QS or TAC under the Program and modifying QS or TAC allocation is outside the scope of this action. This action modifies the nature of CVC IFQ. NMFS notes that the Alaska Department of Fish and Game

manages herring fisheries in State of Alaska waters. No change in the regulations has been made based on this comment.

Changes from the Proposed Rule

NMFS did not make any changes from the proposed rule.

Classification

Consistency with the MSA and Other Laws

The Assistant Administrator for Fisheries, NOAA, has determined that Amendment 26 is necessary for the conservation and management of the BSAI crab fisheries and that it is consistent with the MSA and other applicable laws.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

An Environmental Impact Statement/Regulatory Impact Review/Initial Regulatory Flexibility Analysis/Social Impact Assessment was prepared for the Program that describes the management background, the purpose and need for the Program, the management alternatives, and the environmental, social, and economic impacts (see **ADDRESSES**). With this final rule, NMFS is continuing to implement the Program.

Final Regulatory Flexibility Analysis (FRFA)

A FRFA was prepared for this rule, as required by section 604 of the Regulatory Flexibility Act (RFA). Copies of the FRFA prepared for this final rule are available from NMFS (see **ADDRESSES**). The FRFA incorporates the IRFA, a summary of the significant issues raised by the public comments in response to the IRFA, NMFS' responses to those comments, and a summary of the analyses completed to support the action. A summary of the FRFA follows.

Why Action by the Agency is Being Considered and Objectives of, and Legal Basis for, the Rule

The FRFA describes in detail the reasons why this action is being proposed, describes the objectives and legal basis for the rule, and discusses both small and non-small regulated entities to adequately characterize the fishery participants. The MSA provides the legal basis for the rule, as discussed in this preamble. The objectives of the rule are to permanently exempt CVC QS/IFQ holders from delivery, regionalization, and arbitration system requirements allowing them to avoid the additional costs and complexity that will result to them if these exemptions are not granted.

Number of Small Entities to Which the Final Rule Would Apply

For purposes of a FRFA, the Small Business Administration (SBA) has established that a business involved in fish harvesting is a small business if it is independently owned and operated, not dominant in its field of operation (including its affiliates), and if it has combined annual gross receipts not in excess of \$4.0 million for all its affiliated operations worldwide. A seafood processor is a small business if it is independently owned and operated, not dominant in its field of operation, and employs 500 or fewer persons on a full-time, part-time, temporary, or other basis, at all its affiliated operations worldwide.

Because the SBA does not have a size criterion for businesses that are involved in both the harvesting and processing of seafood products, NMFS has in the past applied and continues to apply SBA's fish harvesting criterion for these businesses because catcher/processors are first and foremost fish harvesting businesses. Therefore, a business involved in both the harvesting and processing of seafood products is a small business if it meets the \$4.0 million criterion for fish harvesting operations. NMFS currently is reviewing its small entity size classification for all catcher/processors in the United States. However, until new guidance is adopted, NMFS will continue to use the annual receipts standard for catcher/processors. NMFS plans to issue new guidance in the near future.

The FRFA contains a description and estimate of the number of small entities to which the rule would apply. The FRFA estimates that all of the 219 individuals hold CVC QS/IFQ and would be directly regulated by the proposed action. The FRFA notes that estimates of the number of small CVC QS/IFQ holders under the Program are complicated by limited share holder information, but, conservatively, the FRFA estimates that all of the individuals holding CVC QS/IFQ would be considered small entities.

Public Comments Received on the IRFA

NMFS received no public comments on the IRFA or on the economic impacts of the rule.

Projected Reporting, Recordkeeping, and Other Compliance Requirements

This rule would not change existing reporting, recordkeeping, or other compliance requirements.

Comparison of Alternatives

All the directly regulated individuals would be expected to benefit from the preferred alternative, Alternative 2 (described in this rule) relative to the status quo alternative because it relieves individuals from requirements that would increase their costs of operation. Of the two alternatives considered, status quo and this action, this action minimizes adverse economic impacts on the individuals that are directly regulated.

Although the alternatives under consideration in this action would have distributional and efficiency impacts for individual participants, such as reducing some operational costs for CVC QS/IFQ holders, in no case are these impacts in the aggregate expected to be substantial. Although neither of the alternatives has substantial negative impacts on small entities, preferred Alternative 2 minimizes the potential negative impacts that could arise under Alternative 1, the status quo alternative. Differences in efficiency that could arise are likely to affect most participants in a minor way having an overall insubstantial impact. As a consequence, neither alternative is expected to have any significant economic or socioeconomic impacts. Nevertheless, Alternative 2 is preferable because it reduces costs of operations for small entities to a limited degree.

Small Entity Compliance Guide

NMFS has posted a small entity compliance guide on its website at <http://www.fakr.noaa.gov/sustainablefisheries/crab/crfaq.htm> to satisfy the Small Business Regulatory Enforcement Fairness Act of 1996 requirement for a plain language guide to assist small entities in complying with this rule. Contact NMFS to request a hard copy of the guide (see **ADDRESSES**).

List of Subjects in 50 CFR Part 680

Alaska, Fisheries.

Dated: June 16, 2008.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

■ For the reasons set out in the preamble, 50 CFR part 680 is amended as follows:

PART 680—SHELLFISH FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for 50 CFR part 680 continues to read as follows:

Authority: 16 U.S.C. 1862; Pub. L. 109-241; Pub. L. 109-479.

■ 2. In § 680.2, the definitions of "Arbitration IFQ", and "Arbitration QS" are revised to read as follows:

§ 680.2 Definitions.

* * * * *

Arbitration IFQ means:

(1) Class A catcher vessel owner (CVO) IFQ held by a person who is not a holder of PQS or IPQ and who is not affiliated with any holder of PQS or IPQ, and

(2) IFQ held by an FCMA cooperative.

Arbitration QS means CVO QS held by a person who is not a holder of PQS or IPQ and is not affiliated with any holder of PQS or IPQ.

* * * * *

■ 3. In § 680.20, paragraphs (a)(1), (b)(1)(i), the introductory text to paragraph (c), and paragraph (e)(7) are revised to read as follows:

§ 680.20 Arbitration System.

(a) * * *

(1) Arbitration System. All CVO QS, Arbitration IFQ, Class A IFQ holders, PQS and IPQ holders must enter the contracts as prescribed in this section that establish the Arbitration System. Certain parts of the Arbitration System are voluntary for some parties, as specified in this section. All contract provisions will be enforced by parties to those contracts.

* * * * *

(b) * * *

(1) * * *

(i) Holders of CVO QS,

* * * * *

(c) Preseason requirements for joining an Arbitration Organization. All holders of CVO QS, PQS, Arbitration IFQ, Class A IFQ affiliated with a PQS or IPQ holder, and IPQ must join and maintain a membership in an Arbitration Organization as specified in paragraph (d) of this section. All holders of QS, PQS, IFQ, or IPQ identified in the preceding sentence must join an Arbitration Organization at the following times:

* * * * *

(e) * * *

(7) IFQ and IPQ issuance and selection of the Market Analyst, Formula Arbitrator, and Contract

Arbitrator(s). NMFS will not issue CVO IFQ and IPQ for a crab QS fishery until Arbitration Organizations establish by mutual agreement contracts with a Market Analyst, Formula Arbitrator, and Contract Arbitrator(s) for that fishery and notify NMFS.

* * * * *

■ 4. In § 680.21, paragraph (a)(1)(iii)(B) is revised to read as follows:

§ 680.21 Crab harvesting cooperatives.

* * * * *

(a) * * *

(1) * * *

(iii) * * *

(B) Upon joining a crab harvesting cooperative for a CR fishery, NMFS will convert all of a QS holder's QS holdings for that CR fishery to crab harvesting cooperative IFQ.

* * * * *

■ 5. In § 680.40, paragraphs (b)(1)(ii), (b)(2)(i)(B), (b)(2)(ii)(C), (c)(2)(v)(J), (c)(4) introductory text, (h)(2)(i), (h)(2)(ii), and (h)(6)(ii) are revised to read as follows:

§ 680.40 Quota Share (QS), Processor QS (PQS), Individual Fishing Quota (IFQ), and Individual Processor Quota (IPQ) issuance.

* * * * *

(b) * * *

(1) * * *

(ii) Catcher Vessel Crew (CVC) QS shall be initially issued to qualified persons defined in paragraph (b)(3) of this section based on legal landings of unprocessed crab.

* * * * *

(2) * * *

(i) * * *

(B) South QS if the legal landings that gave rise to the QS for a crab QS fishery were not landed in the North Region, and all CVO QS allocated to the WAI crab QS fishery; or

* * * * *

(ii) * * *

(C) CVC QS;

* * * * *

(c) * * *

(2) * * *

(v) * * *

(J) The percentage calculated in paragraph (c)(2)(v)(I) of this section may be adjusted according to the provisions at paragraphs (c)(3) and (c)(4) of this section. The amount calculated in

paragraph (c)(2)(v)(H) of this section is multiplied by the percentage for each region. These regional QS designations do not apply to CVC QS.

* * * * *

(4) Regional designation of Western Aleutian Islands golden king crab. Fifty percent of the CVO QS that is issued in the WAG crab QS fishery will be initially issued with a West regional designation. The West regional designation applies to QS for delivery west of 174° W. longitude. The remaining 50 percent of the CVO QS initially issued for this fishery is not subject to regional designation (Undesignated QS). A person (p) who would receive QS based on the legal landings in only one region will receive QS with only that regional designation. A person who would receive QS with more than one regional designation for that crab QS fishery would have his or her QS holdings regionally adjusted on a pro rata basis as follows:

* * * * *

(h) * * *

(2) * * *

(i) QS shall yield Class A or Class B IFQ if:

(A) Initially assigned to the CVO QS sector; or

(B) Transferred to the CVO QS sector from the CPO QS sector.

(ii) The Class A/B IFQ TAC is the portion of the TAC assigned as Class A/B IFQ under paragraphs (h)(2)(i)(A) and (B) of this section.

* * * * *

(6) * * *

(ii) CVC IFQ is not subject to regional designation.

* * * * *

■ 6. In § 680.42, paragraph (b)(6) is revised to read as follows:

§ 680.42 Limitations on use of QS, PQS, IFQ, and IPQ.

* * * * *

(b) * * *

(6) Any person harvesting crab under a Class B IFQ, CPO IFQ, CVC IFQ, or CPC IFQ permit may deliver that crab to any RCR.

* * * * *