

year is held by a crab harvesting cooperative. This exemption is forfeited if that vessel is used to harvest any amount of CVO or CPO IFQ not held by a crab harvesting cooperative during the same crab fishing year.

(5) A person holding a CVC or CPC IFQ permit is required to be aboard the vessel upon which their IFQ is being harvested.

(6) A person holding CVO or CPO QS does not have to be aboard the vessel being used to harvest their IFQ if they hold at least a 10 percent ownership interest in the vessel upon which the IFQ is to be harvested and are represented on board the vessel by a crab IFQ hired master employed by that QS holder as authorized under § 680.4.

(7) Ownership of a vessel means, for purposes of this section:

(i) A sole proprietor; or

(ii) A person that directly or indirectly owns a 10 percent or greater interest in an entity that owns a vessel.

[70 FR 10241, Mar. 2, 2005, as amended at 70 FR 33395, June 8, 2005; 70 FR 75421, 75422, Dec. 20, 2005; 71 FR 32865, June 7, 2006; 73 FR 29983, May 23, 2008; 73 FR 35088, June 20, 2008; 74 FR 25457, May 28, 2009; 78 FR 28531, May 15, 2013; 81 FR 4212, Jan. 26, 2016; 81 FR 92702, Dec. 20, 2016; 82 FR 52014, Nov. 9, 2017]

§ 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 participa-

tion 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.

[80 FR 15899, Mar. 26, 2015]

§ 680.44 Cost recovery.

(a) *Cost recovery fees—(1) Responsibility.* The person documented on the IFQ, IPQ, CDQ, RCR, Commercial Fisheries Entry Commission (CFEC), or State of Alaska Commissioner's permit as the permit holder at the time of a CR crab landing must comply with the requirements of this section.

(i) Subsequent transfer of IFQ, IPQ, CDQ, or QS does not affect the permit holder's liability for noncompliance with this section.

(ii) Non-renewal of an RCR permit does not affect the permit holder's liability for noncompliance with this section.

(2) *Fee liability determination.* (i) All CR allocation holders and RCR permit holders will be subject to a fee liability for any CR crab debited from a CR allocation during a crab fishing year, except for crab designated as personal use or deadloss, or crab confiscated by NMFS or the State of Alaska.

(ii) Fee liability must be calculated by multiplying the applicable fee percentage by the ex-vessel value of the

CR crab received by the RCR at the time of receipt, except as provided by paragraph (b)(3) of this section.

(iii) NMFS will provide a summary to all RCR permit holders during the last quarter of the crab fishing year. The summary will explain the fee liability determination including the current fee percentage, details of raw crab pounds debited from CR allocations by permit, port or port-group, species, date, and prices.

(3) *Fee collection.* (i) All RCRs who receive CR crab are responsible for submitting the cost recovery payment for all CR crab received.

(ii) All RCRs who receive CR crab in a crab fishing year must maintain and submit records for any crab cost recovery fees collected under the corresponding RCR permit.

(4) *Payment—(i) Payment due date.* An RCR permit holder must submit any crab cost recovery fee liability payment(s) to NMFS at the address provided in paragraph (a)(4)(iii) of this section no later than July 31 of the crab fishing year following the crab fishing year in which the payment for a CR crab landing was made.

(ii) *Payment recipient.* Make payment payable to NMFS.

(iii) *Payment address.* Submit payment and related documents as instructed on the fee submission form. Payments may be made electronically through the NMFS Alaska Region Web site at <http://alaskafisheries.noaa.gov>. Instructions for electronic payment will be made available on both the payment Web site and a fee liability summary letter mailed to the RCR permit holder.

(iv) *Payment method—(A)* Prior to June 1, 2020, payment must be made in U.S. dollars by personal check drawn on a U.S. bank account, money order, bank-certified check, or electronically by credit card.

(B) On or after June 1, 2020, payment must be made electronically in U.S. dollars by automated clearing house, credit card, or electronic check drawn on a U.S. bank account.

(b) *Ex-vessel value determination and use—(1) General.* An RCR permit holder must use either the ex-vessel value determined for shoreside processors or the ex-vessel value determined for at-

sea Catcher/Processors (CP), depending on their activity. Ex-vessel value includes all cash, services, or other goods-in-kind exchanged for CR crab.

(2) *Shoreside ex-vessel value.* Shoreside processing facilities must use the price paid at the time of purchase as ex-vessel value for the purposes of calculating fee liability. Shoreside processing facilities must include any subsequent retroactive payments as adjustments to the initial calculation of fee liability.

(3) *Catcher/processor ex-vessel value—(i) General.* Catcher/processors must use the corresponding CP standard price(s) for the purposes of calculating fee liability.

(ii) *CP standard prices.* As part of the summary described in paragraph (a)(2)(iii) of this section, the Regional Administrator will provide CP standard prices calculated for the current year during the last quarter of each crab fishing year. The CP standard prices will be described in U.S. dollars per raw crab pound, for CR crab debited from CR allocations during the current crab fishing year.

(iii) *Effective period.* CP standard prices established by NMFS shall apply to all landings made in the same crab fishing year as the CP standard price provided for that year and shall replace any CP standard prices previously provided by NMFS.

(iv) *Determination.* NMFS will calculate the CP standard prices to reflect, as closely as possible, the current crab fishing year's average shoreside processor price by fishery and by species, and any variations in reported shoreside ex-vessel values of CR crab. The Regional Administrator will base CP standard prices on the following types of information:

(A) Landed pounds by CR crab, port-group, and month;

(B) Total shoreside ex-vessel value by CR crab, port-group, and month; and

(C) Price adjustments, including retroactive payments.

(4) *Fee liability calculation.* All RCRs must base all fee liability calculations on the ex-vessel value that correlates to CR crab that is debited from a CR allocation and recorded in raw crab pounds.

Fishery Conservation and Management

§ 680.44

(c) *Crab fee percentage*—(1) *Established percentage.* The crab fee percentage is the amount as determined by the factors and methodology described in paragraph (c)(2) of this section. This amount will be announced by publication in the FEDERAL REGISTER in accordance with paragraph (c)(3) of this section. This amount must not exceed 3 percent pursuant to 16 U.S.C. 1854(d)(2)(B).

(i) The calculated crab fee percentage will be divided equally between the harvesting and processing sectors.

(ii) Catcher/Processors must pay the full crab fee percentage determined by the fee percentage calculation for all CR crab debited from a CR allocation.

(2) *Calculating fee percentage value.* Each year NMFS shall calculate and publish the fee percentage according to the following factors and methodology:

(i) *Factors.* NMFS must use the following factors to determine the fee percentage:

(A) The catch to which the crab cost recovery fee will apply;

(B) The ex-vessel value of that catch; and

(C) The costs directly related to the management and enforcement of the Crab Rationalization Program.

(ii) *Methodology.* NMFS must use the following equations to determine the fee percentage:

Harvesting and Processing Sectors: $[100 \text{ (DPC / V)}] 0.5$

Catcher/Processors: 100 (DPC / V)

where:

“DPC” is the direct program costs for the Crab Rationalization Program for the previous fiscal year, and

“V” is the ex-vessel value of the catch subject to the crab cost recovery fee liability for the current year.

(3) *Publication*—(i) *General.* During the first quarter of each crab fishing year, NMFS shall calculate the crab fee percentage based on the calculations described in paragraph (c)(2) of this section.

(ii) *Effective period.* The calculated IFQ fee percentage remains in effect through the end of the crab fishing year in which it was determined.

(4) *Applicable percentage.* The RCR permit holder must use the crab fee percentage in effect at the time a CR

crab is debited from a CR allocation to calculate the crab cost recovery fee liability for such CR crab. The RCR permit holder must use the crab fee percentage in effect at the time a CR crab is debited from a CR allocation to calculate the crab cost recovery fee liability for any retroactive payments for that CR crab.

(d) *Underpayment of fee liability.* (1) Under §680.4, an applicant will not receive new IFQ, IPQ, or RCR permits until he or she submits a complete application. A complete application shall include full payment of an applicant's complete crab cost recovery fee liability as reported by the RCR.

(2) If an RCR fails to submit full payment for crab cost recovery fee liability by the date described in paragraph (a)(4) of this section, the Regional Administrator may:

(i) At any time thereafter send an IAD to the RCR permit holder stating that the RCR permit holder's estimated fee liability, as indicated by his or her own submitted information, is the crab cost recovery fee liability due from the RCR permit holder.

(ii) Disapprove any transfer of IFQ, IPQ, QS, or PQS to or from the RCR permit holder in accordance with §680.41.

(3) If an RCR fails to submit full payment by the application deadline described at §680.4, no IFQ or IPQ permit will be issued to that RCR for that crab fishing year.

(4) Upon final agency action determining that an RCR permit holder has not paid his or her crab cost recovery fee liability, the Regional Administrator may continue to withhold issuance of any new IFQ, IPQ, or RCR permit for any subsequent crab fishing years. If payment is not received by the 30th day after the final agency action, the matter will be referred to the appropriate authorities for purposes of collection.

(e) *Over payment.* Upon issuance of final agency action, any amount submitted to NMFS in excess of the crab cost recovery fee liability determined to be due by the final agency action will be returned to the RCR permit holder unless the permit holder requests the agency to credit the excess

amount against the permit holder's future crab cost recovery fee liability.

(f) *Appeals and requests for reconsideration.* An RCR permit holder who receives an IAD may either appeal the IAD pursuant to 50 CFR 679.43 or request reconsideration. Within 60 days from the date of issuance of the IAD, the Regional Administrator may undertake reconsideration of the IAD on his or her own initiative. If a request for reconsideration is submitted or the Regional Administrator initiates reconsideration, the 60-day period for appeal under 50 CFR 679.43 will begin anew upon issuance of the Regional Administrator's reconsidered IAD. The Regional Administrator may under-

take only one reconsideration of the IAD, if any. If an RCR permit holder fails to file an appeal of the IAD pursuant to 50 CFR 679.43 or request reconsideration within the time period provided, the IAD will become the final agency action. In any appeal or reconsideration of an IAD made under this section, an RCR permit holder has the burden of proving his or her claim.

(g) *Fee submission form.* An RCR must submit an RCR permit holder fee submission form according to §680.5(g).

[70 FR 10241, Mar. 2, 2005, as amended at 71 FR 44232, Aug. 4, 2006; 73 FR 76190, Dec. 15, 2008; 74 FR 51520, Oct. 7, 2009; 81 FR 23649, Apr. 22, 2016]

TABLE 1 TO PART 680—CRAB RATIONALIZATION (CR) FISHERIES

Fishery Code	CR Fishery	Geographic Area
BBR	Bristol Bay red king crab (<i>Paralithodes camtschaticus</i>).	In waters of the EEZ with: (1) A northern boundary of 58°30' N. lat., (2) A southern boundary of 54°36' N. lat., and (3) A western boundary of 168° W. long. and including all waters of Bristol Bay.
BSS	Bering Sea Snow crab (<i>Chionoecetes opilio</i>).	In waters of the EEZ with: (1) A northern and western boundary of the Maritime Boundary Agreement Line as that line is described in the text of and depicted in the annex to the Maritime Boundary Agreement between the United States and the Union of Soviet Socialist Republics signed in Washington, June 1, 1990, and as the Maritime Boundary Agreement Line as depicted on NOAA Chart No. 513 (6th edition, February 23, 1991) and NOAA Chart No. 514 (6th edition, February 16, 1991), and (2) A southern boundary of 54°30' N. lat. to 171° W. long., and then south to 54°36' N. lat.
EAG	Eastern Aleutian Islands golden king crab (<i>Lithodes aequispinus</i>).	In waters of the EEZ with: (1) An eastern boundary the longitude of Scotch Cap Light (164°44' W. long.) to 53°30' N. lat., then West to 165° W. long., (2) A western boundary of 174° W. long., and (3) A northern boundary of a line from the latitude of Cape Sarichef (54°36' N. lat.) westward to 171° W. long., then north to 55°30' N. lat., then west to 174° W. long.
EBT	Eastern Bering Sea Tanner crab (<i>Chionoecetes bairdi</i>).	In waters of the EEZ with: (1) A western boundary the longitude of 166° W. long., (2) A northern boundary of the Maritime Boundary Agreement Line as that line is described in the text of and depicted in the annex to the Maritime Boundary Agreement between the United States and the Union of Soviet Socialist Republics signed in Washington, June 1, 1990, and as the Maritime Boundary Agreement Line as depicted on NOAA Chart No. 513 (6th edition, February 23, 1991) and NOAA Chart No. 514 (6th edition, February 16, 1991), and (3) A southern boundary of 54°30' N. lat.
PIK	Pribilof red king and blue king crab (<i>Paralithodes camtschaticus</i> and <i>P. platypus</i>).	In waters of the EEZ with: (1) A northern boundary of 58°30' N. lat., (2) An eastern boundary of 168° W. long., and (3) A southern boundary line from 54°36' N. lat., 168° W. long., to 54°36' N. lat., 171° W. long., to 55°30' N. lat., 171° W. long., to 55°30' N. lat., 173°30' E. lat., and then westward to the Maritime Boundary Agreement Line as that line is described in the text of and depicted in the annex to the Maritime Boundary Agreement between the United States and the Union of Soviet Socialist Republics signed in Washington, June 1, 1990, and as the Maritime Boundary Agreement Line as depicted on NOAA Chart No. 513 (6th edition, February 23, 1991) and NOAA Chart No. 514 (6th edition, February 16, 1991).