DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 680

[Docket No. 101214615–4999–01]

RIN 0648–BA61

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: Proposed rule; request for comments.

SUMMARY: NMFS issues a proposed rule that would implement Amendment 31 to the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs (FMP). The proposed rule would make several changes to regulations governing the acquisition, use, and retention of quota share established for captains and crew, known as crew quota share or C shares, under the Crab Rationalization Program (CR Program). To implement Amendment 31, the proposed rule would: Temporarily expand the eligibility requirements for individuals wishing to acquire C share Quota Share (QS) by transfer; establish minimum participation requirements for C share QS holders to be eligible to receive an annual allocation of Individual Fishing Quota (IFQ); establish minimum participation requirements for C share QS holders to be eligible to retain their C share QS and establish an administrative process for revocation of an individual's C share QS, if he or she fails to satisfy the minimum participation requirements; establish a regulatory mechanism to ensure that three percent of the total allowable catch (TAC) for each CR Program crab fishery is allocated as IFQ to holders of C share QS; and remove the prohibition on leasing C share IFQ. In addition, the proposed rule would implement a regulatory amendment to the CR Program that adjusts certain CR Program application deadlines. Specifically, the proposed rule would: Establish an earlier deadline for filing annual IFQ, individual processing quota (IPQ), and crab harvesting cooperative IFQ applications, which would increase the amount of time during which NMFS would suspend the processing of IFQ and IPQ transfer applications; shorten the amount of time in which to appeal an initial administrative determination to withhold issuance of IFQ or IPQ; and provide in the regulations that an applicant's proof of timely filing for IFQ, IPQ, or cooperative IFQ would create a presumption of timely filing. Finally, the proposed rule would revise the reporting period and due date for CR Program registered crab receiver (RCR) Ex-vessel Volume and Value Reports. This action is necessary to ensure that individuals who hold C shares are active in the CR Program fisheries and to ensure that application deadlines provide adequate time to resolve disputes. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the FMP, and other applicable law.

DATES: Comments must be received no later than January 23, 2015.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2010–0265, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2010-0265,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this action may be submitted to NMFS at the above address and by email to *OIRA_Submission@omb.eop.gov* or fax to 202–395–7285. Electronic copies of Amendment 31, the Regulatory Impact Review/Initial Regulatory Flexibility Analysis (RIR/IRFA) and the categorical exclusion prepared for this action—as well as the Environmental Impact Statement prepared for the CR Program—may be obtained from *http://www.regulations.gov* or from the Alaska Region Web site at *http://alaskafisheries.noaa.gov.* NMFS determined that this proposed action was categorically excluded from the need to prepare an environmental assessment under the National Environmental Policy Act.

FOR FURTHER INFORMATION CONTACT: Karen Palmigiano, 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 Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs FMP (FMP). The FMP was prepared by the North Pacific Fishery Management Council (Council) under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) as amended by the Consolidated Appropriations Act of 2004 (Public Law 108–199, section 801). Regulations implementing the FMP, including the CR Program, are primarily located at 50 CFR part 680.

Background

Overview of CR Program and C Shares

The CR Program is a limited access privilege program that allocates the harvest of certain crab fisheries managed under the FMP among harvesters, processors, and coastal communities. Under the CR Program, NMFS issued four types of quota share (QS) to persons based on their qualifying harvest histories in certain BSAI crab fisheries during a specific period of time defined under the CR Program. The four types of QS are catcher vessel owner (CVO), catcher processor owner (CPO), catcher vessel crew (CVC), and catcher processor crew (CPC). CVC and CPC QS are also known as ''crew shares'' or ''C shares.'' At the beginning of the CR Program, NMFS issued 97 percent of the QS as owner QS, either CVO or CPO, and issued the remaining three percent as C shares, either CVC or CPC.

NMFS issued C shares to individuals holding State of Alaska Commercial Fisheries Entry Commission (CFEC) Interim Use Permits, generally vessel captains, who met specific historic and recent participation requirements in CR Program fisheries. NMFS did not issue C shares to individuals who did not

meet both the historic and recent participation criteria. After the initial issuance of C shares, individuals may only acquire C shares through transfer.

Each year, a QS holder submits a timely and complete ''Application for Annual Crab Individual Fishing Quota (IFQ) Permit'' in order to receive an exclusive harvest privilege for a portion of the total allowable catch (TAC) for each CR Program fishery in which the person holds QS. This harvest privilege is conferred as IFQ, and provides the QS holder with an annual allocation of pounds of crab for harvest in a specific CR Program crab fishery during the year in which it was allocated. 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. For example, an individual holding C share QS equaling one percent of the C share QS pool in a crab fishery would receive IFQ to harvest one percent of the annual TAC allocated to C share QS in that crab fishery. NMFS issues holders of CVO QS two types of IFQ: Class A IFQ, which must be delivered to a processor holding a matching amount of IPQ, and Class B IFQ, which may be delivered to any registered crab receiver. Current regulations do not require C share IFQ to be matched with IPQ, and C share IFQ may be delivered to any registered crab receiver, similar to Class B CVO IFQ (see § 680.40(2)(b)(iii)).

When initially establishing C shares, the Council intended that individuals holding C shares be active in CR Program fisheries. To ensure active participation by crew, the CR Program requires the holder of C shares to be onboard the vessel when their C share IFQ is harvested (the ''holder on-board'' requirement) and prohibits holders of C shares from leasing their C share IFQ except in the case of a hardship. However, the CR Program exempts a holders of C shares from these two requirements if the holder of C shares has joined a crab harvesting cooperative and the holder's C share IFQ is converted to cooperative IFQ. The CR Program also includes participation criteria that must be satisfied for an individual to be eligible to receive C share QS by transfer. To receive C share QS by transfer, current regulations require an applicant to meet eligibility requirements at the time of transfer. To meet these eligibility requirements, an individual may submit an Application for BSAI Crab Eligibility to Receive QS/PQS by Transfer in advance of, or concurrently with, their Application for Transfer of Crab QS or PQS. The regulations require that an individual must be a U.S. citizen with (1) at least 150 days of sea time as part of a harvesting crew in any U.S. commercial fishery; and (2) participation as crew in one of the CR Program fisheries in the 365 days prior to the date the transfer application is submitted to NMFS. If NMFS determines that an individual is eligible to receive C share QS by transfer, that individual would be required to submit proof of participation as crew in one of the CR Program fisheries in the 365 days prior to the date of their application to transfer QS if more than 365 days has elapsed between NMFS' determination of eligibility and the submission of the transfer application. (See regulations at § 680.41 (c)(2)(ii)(C).)

Annually, C share IFQ is assigned based on the individual's underlying QS. In a CR Program fishery, the annual allocation of IFQ assigned to any person (p) is based on the TAC for that crab QS fishery (f) less the allocation to the Western Alaska Community Development Quota (CDQ) Program and the Western Aleutian Islands golden king crab fishery. As expressed in regulations at § 680.40(h), the annual IFQ allocation calculation is as follows:

- IFQ $TAC_f = TAC_f -$ (Western Alaska CDQ Program + Western Aleutian Islands golden king crab fishery)
- $IFQ_{pf} = IFQ\ TAC_f * (QS_{pf}/QS_f)$

Based on these calculations, a person holding one percent of the QS in a CR Program fishery (QS_{pf}) would receive IFQ to harvest one percent of the annual TAC in that CR Program fishery.

Crab Cooperative, IFQ, and IPQ Application Deadlines

Under current regulations, the crab fishing year begins on July 1 and ends on June 30. Annually, QS and PQS holders must apply for allocations of IFQ and IPQ, respectively, for the upcoming crab fishing year. QS holders apply for annual IFQ through an individual application. They must indicate on this application whether or not they are joining a cooperative. If they are joining a cooperative that year, the cooperative's annual IFQ application must include the QS holder's annual IFQ application (or a copy of that application). Because IPQ is not subject to cooperative management, a PQS holder applies for IPQ directly to NMFS, and NMFS issues IPQ directly to the PQS holder. Under the current regulations, all applications for IFQ, IPQ, and cooperative IFQ must be filed with the NMFS Restricted Access Management Program (RAM) by August 1. Although the crab fishing year begins on July 1, the individual crab fisheries open at different times later in the crab fishing year. Until recently, the first crab fishery to open, the Aleutian Islands golden king crab fishery, opened on August 15; the remaining crab fisheries open on October 15 or later in the crab fishing year. In March 2014, the State of Alaska changed the opening date for the Aleutian Islands golden king crab fishery to August 1 to allow for fishing to occur slightly earlier in the summer months when it is safer for the fishers. To aid QS and PQS holders in meeting the application deadline, NMFS provides application forms on its Web site (see **ADDRESSES**), highlights the application deadline on the site, and sends notices to QS and PQS holders near the end of the crab fishing year reminding them to apply for IFQ or IPQ for the next crab fishing year.

Generally, 30 to 40 QS and PQS holders fail to file their applications for IFQ or IPQ by the August 1 deadline each year. When this occurs, RAM sends an Initial Administrative Determination (IAD) to the QS or PQS holder. The IAD notifies the QS or PQS holder of the holder's failure to file in a timely manner and states that the holder will not receive an annual allocation of IFQ or IPQ. The IAD also states that the QS or PSQ holder has the right to appeal the IAD by submitting an appeal to NMFS within 60 days of the date of the IAD. RAM typically issues IADs for failure to timely file an application for IFQ or IPQ before the middle of August. Alaska Department of Fish and Game (ADF&G) typically announces TAC information for a majority of the CR Program fisheries around September 30, and RAM issues most IFQ and IPQ permits early in October, in order to allow share matching to occur prior to the October 15 start date for most of the CR Program crab fisheries.

To ensure that access to an annual allocation is not lost should a QS or PQS holder prevail on appeal of the IAD, RAM holds in reserve the amount of IFQ or IPQ in dispute until final agency action on the IAD is reached. In some instances, final agency action is reached before RAM issues IFQ and IPQ for the upcoming crab fishing year, allowing RAM to either issue the IFQ or IPQ to the successful appellant or return the IFQ or IPQ to the general pool for distribution if the IAD was not appealed or the appellant was unsuccessful in the appeal. However, in instances where a final agency action is not reached before RAM issues IFQ and IPQ for the upcoming crab fishing year, NMFS must continue to hold the disputed IFQ or IPQ in reserve.

The need for NMFS to hold disputed IFQ or IPQ in reserve could lead to

unintended repercussions for the other QS and PQS holders who are not involved in the dispute. As mentioned previously, NMFS issues CVO QS as either Class A IFQ, which must be delivered to a Registered Crab Receiver (RCR) with a matching amount of unused IPQ, or Class B IFQ, which may be delivered to any RCR and does not require a matching amount of IPQ. Regulations require that Class A IFQ be matched with IPQ within five days after RAM issues the annual IFQ and IPQ for a crab fishery. Class A IFQ and IPQ are issued by fishery in equal amounts to facilitate this share matching requirement. Therefore, any Class A IFQ or any IPQ that is held in reserve pending appeal can result in unusable IFQ and/or IPQ, which equals unharvested pounds of crab. For example, if 100 pounds of Class A IFQ is held in reserve pending appeal, NMFS will still issue 100 pounds of IPQ to match the amount of reserved Class A IFQ. This is necessary in order to ensure that should the IFQ held in reserve be issued, the IFQ holder can match that IFQ with IPQ as required by regulation. If the IFQ subject to appeal is never issued (because the applicant fails to appeal or the appeal is denied), then the processor holding the matching IPQ cannot use that IPQ. The reverse is also true; if 100 pounds of IPQ is held in reserve pending appeal and then never issued, the 100 pounds of matching Class A IFQ cannot be used by the harvesting sector.

Need for Action

At its June 2007 meeting, the Council received public testimony and recommendations from its Advisory Panel advocating for modifications to the participation requirements for acquisition and use of C shares. Participants in the CR Program fisheries raised the following issues:

- At least 750 former crew, who did not receive an initial allocation of C shares but who were active in CR Program fisheries in the five years preceding implementation of the CR Program, are no longer active in CR Program fisheries due to the significant reduction in the number of vessels participating in CR Program fisheries subsequent to implementation of the CR Program.
- The current eligibility requirement for recent participation in one of the CR Program crab fisheries prevents acquisition of C shares by individuals formerly active in CR Program fisheries, but who are no longer a participant due to the significant fleet contraction and resulting loss of crew positions on crab boats.
- Estimates of available information indicate that approximately 30 percent (70 individuals) of the individuals who received an initial allocation of C share QS (239 individuals) have remained active in the CR program fisheries, while approximately 70 percent (169 individuals) have not remained active in CR program fisheries.
- The regulations intended to keep C share QS holders active in the fisheries are not working due to the exemptions from these active participation requirements for holders of C shares who join a crab harvesting cooperative.

Given this information, the Council determined that the current eligibility requirements for the acquisition of C shares have the effect of preventing some displaced, long-time captains and crew from acquiring C shares and that temporary modifications are necessary to increase the pool of individuals eligible to acquire C shares by transfer. The Council also determined that revisions to the current active participation requirements are necessary to establish reasonable participation requirements for holders of C shares and to ensure that they remain active in the fisheries. At its April 2008 meeting, the Council made final recommendations that formed the basis for Amendment 31 to the FMP and this proposed rule.

After taking action on Amendment 31, the Council received the 5-year review of the CR Program at its December 2010 meeting. The 5-year review identified problems resulting from the insufficient amount of time available for NMFS to resolve IFQ and IPQ application disputes prior to the date by which NMFS must issue IFQ, IPQ, and cooperative IFQ. Based on this information, the Council requested that staff prepare an analysis examining an alternative that would provide NMFS with adequate time to resolve application disputes and decrease the likelihood of potential mismatches of Class A IFQ and IPQ pools. At its April 2011 meeting, the Council recommended three actions: (1) Moving the application deadline for annual IFQ and IPQ permits to an earlier date; (2) shortening the time in which to file an appeal; and (3) providing that an applicant's proof of timely filing for IFQ, IPQ, or cooperative IFQ would create a presumption of timely filing.

The Proposed Actions

This proposed rule would make several changes to regulations governing the acquisition, use, and retention of C share QS under the CR Program. To implement Amendment 31, the proposed rule would: (1) Temporarily expand the eligibility requirements for individuals wishing to acquire C share QS by transfer; (2) establish minimum participation requirements for C share QS holders to be eligible to receive an annual allocation of IFQ; (3) establish minimum participation requirements for C share QS holders to be eligible to retain their C share QS and establish an administrative process for revocation of an individual's C share QS if he or she fails to satisfy the minimum participation requirements; (4) establish a regulatory mechanism to ensure that 3 percent of the TAC for each CR Program crab fishery is allocated as IFQ to holders of C share QS; and (5) remove the prohibition on leasing C share IFQ.

Additionally, this proposed rule would implement a regulatory amendment adopted by the Council. The regulatory amendment would make three changes in the annual application process for IFQ, IPQ, and cooperative IFQ in the CR Program. Unlike the proposed modifications summarized above to implement Amendment 31, these three proposed modifications do not require an amendment to the FMP. They do, however, result from a Regulatory Impact Review/Initial Regulatory Flexibility Analysis (RIR/IRFA) and recommendations by the Council and are consistent with the FMP. Specifically, the proposed rule would: (1) Establish June 15 as the deadline for filing annual IFQ, IPQ, and cooperative IFQ applications, which would also increase the amount of time during which NMFS would suspend the processing of IFQ and IPQ transfer applications; (2) shorten the amount of time in which to appeal an initial administrative determination to withhold issuance of IFQ or IPQ from 60 days to 30 days; and (3) provide in the regulations that an applicant's proof of timely filing an application for IFQ, IPQ, or cooperative IFQ would create a presumption of timely filing. Finally, to accommodate the change to the season opening date for the Aleutian Islands golden king crab fishery, the proposed rule would revise the reporting period for RCR Ex-vessel Volume and Value Reports from August 15 through April 30 to August 1 through May 31. Detailed explanations of the proposed regulatory changes are provided in the following paragraphs.

Modify Active Participation Requirements To Acquire C Shares

Current regulations state that to receive C shares by transfer, a person must be an individual with at least 150 days of sea time in a harvest capacity in a U.S. commercial fishery and have been active as a crewmember in one of the CR Program fisheries in the 365 days

prior to submission of a transfer application to NMFS. Under this standard, captains and crew displaced by fleet contraction that have not found a position in one of the CR Program fisheries would not be permitted to acquire C shares until they participated in a landing. Based on the significant fleet contraction that occurred at the inception of the CR Program, it is likely that as many as two-thirds of the persons that would have met this standard prior to the implementation of the CR program would not currently meet this standard. To understand the effects of the status quo, the impacted individuals have been separated into two groups: Individuals that received an initial allocation, and individuals that did not receive an initial allocation.

When NMFS implemented the CR Program in 2005, NMFS made initial allocations of C share QS to CFEC permit holders that were individuals (*i.e.,* a natural person who is not a corporation, partnership, association, or other such entity), U.S. citizens, and who met the following historical and recent participation requirements:

(A) Had historical participation as crew in the fishery demonstrated by being the individual named on a State of Alaska Interim Use Permit for a QS crab fishery and made at least one legal landing per year for any 3 eligibility years under that permit based on data from fish tickets maintained by the State of Alaska.

(B) Had recent participation as crew in the fishery demonstrated by being the individual named on a State of Alaska Interim Use Permit for a QS crab fishery and made at least one legal landing under that permit in any 2 of 3 seasons based on data from fish tickets maintained by the State of Alaska.

Based on these criteria, 239 individuals received initial allocations of C share QS. These individuals were mostly captains because most of the named permit holders on ADF&G fish tickets were captains. Some individuals, who had participation in the crab fisheries similar to the individuals who received C share QS, were not eligible to receive C share QS because they were not the named permit holders on ADF&G fish tickets. These individuals were primarily crewmembers and some captains.

Under the current regulations, those individuals who received initial allocations of C share QS but were unable to find a position on a vessel due to vessel contraction, are unable to acquire C share QS because they do not meet the participation requirements. Also, a number of individuals who received an initial allocation of C share QS are unable to acquire C share QS because they are believed to have not maintained their activity in the fisheries. NMFS believes that since the 2009–2010 fishing year, on average, only approximately 100 individuals who received an initial allocation under the CR Program still participate in the CR Program.

The second group of individuals who are unable to acquire C share QS are those individuals who were not a part of the initial allocation of C share QS in 2005. Under the current regulations, these individuals are unable to acquire C share QS by transfer because they do not meet the current eligibility requirement for participation in a CR crab fishery in the 365 days prior to submission of an application for transfer of C share QS (*i.e.,* the recent participation requirement). The regulations at § 680.41(c)(2)(ii)(C) state that participation as crew can be proved by providing evidence of at least one delivery of a CR crab species through the submission of an ADF&G fish ticket imprinted with the applicant's State of Alaska permit card, an IFQ landing receipt showing the applicant individual as the hired master, or an affidavit from the vessel owner attesting to the applicant's participation in a delivery. Given the participation requirements in the current regulations, captains and crew who: (1) Did not receive an initial allocation, (2) were displaced from CR Program fisheries due to significant fleet consolidation, and (3) have not found work in one of the CR Program fisheries have been unable to demonstrate recent participation in a CR crab delivery and therefore cannot acquire C shares by transfer.

The Council determined that the current regulations do not allow individuals who participated in BSAI crab fisheries before implementation of the CR Program, and who may or may not have qualified for an initial allocation of QS, to reenter the fishery because they cannot qualify under the 365-day recent participation requirement. The Council also determined that current active participation requirements for acquiring C share QS by transfer may be overly burdensome for some captains and crew because of changes in fishing practices and fleet consolidation resulting from implementing the CR Program.

Based on public testimony and input from its Advisory Panel, the Council recommended modifications to the eligibility requirements for acquisition of C share QS by transfer to allow for a transitional eligibility period, during which individuals who have been unable to meet the recent participation requirement would be able to acquire C shares through relaxed participation requirements. The transitional eligibility period also would allow those individuals who are no longer active in the crab fisheries to either begin actively participating in the fishery or divest of their shares. The Council recommended, based on the RIR/IRFA and public testimony, that the transitional eligibility period should be limited to four years. The Council determined, and NMFS agrees, that this period would provide ample time to obtain C shares for those individuals looking to remain active in the fisheries, or divest C shares for those individuals who are no longer interested in participating.

Therefore, this proposed rule would modify the eligibility requirements for the transfer of C share QS, to include an exception where the eligibility requirements are less restrictive than the current requirements. Specifically, the proposed rule would permit during a transitional eligibility period the transfer of C share QS to an individual who is a U.S. citizen with at least 150 days of sea time as part of a harvesting crew in any U.S. commercial fishery and who either: (1) Received an initial allocation of CVC or CPC QS, or (2) participated in at least one delivery of crab from a fishery in the CR program in three of the five crab fishing years prior to the start of the CR Program, starting with the 2000/2001 crab fishing year through the 2004/2005 crab fishing year. The transitional eligibility period would be limited to four years.

Under this proposed rule, both initial recipients of C share QS as well as individuals who did not receive an initial allocation but who participated in CR crab fisheries for three of the five years prior to the start of the CR program, would be eligible to receive C share QS. Under the proposed rule, initial recipients of C share QS would be those individuals who received an initial allocation of C share QS regardless of whether those individuals still hold their initial allocation of C share QS. Because the proposed rule does not modify the current eligibility criteria at § 680.41(c)(1)(vii), an individual may acquire C share QS using either the existing eligibility criteria, or the exception proposed in this rule. The intended effect of the proposed change is to temporarily expand the pool of individuals eligible to acquire C share QS by transfer to include individuals who were active in the crab fishery immediately prior to implementation of the program, but who do not meet the current recent participation requirement for activity in

the 365 days preceding the transfer. Therefore, under this proposed rule, an individual may be eligible to acquire C share QS under the existing eligibility criteria, as well as the exception that would be added to the regulations under this proposed rule. Acceptable evidence for the proposed new eligibility criteria would be the same as for the current eligibility criteria at § 680.41(c)(2)(ii)(C).

The eligibility criteria added by this proposed rule would exist only for a period of four years from the effective date of this final rule, if Amendment 31 is approved. The proposed relaxation of the eligibility criteria would provide individuals formerly active in CR program fisheries, but who may not have been able to continue active participation in the CR crab fisheries, with an opportunity to acquire C share QS during the period of time in which current holders of C shares would be transitioning into compliance with the active participation requirements for holders of C shares that also would be imposed by this proposed rule. The proposed four-year duration of the relaxed eligibility criteria for acquiring C share QS by transfer coincides with the initial period of time in which C share QS holders would be required to transition into the active participation requirements developed by the Council and proposed in this rule. The Council determined and NMFS agrees that extending the proposed relaxed eligibility criteria beyond this transitional period is not necessary because the transitional period is not meant to allow individuals who have not participated in a CR Program fishery to join at any time because they have some type of historic participation. Instead, the transitional period is intended to be a remedy for those individuals wishing to become C share QS holders that were squeezed out by consolidation and were not able to get back into the fishery. The Council and NMFS determined that four years would be sufficient time for those individuals to acquire C share QS, find a position on a boat, and participate in CR Program fisheries without overwhelming the fisheries with too many individuals and not enough positions. After this transitional period, the relaxed eligibility criteria that would be implemented by this proposed rule would no longer be available.

The benefit to those receiving eligibility for acquiring C share QS during the transitional period and the effects on the market for C share QS could be influenced by several factors. If C share QS holders must be active in the crab fisheries to receive IFQ and retain C share QS, or if C share QS holders must divest after a period of inactivity, both of which would be required under this proposed rule and explained in the following sections, the transitional eligibility period could have minimal effects on individuals receiving the eligibility. An individual who becomes eligible to purchase C share QS during the proposed transitional eligibility period would be expected to satisfy participation requirements for C share QS holders and much less likely to purchase C share QS if the individual would not be eligible to receive IFQ or would be required to divest his or her C share QS holdings after a period of inactivity.

However, the relaxed eligibility criteria may have an adverse effect on individuals currently active as captains and crew in the CR Program fisheries. Competition for C share QS may increase with increased demand and with limited space for crew and captains, individuals may find more competition for jobs. However, individuals who do not currently have a position on a boat may be less interested in obtaining C share QS, and if there are more individuals interested and able to purchase C share QS, this may provide an opportunity for those individuals no longer wanting to remain active in the fishery to sell their shares for a competitive price.

Active Participation Requirements for Annual Issuance of C Share IFQ

The current regulations require individuals who receive C share IFQ to be on board the vessel harvesting those IFQ and prohibit the individual from leasing his or her C share IFQ. However, if a C share QS holder joins a cooperative, the IFQ from that C share QS are allocated to the cooperative, and the ''holder onboard'' requirement as well as the leasing prohibition no longer apply with respect to those IFQ. This disparate treatment of individual holders of C share QS who are members of a cooperative versus holders of C share QS who are not members of a cooperative has had several effects, which were not the intention of the Council when it created the CR Program and C shares. First, the exemptions from the ''holder onboard'' requirement and the leasing prohibition for holders of C shares who are members of a cooperative increase the incentive for holders of C shares to join a cooperative and essentially nullify the requirement for the holders of C shares to be onboard a vessel to harvest their IFQ. Since almost all holders of C share QS annually elect to join a cooperative, they do not have to be onboard the vessel while their C share IFQ are harvested and they are not prohibited from leasing their shares within the cooperative under the current requirements. While the Council intended to encourage the formation of cooperatives and the participation of holders of C shares as members in cooperatives, the Council expected that holders of C share would remain active as crew in the CR Program fisheries regardless of whether they were members of a cooperative. Additionally, NMFS expects that as active holders of C shares retire from captain and crew positions, many may elect to continue to remain members of cooperatives and retain their C share holdings, effectively reducing the number of holders of C shares who are actively participating in the fisheries. Lastly, the market for C shares could be less fluid under the current active participation requirements for crew, because individuals who retire or exit the fisheries are still able to retain their C shares and benefit from them through cooperative membership. NMFS expects that if only active captains and crew would be permitted to hold and receive benefits from C shares, the market for these shares would be more active and fluid, since individuals who retire or exit the fisheries would be required to transfer their C shares.

The Council's original intent for including C share QS in the CR Program was to maintain active participation in the crab fisheries by those QS holders. However, this has not happened. Instead, there is a strong incentive for individuals who hold C shares to join a cooperative and not be onboard the vessel for harvest of their IFQ. These exemptions have made the current participation requirements for holders of C shares essentially ineffective. Examining the activity of holders of C shares in the past few years of the CR Program provides perspective on the effects of the Council's and NMFS' proposed changes. According to RAM catch data, during the 2010/2011 crab fishing year, 108 of the 207 holders of C shares in the CR Program fisheries are estimated to not have participated in the preceding three seasons. NMFS does not know whether these holders of C shares were active as crew, as no data is kept on crew participation. NMFS expects that the share of the C share QS pool held by inactive individuals is a substantial portion of the C share QS pool.

This proposed rule revises the regulations to establish active participation requirements that a C share QS holder must satisfy to receive an annual allocation of C share IFQ. Under this proposed rule, C share QS holders would be required to

demonstrate active participation as crew over a rolling, three-year period of time by either: (1) Participating in at least one delivery of crab in a CR program fishery or (2) if the C share QS holder is an individual who received an initial allocation of C share QS, participating at least 30 days in either State of Alaska or Federal Alaska commercial fisheries. Initial recipients of C share QS, who choose to satisfy the proposed requirements through participation as crew in State of Alaska or Federal Alaska commercial fisheries, would need a minimum of 30 days of participation as crew during the three-year period, and that participation could be earned in State of Alaska commercial fisheries, U.S. commercial fisheries conducted in the U.S. Exclusive Economic Zone off Alaska, *i.e.,* Federal Alaska commercial fisheries, or a combination of both. A C share QS holder who does not meet the proposed active participation requirements every three years would not receive an annual IFQ allocation.

In order to demonstrate active participation as crew for issuance of IFQ, a C share QS holder would be required to complete a ''statement of participation'' that would be part of the annual Application for Crab IFQ. Beginning with IFQ applications for the 2015/2016 crab fishing year, a C share QS holder would have to state whether he or she: (1) Participated in at least one delivery of crab in any CR fishery during the crab fishing year immediately preceding the crab fishing year for which the holder is applying, or (2) if the holder was an initial recipient of CVC or CPC QS, participated in State of Alaska or Federal Alaska commercial fisheries during the crab fishing year immediately preceding the crab fishing year for which the QS holder is applying. If a C share QS holder answers ''Yes'' to either question, the holder would be required to attach evidence demonstrating that they participated as a crew member. Acceptable evidence of participation as crew would be ADF&G fish tickets imprinted with the applicant's State of Alaska permit card and signed by the applicant, an affidavit from the vessel owner supporting the applicant's participation as crew, or signed receipts for IFQ crab landings on which the applicant was acting as the permit holder's crab IFQ hired master. Although an applicant would be required to complete the statement of participation starting with the 2015/2016 Application for Crab IFQ, participation in the 2014/2015 crab fishing year would not count toward IFQ issuance for the 2018/2019 crab fishing year. The 3-year participation period for C share IFQ issuance would begin with the 2015/2016 crab fishing year, if Amendment 31 is approved. Because Amendment 31 would allow C share QS holders three crab fishing years in which to demonstrate compliance with the proposed participation requirements for issuance of C share IFQ, NMFS would not withhold issuance of C share IFQ for failure to meet participation requirements until the 2018/2019 crab fishing year. The proposed C share IFQ participation requirements would be required to be met on a rolling basis. Therefore, starting with the 2018/2019 annual Application for Crab IFQ and each year thereafter, an applicant for C share IFQ would be required to demonstrate that he or she met the proposed participation requirements during the three crab fishing years preceding the crab fishing year for which the applicant is applying.

The following hypotheticals illustrate the proposed participation requirements relative to the issuance of C share IFQ. In the first hypothetical, Individual Y is not an initial recipient of C share QS but has acquired C share QS by transfer. Under this proposed rule, in order to receive IFQ for the 2018/2019 crab fishing year, Individual Y would have to include evidence demonstrating participation as crew in at least one delivery in a CR Program fishery during the 2015/2016, 2016/2017, or 2017/2018 crab fishing year with his or her annual Application for Crab IFQ. Individual Y participates in deliveries of crab in a CR Program fishery during the 2015/2016 crab fishing year. Therefore, Individual Y would state in his or her Application for Crab IFQ for the 2016/2017 crab fishing year that he or she participated in the previous crab fishing year and would include evidence demonstrating this participation. NMFS would record this information, noting that because Individual Y satisfied the C share IFQ participation requirements in 2015/2016, Individual Y would be eligible to receive C share IFQ under the participation requirements through the 2018/2019 crab fishing year. In each Application for Crab IFQ where Individual Y includes evidence demonstrating participation as crew, NMFS would re-calculate the crab fishing year through which Individual Y would be eligible to receive IFQ. In this hypothetical, Individual Y would have to demonstrate participation as crew again in order to receive C share IFQ for the 2019/2020 crab fishing year.

In the second hypothetical, if a C share QS holder fails to meet the IFQ participation requirements, NMFS would not issue IFQ. In this hypothetical, Individual X is an initial recipient of C share QS and currently holds C share QS. However, he or she has joined a cooperative and no longer actively participates on a fishing vessel. Under this proposed rule, in order to receive IFQ for the 2018/2019 crab fishing year, Individual X would have to once again participate as a member of a harvesting crew for at least one delivery of crab in a CR program fishery or for at least 30 days in a State of Alaska or Federal Alaska commercial fishery prior to submitting his or her Application for Crab IFQ for the 2018/2019 crab fishing year. If Individual X is unable to do this, NMFS would not issue IFQ to Individual X and would send Individual X a C share IFQ Withholding Notice. The notice would inform Individual X that he or she did not meet the active participation requirements in order to receive IFQ. Individual X would have 30 days to provide NMFS with information demonstrating participation as required. If Individual X fails to submit the required information or submits insufficient information, NMFS would issue an Initial Agency Determination (IAD) that would describe NMFS' initial findings and would provide instructions to appeal. If Individual X proceeds with an appeal and is able to provide documentation which shows that he or she participated as required, then NMFS would issue the IFQ. If Individual X is unable to successfully appeal the IAD, then NMFS would not issue the IFQ.

Active Participation Requirements for Retention of C Share QS

In addition to proposed active participation requirements to receive annual allocations of IFQ, C share QS holders also would be required to satisfy active participation requirements in order to retain their C share QS. Under the proposed rule, a C share QS holder who did not receive an initial allocation of C share QS would be required to participate as crew in at least one delivery in one of the CR Program fisheries during any four consecutive crab fishing years in order to retain his or her C share QS. A holder of C share QS who received an initial allocation of C share QS would be required to meet active participation requirements in one of two ways. Under the proposed rule at 50 CFR 680.40(m), a C share QS holder who received an initial allocation of C share QS would be required to participate in as crew (1) at least one delivery in one of the CR Program crab fisheries during any four consecutive crab fishing years, or (2) at least 30 days of fishing in State of Alaska or Federal

Alaska commercial fisheries during any four consecutive crab fishing years in order to retain his or her C share QS. The first crab fishing year that would start the four-year participation period for retention of C share QS would be the 2015/2016 crab fishing year. Similar to the proposed participation requirements for IFQ, the period in which C share QS holders would be required to demonstrate compliance in order to retain their C share QS is a rolling period that would be required to be met during any consecutive four-year period. Because C share QS holders would have four crab fishing years in which to satisfy the proposed participation requirements for retention of C share QS, NMFS would not initiate revocation proceedings until after June 30, 2019. NMFS notes that because the proposed IFQ issuance participation requirements are the same as the proposed QS retention participation requirements but would be required to be met more frequently, a C shareholder who satisfies the proposed IFQ issuance participation requirements would also satisfy the proposed QS retention participation requirements. NMFS would remove revoked C share QS from the C share QS pool.

The following hypothetical illustrates how NMFS would implement the active participation requirements for retention of C share QS in conjunction with the participation requirements for IFQ issuance. Individual Y is not an initial recipient of C share QS but has acquired C share QS by transfer. If Individual Y includes in his or her 2018/2019 Application for Crab IFQ, evidence demonstrating participation as crew in deliveries in a CR Program fishery during the 2017/2018 crab fishing year, NMFS would determine that Individual Y met the participation requirements for IFQ issuance for the 2018/2019 crab fishing year, issue C share IFQ to Individual Y if all other requirements were met, and update its records to reflect that Individual Y is eligible to receive C share IFQ through the 2020/2021 crab fishing year and to retain his or her C share QS through the 2021/2022 crab fishing year. Individual Y would have to meet the proposed participation requirements no later than the 2020/2021 crab fishing year in order to receive IFQ for the 2021/2022 crab fishing year, and would have to meet the proposed participation requirements no later than the 2021/2022 crab fishing year to avoid C share QS revocation proceedings that would be added to 50 CFR 680.43 by this proposed rule. If Individual Y is unable or chooses not to participate as would be required to retain her C share QS, then NMFS would issue a Notice of C Share QS Inactivity to Individual Y, providing him or her with 60 days to provide NMFS with information demonstrating participation as crew that meets the requirements of § 680.40(m). NMFS would issue an IAD if, after this period, NMFS determines that Individual Y has failed to meet the participation requirements. Individual Y would then have an opportunity to administratively appeal the IAD before revocation would become effective. If Individual Y loses the appeal or chooses not to appeal the IAD, then NMFS would revoke all of Individual Y's C share QS.

The proposed rule would not exempt holders of C shares who join a cooperative from the proposed participation requirements to receive C share IFQ or to retain C share QS. Under the proposed rule, all holders of C shares, regardless of whether they have joined a cooperative, would be required to meet the proposed participation requirements for receiving C share IFQ and retaining C share QS. Additionally, the proposed rule would remove the prohibition on leasing C share IFQ, which has been in effect since July 1, 2008. The Council determined and NMFS agrees that the prohibition on leasing C share IFQ as a measure to ensure active participation would no longer be necessary under Amendment 31 because holders of C shares would be required to satisfy specific participation requirements and these participation requirements would apply to all holders of C shares even when they are members of a cooperative. Because the proposed rule would permit the leasing C share IFQ, the hardship exemptions at section 680.41(e)(3) are removed. These hardship exemptions are applicable when a prohibition on leasing C share IFQ is in effect, but would no longer be necessary when the prohibition on leasing C share IFQ is removed.

The Council recommended and NMFS supports revocation of C share QS, if the QS holder continues to be inactive, as an incentive for C share QS holders to divest so that the QS is not held inactive for extended periods of time. As the RIR/IRFA for this action explains at section 2.4.2, some current C share QS holders do not apply for C share IFQ; therefore the proposed active participation requirements for issuance of C share IFQ alone would not be effective at achieving the Council's goal of making holders of C shares active participants in the fisheries. The incentive for inactive C share QS holders to divest their QS could be rather minor absent a potential for revocation. The Council and NMFS anticipate that most inactive C share QS holders would divest before any QS is revoked by NMFS. In addition, active C share QS holders or those active crew members looking to acquire C share QS would also benefit from an increase in QS availability in the market.

Maintenance of C Share IFQ Allocation at Three Percent of the Annual TAC

Under the CR Program, the Council initially allocated 97 percent of the QS pool to vessel owners as catcher vessel owner (CVO) and catcher processor owner (CPO) QS and the remaining three percent as C share QS. Because the amount of IFQ issued annually is a function of the number of QS units and the annual TAC amount for a given fishery, the annual IFQ allocation generally reflects the same 97 percent allocation to vessel owners and three percent to vessel crew. For example, if Person Z owns two percent of the 97 percent of vessel owner QS and the TAC is 3,000,000lbs, then Person Z would receive IFQ for 58,200lbs, because 97 percent of 3,000,000lbs is 2,910,000lbs and two percent of that is 58,200lbs. This allocation method maintains the intended QS and IFQ percentages originally implemented by the Council. However, the proposed revocation of C share QS could affect the 97/3 split, reducing the amount of C share QS to less than three percent of the QS pool and consequently reducing the amount of IFQ allocated to holders of C shares. The Council's proposed revocation of inactive C share QS could cause some C share QS to be removed from the QS pool. Removing C share QS from the QS pool could reduce the C share QS below the three percent level originally established by the Council.

To ensure that C share QS yields IFQ at the three percent level intended by the Council, the proposed rule would modify the regulations to carry the ratio into the calculation of IFQ and specifically allocate 97 percent of the IFQ TAC for each CR crab fishery to CVO and CPO IFQ, and three percent of the IFQ TAC for each CR crab fishery to C share IFQ. The three percent allocation to C share IFQ would be divided among eligible CVC and CPC QS holders based on the proportion of C share QS they own. By separating the calculation of IFQ allocations to C share QS holders from allocation of IFQ to vessel owner QS holders, the allocation of IFQ to C share QS holders would be maintained at three percent of the IFQ TAC, regardless of whether some C share QS is revoked and removed from the C share QS pool.

Modification of IFQ, IPQ, and Cooperative Application Deadlines

Annually, QS holders are required to apply for IFQ either through an individual application, if not joining a cooperative, or through an application submitted by the cooperative manager as part of a cooperative application. Applications are currently due to NMFS Restricted Access Management Program (RAM) by August 1 with most crab fishing seasons beginning on October 15. PQS holders, similarly, must file applications annually by August 1 to receive IPQ. IPQ are not subject to cooperative management. Instead, the applications are filed by the PQS holder with IPQ issued directly to the PQS holder. To aid QS holders and PQS holders in avoiding untimely applications, NMFS maintains applications on its Web site, highlights the deadline on that site, and sends reminders to QS holders and PQS holders near the end of the crab fishing year to apply by the deadline for the next year.

RAM processes annual applications for cooperatives and individual QS holders before issuing IFQ and IPQ. During this period, RAM reviews the applications to ensure information is correctly recorded and QS holder filings are consistent with the applications of cooperatives to which they belong. Ownership and affiliation information that is part of or accompanying applications is reviewed to verify cap compliance and to determine the qualification of applicants to receive Class B IFQ (as QS holders with affiliations with PQS holders are issued Class A IFQ up to the amount of IPQ issued to its affiliates). Reconciliation of these affiliations is necessary to ensure Class A IFQ and Class B IFQ allocations are correctly apportioned for each recipient, as a correction of a Class A IFQ issuance may require reissuance of all IFQ to adjust the proportion of Class A IFQ to Class B IFQ for each recipient. Reissuance of IFQ would result in additional contracting costs, and possible changes in associations depending on choices of IFQ and IPQ holders to maintain the original matches. To ensure correct issuance of IFQ and IPQ (including the prescribed distribution of Class B IFQ derived from PQS holder affiliations), NMFS does not process any transfers of QS and PQS from the date applications for IFQ and IPQ are due until issuance of those IFQ and IPQ.

A further complication in the process is that a large number of applications (about 1/3) are received within just a few days of the filing deadline. It is also common for RAM to receive duplicate and triplicate applications, which may contain discrepancies that must be reconciled with the submitters. Applications must then be compared to QS and PQS holder files to identify persons who have failed to file by the application deadline. Each year, about 30 to 40 persons fail to file applications for IFQ or IPQ, or have issues with their applications. These persons are sent an Initial Administrative Determination (IAD) notifying them of either their failure to file or the discrepancies in their application, and informing them that they will not receive an annual allocation of IFQ or IPQ. Persons receiving an IAD may challenge the findings by notifying NMFS of their intent to appeal within 60 days of the date the IAD is issued.

In the event of an appeal, NMFS upholds the rights of a party to an annual allocation by holding the contested amount of IFQ or IPQ (whichever is the case) until NMFS reaches a Final Agency Action. At times, NMFS is able to reach Final Agency Action prior to the agency's issuance of IFQ and IPQ, thereby allowing the agency to either issue IFQ or IPQ to the successful appellant, or deny issuance to the unsuccessful appellant and re-calculate the amount of IFQ and IPQ to the other eligible applicants. However, if NMFS is unable to reach Final Agency Action prior to the agency's issuance of IFQ and IPQ, then NMFS continues to hold the contested amount of IFQ or IPQ, but issues IFQ and IPQ to the other eligible applicants. If the quota in question is either Class A IFQ or IPQ, then holding that quota could cause a mismatch in those pools with a portion of the corresponding pool rendered unusable. For example, if NMFS does not issue 100 pounds of Class A IFQ, then 100 pounds of IPQ would typically be available for use, but under the current regulations, they cannot be used due to the withheld IFQ. Most quota holders who are denied annual allocations by RAM for failing to submit a timely application typically do not appeal the denial, or in some cases they appeal, but do not prevail. However, regardless of the outcome, due to the length and rigor of the appeal process, it is almost impossible for NMFS to reach Final Agency Action prior to agency issuance of IFQ and IPQ to eligible applicants. When appellants prevail, issuance of the IFQ or IPQ typically occurs after the fishing season has opened and after the IFQ/IPQ matching period has occurred.

To address these timing issues, the Council recommended and NMFS proposes three modifications to the current regulations: (1) Move the IFQ, IPQ and cooperative application deadline to June 15 from the current date of August 1; (2) reduce, from 60 days to 30 days, the amount of time in which to file an appeal of an initial administrative determination (IAD) that denies an allocation of IFQ or IPQ for failure to submit a timely application; and (3) provide that an applicant's proof of timely filing would create an explicit regulatory presumption of timely filing.

The first measure would provide substantially more time (an additional 45 calendar days) between the application deadline and issuance of quota to address disputes and possibly reach final agency action on allocations of IFQ or IPQ. If NMFS could finalize its decisions regarding allocations of IFQ or IPQ prior to agency issuance of quota, the potential for unusable quota would be reduced. Although not a factor at the time the Council recommended moving the application deadline to June 15, the proposed change to the application deadline also would accommodate a recent change by the State of Alaska to the start of the Aleutian Islands golden king crab fishery. The State moved the season opening date for this fishery to August 1 from August 15. Because this fishery has very few QS holders, RAM does not need much time to process applications between the application deadline and agency issuance of IFQ and IPQ.

Because NMFS does not process transfers of QS or PQS during the time when NMFS is processing applications, the proposed June 15 application deadline would impose a restriction on QS and PQS holders. It would increase the amount of time during which the transfer of shares would be suspended, from June 15, rather than August 1, until NMFS issues IFQ or IPQ for that crab fishery, or until the State of Alaska announces that the crab fishery will not open for that crab fishing year. Moving the deadline to June 15 would create a period of approximately three and one-half months during which NMFS would not process transfers. However, the Council and NMFS determined that this period of time would have a minimal effect on fishery participants, since most CR Program fisheries are not open during this period. Also, persons wishing to transfer QS or PQS can agree to transfers that would be processed by NMFS after IFQ and IPQ is issued. Thereby, getting around the time during which the transfers are suspended.

The second measure would reduce the amount of time to appeal IADs that deny an allocation of IFQ or IPQ for failure to submit a timely application from 60 days to 30 days. Under the

current regulations, individuals have 60 days to appeal any decision of the agency, including decisions to withhold IFQ or IPQ. The result is that the time period to appeal usually lasts until shortly after the date on which NMFS issues IFQ and IPQ. Even if these appeals are prioritized, appeals can take several weeks to months to be resolved. Consequently, unless a QS or PQS holder chooses not to contest NMFS's decision to reject the application for IFQ or IPQ, there will likely be IFQ and IPQ withheld to satisfy due process requirements and to cover any finding in favor of the appellant. Additionally, depending on the timing, a successful appeal may result in NMFS issuing IFQ/IPQ after the start of, or late into, the crab fishing season for that fishery. The shorter appeal period and earlier application deadline could also allow for the resolution of appeals before or early in the fishing season thereby minimizing disruption to fishing operations.

The Council determined and NMFS agrees that a reduction in time to appeal from 60 days to 30 days for this type of decision would not treat the quota shareholder unfairly. NMFS makes every effort to ensure that participants receive notice of application deadlines and, typically, the administrators attempt to locate individuals failing to apply to ensure that failure is intentional. The issue in this type of appeal is whether the quota shareholder submitted a timely application; it is not whether a quota shareholder meets standards for initial eligibility to receive quota share. The shorter appeal period would apply only to IADs that deny an allocation of IFQ or IPQ for failure to submit a timely application and is intended to reduce the portions of the IFQ and IPQ pools that must be reserved by ensuring that administrators know which QS and PQS holders are disputing a denial, and possibly allowing for the resolution of appeals before or early in the season.

This proposed rule also would substitute the appeals process set forth at § 679.43 with the appeal procedures at 15 CFR part 906. Under this proposed rule, an applicant would be able to appeal any CR Program IAD pursuant to the appeal procedures at 15 CFR part 906. NMFS has established a National Appeals Office (NAO) located at NMFS Headquarters in Silver Spring, Maryland. In 2014, NMFS published a final rule implementing the rules of procedure for NAO appeals in 15 CFR part 906. (79 FR 7056, Feb. 6, 2014). The appeal procedures in 15 CFR part 906 are mandatory for appeals in limited access privilege programs (LAPPs) under section 303A of the Magnuson-Stevens Act. 15 CFR 906.1(b). Section 303A applies only to limited access privilege programs that were adopted after January 12, 2007, the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006. 16 U.S.C. 1853a. The CR Program was implemented in March 2005; therefore, CR Program appeals are not required to be heard under the procedural rules at 15 CFR part 906. NMFS may, however, request that NAO decide appeals in programs where NAO does not have mandatory jurisdiction. 15 CFR 906.1(d). NMFS proposes to use NAO for appeals of CR Program IADs and to adopt 15 CFR part 906 as the procedural rules for CR Program appeals. In the past, NMFS Alaska Region had its own appeals office and its own procedural rules for appeal in 50 CFR 679.43. However, NMFS Alaska Region no longer has its own appeals office and therefore is opting to use the NAO and the procedural rules for the NAO.

The third measure would provide an individual who possesses proof of timely filing of an application for IFQ or IPQ the presumption of having done so in instances where that NMFS has no record of receiving a complete and timely application. Proof could be in the form of a registered mail receipt if the application is mailed to NMFS, a confirmation page if the application is faxed to NMFS, or a delivery receipt from a commercial carrier. This proposed measure would serve to remind QS and PQS holders to maintain proof of their timely filing. By maintaining proof, the applicant may be able to avert a dispute concerning whether such filing was made; applicants who maintain adequate records of filing would likely resolve any dispute prior to receiving an IAD that an application was not filed. If the applicant filed an appeal, the applicant's documentation of timely filing would support the appeal and could speed resolution of the appeal.

Revisions to Registered Crab Receiver Reports

As was mentioned in the previous section, the State of Alaska adjusted the dates of the Aleutian Islands golden king crab season so that the fishery will now open on August 1 instead of August 15. Currently, regulations at § 680.5(m) require a RCR that also operates as a shoreside processor or stationary floating crab processor and receives and purchases landings of CR Program crab, to submit annually to NMFS a complete Ex-vessel Volume and Value Report for each reporting period in which the RCR receives CR Program crab. The current reporting time begins August 15 and extends through April 30, which coveres all CR Program crab fishing seasons. If NMFS were to maintain the same reporting period, it would no longer cover all crab fishing seasons, and any deliveries of CR Program crab prior to August 15 and after April 30 would not be included in the report. Therefore, this proposed rule would change the reporting period to August 1 through May 31 to cover all CR program crab fisheries. The adjusted reporting period will allow the RCR to capture any deliveries that occur from the start of the season and any deliveries that occur shortly after the season has closed. The proposed rule would also adjust the due date for the report from May 15 to May 31.

Classification

Pursuant to sections 304(b)(1)(A) and 305(d) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with Amendment 31, the FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

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

An initial regulatory flexibility analysis (IRFA) was prepared, as required by Section 603 of the Regulatory Flexibility Act (RFA) that describes the economic impact the provisions of Amendment 31 (*i.e.,* C share acquisition, use, and retention) in this proposed rule, if adopted, would have on small entities. Copies of the IRFA prepared for these provisions of Amendment 31 within the proposed rule are available from NMFS (see **ADDRESSES**). The IRFA incorporates by reference an extensive RIR/FRFA prepared for Amendments 18 and 19 to the FMP that detailed the impacts of the CR Program on small entities.

The IRFA for the Amendment 31 provisions of the proposed action describes the action, why this action is being proposed, the objectives and legal basis for the proposed rule, the type and number of small entities to which the proposed rule would apply, and the projected reporting, recordkeeping, and other compliance requirements of the proposed rule. It also identifies any overlapping, duplicative, or conflicting Federal rules and describes any significant alternatives to the proposed rule that accomplish the stated objectives of the Magnuson-Stevens Act and other applicable statutes and that would minimize any significant adverse

economic impact of the proposed rule on small entities. A summary of the RIR/IRFA follows.

To implement Amendment 31, this proposed rule would relax the eligibility requirements to allow individuals who are currently not eligible to acquire C shares by transfer to become eligible, for a transitional period, for such transactions. This action would also establish minimum participation requirements for C share QS holders to be eligible to receive an annual allocation of Individual Fishing Quota (IFQ); establish minimum participation requirements for C share QS holders to be eligible to retain their C share QS and establish an administrative process for revocation of an individual's C share QS, if he or she fails to satisfy the minimum participation requirements; establish a regulatory mechanism to ensure that three percent of the total allowable catch (TAC) for each CR Program crab fishery is allocated as IFQ to holders of C share QS; and remove the prohibition on leasing C share IFQ.

The entities directly regulated by this action are individuals who currently hold C share QS, and individuals who were at one time active in the crab fisheries as captain and crew prior to the implementation of the CR Program but who are no longer active as captain or crew. The Small Business Administration defines a small commercial finfish fishing entity as one that has annual gross sales of less than $19 million; a shellfish fishing small entity is one with less than $5 million fishing operations are small if they have less than $7 million in gross revenue (78 FR 37398, July 22, 2013).

The IRFA estimates that 179 individuals currently hold C shares. Of which, 70 are estimated to have been part of the 239 individuals who received an initial allocation of C shares based on their historical participation record. The IFRA also estimates that there are 750 individuals who were active in the crab fisheries as captain and crew prior to the implementation of the CR Program but who are no longer active as captain or crew; the proposed rule would allow those individuals to acquire C shares by transfer for a period of four years. Thus, the IRFA estimates that approximately 1100 individuals (750 who were active prior to rationalization, 239 who were initial recipients, and 109 who have since acquired C shares), would be impacted by the change in the regulations regarding the eligible individuals who would be able to acquire C shares by transfer in this proposed rule.

Based on the SBA's size standard, the Council and NMFS believe that all holders of C shares are small entities for purposes of the RFA.

Three alternatives, including the no action alternative, were considered to relax the eligibility requirements for the acquisition of C shares by transfer. The first alternative creates eligibility for entities that received an initial allocation of C shares. The second alternative creates eligibility for entities with historical participation in the CR Program fisheries. The Council decided to select both of the action alternatives to full expand the eligibility to encapsulate all those entities who had historically participated in the crab fisheries prior to rationalization. The Council did not consider further expanding the eligibility to include entities that do not have any type of historical participation in the crab fisheries, because the original intent in establishing C shares was to provide an opportunity for entities with a connection to the crab fisheries, through participation, to own shares.

This proposed rule contains a provision that no C shares would be revoked until 5 years after implementation of the amendment to the FMP. The Council intended that this provision would mitigate negative effects on individuals whose shares may be revoked by this action. The Council and NMFS considered two other options to delay revocations. Under the first, no revocations would have taken place until 5 years after implementation of the CR Program, which would have been the year 2010. The second option extended the period to 10 years after implementation of the CR Program, which would have been the year 2015. The preferred alternative would begin revocations 5 years after this proposed amendment is implemented. This alternative was selected because it would provide holders of C shares with certainty about the rules that will govern C shares and with time to consider business plans for their C shares. The preferred alternatives give holders of C shares time to plan whether to meet the new active participation requirements and retain their C shares or whether to divest their share holdings.

For the proposed provision requiring active participation to receive annual IFQ from C shares, the preferred alternative requires active participation over a 3-year period. For the proposed provision requiring active participation requirement to retain C shares, the preferred alternative requires active participation over a 4-year period. Three categories of alternatives were considered for this provision: the status quo alternative, which essentially has no active participation requirement because holders of C shares can and do assign their shares to cooperatives; alternatives that would require less or no active participation in the fisheries to maintain C share holdings; and alternatives that would require greater levels of participation as crew.

NMFS concluded that the status quo and the alternatives that require less participation to maintain C share holdings are inconsistent with the Council's intent to ensure that C shares are held by individuals who are active in the fisheries and to create a pool of C shares for use exclusively by individuals who are active in the fisheries. NMFS examined alternatives that required higher levels of participation to maintain C share holdings or that required participation exclusively in CR Program fisheries. NMFS concluded that these alternatives unduly constrained holders of C shares, given the fleet consolidation and other changes in crab fishing under the CR Program. With fewer vessels active in the fisheries, greater competition for crew jobs is an obstacle to maintaining active participation in the CR Program fisheries. By allowing individuals to meet a minimal landing requirement to maintain their active participation status and by allowing individuals who are initial recipients of C shares to meet the active participation requirements through fishing in non-crab commercial fisheries in Alaska, the preferred alternative would allow individuals to miss some seasons, when crew jobs may be difficult to secure. NMFS concluded that the preferred alternative reaches a reasonable balance between alternatives that would allow extended absences from active participation in the fisheries and alternatives that would require greater participation in the CR Program fisheries, an approach which fails to recognize the nature of the market for employment in the CR Program fisheries.

The Council did not consider an alternative to the regulatory mechanism to ensure three percent of the TAC for each CR Program fishery is allocated to holders of C share QS. Under the current regulations, approximately three percent of the IFQ pool is allocated as C share IFQ and 97 percent is allocated as owner share IFQ, as is required by the CR Program. However, with the new active participation provisions, and the potential for IFQ not to be allocated to entities which do not meet these provisions, there is a possibility that the C share IFQ allocation would be reduced. To ensure the C share IFQ pool remains at its intended levels, the Council requested a mechanism put in

place to maintain the C share IFQ pool at three percent of the IFQ pool, regardless of whether some holders of C share receive their annual IFQ allocation.

This rule also proposes several regulatory amendments that are not contained in Amendment 31 to the FMP. Specifically, the proposed rule would establishes an earlier deadline for filing annual IFQ, individual processing quota (IPQ), and crab harvesting cooperative IFQ applications, which would increase the amount of time during which NMFS would suspend the processing of IFQ and IPQ transfer applications; shorten the amount of time in which to appeal an initial administrative determination to withhold issuance of IFQ or IPQ; and provide in the regulations that an applicant's proof of timely filing for IFQ, IPQ, or cooperative IFQ would create a presumption of timely filing. Finally, the proposed rule would revise the reporting period and due date for CR Program registered crab receiver (RCR) Ex-vessel Volume and Value Reports.

These provisions would directly regulate holders of QS, PQS and cooperatives formed under the CR Program. Each of the cooperatives in the program includes from several to hundreds of QS holders as members and has revenues in excess of the small entity threshold; however, during the 2010–2011 fishing season, 64 QS holders elected not to join cooperatives. These 64 QS holders are all small entities for RFA purposes.

The IRFA based its estimates of small entities holding PQS on the number of employees of PQS-holding entities. As of 2011, 21 entities hold PQS. The IRFA estimated large entities, based on available records of employment and knowledge of foreign ownership of processing companies. Of these 21 entities, the IRFA estimated that 10 are large entities and 11 are small entities for RFA purposes.

The IRFA for this action did not analyze additional alternatives to the second proposed action, because this proposed action is a technical change to conform to changes by ADF&G to the Aleutian Islands Golden King Crab season. The Council did consider whether application deadlines earlier or later than the preferred alternative would be appropriate. The IRFA identified the June 15 deadline as the most practical date. Dates later than June 15 are likely to provide limited benefit over the current August 1 deadline. Dates later than June 15 are also unlikely to provide a benefit of avoiding withheld IFQ and IPQ that arise from unresolved administrative determinations of those allocations. The effects of unissued IFQ and IPQ shares may be more likely to fall on small entities because small entities may have less power to gain matching commitments from larger harvesting and processing interests for use of their Class A IFQ and IPQ to match with shares held by small entities. Similarly, the shortened 30-day period for appealing initial administrative determinations to withhold IFQ or IPQ is likely to have little effect on small entities' decisions whether to appeal a denial, as the filing of an appeal is a relatively straightforward process. Small entities may be the beneficiaries of reduced mismatched IFQ and IPQ that could be avoided through achieving final agency action earlier.

Collection-of-Information Requirements

This proposed rule contains collection-of-information requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). These requirements have been submitted to OMB for approval under OMB Control No. 0648–0514. Public reporting burden per response is estimated to average 2 hours for the Application for BSAI Crab Eligibility to Receive QS/PQS or IFQ/IPQ by Transfer; 2.5 hours for Application for Annual Crab Permit IFQ; 2.5 hours for Application for Annual Crab Permit IPQ; 30 minutes for Application for Converted CPO QS and CPO IFQ; 2.5 hours for Application for Crab Harvesting Cooperative IFQ Permit; 4 hours for Appeal for Denial of Application; 2.5 hours for Application for Transfer of Crab IFQ; 2.5 hours for Application for Transfer of Crab IPQ permit; 2 hours for the Crab Rationalization Program Registered Crab Receiver Ex-vessel Volume and Value Report; and 2 hours for Application for Transfer of a crab QS or PQS including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection information.

Public comment is sought regarding whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology.

Send comments on these or any other aspects of the collection of information, to NMFS (see **ADDRESSES**) and by email to *OIRA_Submission@omb.eop.gov* or fax to 202–395–7285. Notwithstanding any other provision of the law, no individual is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 680

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: December 18, 2014.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 680 is proposed to be 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 § 680.4, revise paragraphs (f)(1) and (n)(1)(i), and add paragraph (q) to read as follows:

§ 680.4 Permits.

* * * * *

(f) * * *

(1) A complete application must be received by NMFS no later than June 15 (or postmarked by this date, if sent via U.S. mail or a commercial carrier) for the upcoming crab fishing year for which a person is applying to receive IFQ or IPQ. If a complete application is not received by NMFS by this date, or postmarked by this date, the person will not receive IFQ or IPQ for the upcoming crab fishing year. In the event that NMFS has not received a complete and timely application by June 15, NMFS will presume that the application was timely filed if the applicant can provide NMFS with proof of timely filing.

* * * * *

(n) * * *

(1)(i) A complete application must be received by NMFS no later than June 15 (or postmarked by this date, if sent via U.S. mail or a commercial carrier) for the upcoming crab fishing year for which a person or crab harvesting cooperative is applying to receive converted CPO QS and the IFQ derived from that converted CPO QS. If a

complete application is not received by NMFS by this date, or postmarked by this date, the person or crab harvesting cooperative will not receive converted CPO QS and the IFQ derived from that converted CPO QS for the upcoming crab fishing year. In the event that NMFS has not received a complete and timely application by June 15, NMFS will presume that the application was timely filed if the applicant can provide NMFS with proof of timely filing.

* * * * *

(q) *Initial administrative determination (IAD).* The Regional Administrator will prepare and send an IAD to the applicant following the expiration of the 30-day evidentiary period if the Regional Administrator determines that the information or evidence provided by the applicant fails to support the applicant's claims and is insufficient to establish that the applicant meets the requirements, or if the additional information, evidence, or revised application is not provided within the time period specified in the letter that notifies the applicant of his or her 30-day evidentiary period. The IAD will indicate the deficiencies in the application, including any deficiencies with the information, the evidence submitted in support of the information, or the revised application. The IAD will also indicate which claims cannot be approved based on the available information or evidence. An applicant who receives an IAD may appeal under the appeals procedures set forth at 15 CFR part 906. If an applicant appeals an IAD denying an Application for Annual Crab IFQ, IPQ, or harvesting Cooperative IFQ Permit because the application was not timely filed, the appeal must be filed within 30 days after the date the IAD is issued. An applicant who avails himself or herself of the opportunity to appeal an IAD will not receive crab IFQ or IPQ until after the final resolution of that appeal in the applicant's favor.

■ 3. In § 680.5, revise paragraphs (m)(2) and (3) as follows:

§ 680.5 Recordkeeping and reporting (R&R).

* * * * *

(m) * * *

(2) *Reporting period.* The reporting period of the CR RCR Ex-vessel Volume and Value Report shall extend from August 1 through May 31 of the following year, inclusive.

(3) *Due Date.* A complete CR RCR Ex-vessel Volume and Value Report must be received by the Regional Administrator no later than May 31 of the reporting period in which the RCR received CR crab.

* * * * *

■ 4. In § 680.21, revise paragraphs (b)(1), (b)(2) introductory text, and (d)(1) as follows:

§ 680.21 Crab harvesting cooperatives.

* * * * *

(b) * * *

(1) *June 15 application deadline.* A complete application must be received together with a signed annual application for crab IFQ/IPQ permit forms of all members of the crab harvesting cooperative, by NMFS no later than June 15 (or postmarked by this date, if sent via U.S. mail or a commercial carrier) for the upcoming crab fishing year for which the crab harvesting cooperative is applying to receive IFQ. If a complete application is not received by NMFS by this date, or postmarked by this date, the crab harvesting cooperative will not receive IFQ for the upcoming crab fishing year. In the event that NMFS has not received a complete and timely application by June 15, NMFS will presume that the application was timely filed if the applicant can provide NMFS with proof of timely filing.

(2) *Contents.* A complete application must contain the following information:

* * * * *

(d) * * *

(1) *Transfer of QS.* A member of a crab harvesting cooperative may acquire or divest QS at any time in accordance with the transfer procedures in § 680.41. However, transfers of QS that occur after the June 15 deadline for crab harvesting cooperative IFQ permit applications will not be reflected in the type or amount of IFQ permit issued to the crab harvesting cooperative for that crab fishing year.

* * * * *

■ 5. In § 680.40,

■ a. Revise paragraph (g);

■ b. Revise paragraph (h)(1); and

■ c. Add paragraph (m) to read as follows:

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

* * * * *

(g) *Annual allocation of IFQ.*

(1) *General.* IFQ is assigned based on the underlying QS. Except for CVC and CPC QS permit holders who fail to meet the participation requirements at paragraph (g)(2) of this section, the Regional Administrator shall assign crab IFQs to each person who holds QS and submits a complete annual application for crab IFQ/IPQ permit as described under § 680.4. IFQ will be assigned to a crab QS fishery with the appropriate regional designation, QS sector, and IFQ class. This amount will represent the maximum amount of crab that may be harvested from the specified crab QS fishery by the person to whom it is assigned during the specified crab fishing year, unless the IFQ assignment is changed by the Regional Administrator because of an approved transfer, revoked, suspended, or modified under 15 CFR part 904.

(2) *Eligibility for CVC and CPC IFQ.* For each crab fishing year after June 30, 2018, CVC and CPC QS will yield IFQ if the individual holding that CVC or CPC QS permit:

(i) Has participated as crew in at least one delivery of crab in any CR crab fishery during the three crab fishing years preceding the crab fishing year for which the individual is filing an annual crab IFQ permit application; or

(ii) Was an initial recipient of CVC or CPC QS and participated as crew in at least 30 days of fishing in a commercial fishery managed by the State of Alaska or in a U.S. commercial fishery in the U.S. Exclusive Economic Zone off Alaska during the three crab fishing years preceding the crab fishing year for which the individual is filing an annual crab IFQ permit application. Individuals may combine participation as crew in State and federal commercial fisheries to meet this requirement.

(3) *Withholding of CVC or CPC IFQ.* Beginning July 1, 2018, the Regional Administrator will withhold issuance of CVC or CPC IFQ to an individual who has not met the participation requirements set forth in paragraph (g)(2) of this section. The Regional Administrator will withhold an individual's CVC IFQ or CPC IFQ in accordance with the procedures set forth in paragraphs (g)(3)(i) and (ii) of this section.

(i) *Notice of C Share IFQ Withholding.* The Regional Administrator will issue a Notice of C Share IFQ Withholding to an individual holding CVC or CPC QS if, after reviewing the CVC or CPC QS holder's Applications for Annual Crab IFQ Permit, the Regional Administrator determines that the CVC or CPC QS holder has failed to meet the participation requirements in paragraph (g)(2) of this section. A CVC or CPC QS holder who receives such a Notice of C Share IFQ Withholding will have 30 days to provide the Regional Administrator with information demonstrating participation as crew that meets the requirements of paragraph (g)(2) of this section.

(ii) *Initial administrative determination (IAD).* The Regional

Administrator will prepare and send an IAD to the CVC or CPC QS holder following the expiration of the 30-day evidentiary period if the Regional Administrator determines that the information or evidence provided by the CVC or CPC QS holder fails to demonstrate participation as crew and is insufficient to rebut the information included in the CVC or CPC QS holder's Applications for Annual Crab IFQ Permit, or if the additional information or evidence is not provided within the time period specified in the Notice of C Share IFQ Withholding. The IAD will explain the basis for the withholding of IFQ. A CVC or CPC QS holder who receives an IAD withholding IFQ may appeal under the appeals procedures set forth at 15 CFR part 906. A CVC or CPC QS holder who avails himself or herself of the opportunity to appeal an IAD withholding IFQ will not receive crab IFQ until after the final resolution of that appeal in the QS holder's favor.

(h) * * *

(1) *General.* (i) The annual allocation of IFQ to any person (p) in any crab QS fishery (f) will be based on the TAC of crab for that crab QS fishery less the allocation to the Western Alaska CDQ Program (''CDQ Reserve'') and Western Aleutian Islands golden king crab fishery. Expressed algebraically, the annual IFQ allocation formula is as follows:

(A) $\text{IFQ TAC}_f = \text{TAC}_f - (\text{CDQ Reserve}_f + \text{Allocation for the Western Aleutian Island golden king crab fishery})$

(B) $\text{IFQ}_{pf} = \text{IFQ TAC}_f \times (\text{QS}_{pf}/\text{QS pool}_f)$

(ii) *CVO, CPO, CVC, and CPC IFQ.* Each year, 3 percent of the IFQ TAC_f will be allocated as CVC IFQ or CPC IFQ and 97 percent of the IFQ TAC_f will be allocated as CVO IFQ or CPO IFQ. Expressed algebraically, the formulas for the annual IFQ allocations are as follows:

(A) $\text{CVC/CPC IFQ}_f = \text{IFQ TAC}_f \times 0.03$

(B) $\text{CVO/CPO IFQ}_f = \text{IFQ TAC}_f \times 0.97$

* * * * *

(m) *Participation requirements for retention of CVC QS and CPC QS.* (1) Beginning July 1, 2019, and each crab fishing year thereafter, individuals allocated CVC QS or CPC QS must meet the participation requirements set forth in paragraph (m)(2) of this section in order to retain their CVC QS or CPC QS.

(2) An individual issued a CVC QS or CPC QS permit must demonstrate to NMFS that he or she:

(i) Has participated as crew in at least one delivery of crab in any CR crab fishery during the previous four consecutive crab fishing years; or

(ii) Was an initial recipient of CVC QS or CPC QS and participated as crew in at least 30 days of fishing in a commercial fishery managed by the State of Alaska or in a U.S. commercial fishery in the U.S. Exclusive Economic Zone off Alaska during the previous four consecutive crab fishing years. Individuals may combine participation as crew in State and Federal commercial fisheries to meet this requirement.

(3) An individual issued a CVC QS or CPC QS permit may include information demonstrating compliance with the participation requirements in paragraph (m)(2) of this section with the individual's annual Application for Crab IFQ.

(4) If an individual issued a CVC QS or CPC QS permit fails to meet the participation requirements in paragraph (m)(2) of this section, NMFS will revoke all of the individual's CVC QS or CPC QS in accordance with 50 CFR 680.43.

■ 6. In § 680.41, revise paragraphs (b)(1), (c)(1)(vii) and (viii), (c)(2)(ii)(C), and (e)(3) to read as follows:

§ 680.41 Transfer of QS, PQS, IFQ and IPQ.

* * * * *

(b) * * *

(1) *Application.* An application is required to transfer any amount of QS, PQS, IFQ, or IPQ. A transfer application will not be approved until the necessary eligibility application has been submitted and approved by NMFS in accordance with paragraph (c) of this section. The Regional Administrator will not approve any transfers of QS, PQS, IFQ, or IPQ in any crab QS fishery from June 15 until either the date of the issuance of IFQ or IPQ for that crab QS fishery, or the date on which the State of Alaska announces that a crab QS fishery will not open for that crab fishing year.

* * * * *

(c) * * *

(1) * * *

Quota type	Eligible person	Eligibility requirements
*	*	* * * * *
(vii) CVC or CPC QS	An individual	(A) Who is a U.S. citizen with: (*1*) At least 150 days of sea time as part of a harvesting crew in any U.S. commercial fishery, and (*2*) Recent participation as crew in at least one delivery of crab in a CR crab fishery in the 365 days prior to submission of the application for eligibility, (B) From [*EFFECTIVE DATE OF FINAL RULE IMPLEMENTING AMENDMENT 31*] until [*DATE 4 YEARS AFTER EFFECTIVE DATE OF FINAL RULE IMPLEMENTING AMENDMENT 31*], CVC or CPC QS also may be transferred to an individual who is a U.S. citizen with: (*1*) At least 150 days of sea time as part of a harvesting crew in any U.S. commercial fishery, and (*2*) Who either (*i*) Received an initial allocation of CVC or CPC QS; or (*ii*) Participated in at least one delivery of crab in a CR crab fishery in any 3 of the 5 crab fishing years starting on July 1, 2000, through June 30, 2005.
(viii) CVC or CPC IFQ	All eligible individuals for CVC or CPC QS.	According to the requirements in paragraph (c)(1)(vii) of this section.

* * * * *

(2) * * *

(ii) * * *

(C) *Eligibility for CVC or CPC QS/IFQ.* Indicate (YES or NO) whether this application is intended for a person who wishes to buy CVC or CPC QS/IFQ. If YES, provide evidence demonstrating that the applicant meets the criteria set forth in paragraph (c)(1)(vii) of this section 680.41. Acceptable evidence is limited to an ADF&G fish ticket imprinted with the applicant's State of Alaska permit card and signed by the applicant, an affidavit from the vessel owner, or a signed receipt for an IFQ crab landing on which the applicant

was acting as the permit holder's crab IFQ hired master.

* * * * *

(e) * * *

(3) *IFQ derived from CVC QS or CPC QS.* (i) IFQ derived from CVC or CPC QS may be transferred by lease on an annual basis.

* * * * *

■ 7. Revise § 680.43 to read as follows:

§ 680.43 Revocation of CVC and CPC QS.

(a) Beginning July 1, 2019, the Regional Administrator will revoke all CVC QS and CPC QS held by an individual who has not met the participation requirements set forth in § 680.40(m). The Regional Administrator will revoke an individual's CVC QS or CPC QS in accordance with the procedures set forth in this section.

(b) *Notice of C Share QS Inactivity.* The Regional Administrator will issue a Notice of C Share QS Inactivity to an individual holding CVC or CPC QS if, after reviewing the CVC or CPC QS holder's Applications for Annual Crab IFQ Permit, the Regional Administrator determines that the CVC or CPC QS holder has failed to meet the participation requirements in § 680.40(m). A CVC or CPC QS holder who receives such a Notice will have 60 days to provide the Regional Administrator with information demonstrating participation as crew that meets the requirements of § 680.40(m).

(c) *Initial administrative determination (IAD).* The Regional Administrator will prepare and send an IAD to the CVC or CPC QS holder following the expiration of the 60-day evidentiary period if the Regional Administrator determines that the information or evidence provided by the CVC or CPC QS holder fails to demonstrate participation as crew and is insufficient to rebut the information included in the CVC or CPC QS holder's Applications for Annual Crab IFQ Permit, or if the additional information or evidence is not provided within the time period specified in the Notice of C Share QS Inactivity. The IAD will explain the basis for the revocation determination. A CVC or CPC QS holder who receives an IAD for revocation may appeal under the appeals procedures set forth at 15 CFR part 906. A CVC or CPC QS holder who avails himself or herself of the opportunity to appeal an IAD for revocation will not receive crab IFQ or IPQ until after the final resolution of that appeal in the QS holder's favor.

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