

Fishery Conservation and Management

§ 680.43

those PQS to another person under the requirements described at § 680.41;

(3) Received by an RCR who is not the initial recipient of those PQS; and

(4) Received by an RCR within the boundaries of the ECC for which that PQS and IPQ derived from that PQS is, or was, designated in the ROFR.

(8) Any IPQ crab that is received by an RCR will not be considered use of IPQ by an IPQ holder for the purposes of paragraphs (b)(1) and (b)(2) of this section, if the IPQ is subject to an exemption pursuant to § 680.4(p).

(c) *Vessel limitations.* (1) Except for vessels that participate solely in a crab harvesting cooperative as described under § 680.21 and under the provisions described in paragraph (c)(4) of this section, no vessel may be used to harvest CVO or CPO IFQ in excess of the following percentages of the TAC for that crab QS fishery for that crab fishing year:

- (i) 2.0 percent for BSS;
- (ii) 2.0 percent for BBR;
- (iii) 2.0 percent for EBT;
- (iv) 2.0 percent for WBT;
- (v) 4.0 percent for PIK;
- (vi) 4.0 percent for SMB;
- (vii) 20.0 percent for EAG;
- (viii) 20.0 percent for WAG; or
- (ix) 20.0 percent for the WAI crab QS fishery west of 179° W. long.

(2) CVC or CPC IFQ used on a vessel will not be included in determining whether a vessel use cap is met.

(3) A single person who receives an initial allocation of QS that results in IFQ that is in excess of the vessel use caps, in paragraph (c)(1) of this section, that person may catch and retain crab harvested with the resulting IFQ with a single vessel. However, this provision does not apply to IFQ resulting from QS derived from transfer of an LLP crab license that occurred after June 10, 2002. Two or more persons may not catch and retain their IFQ with one vessel in excess of these limitations.

(4) A vessel use cap would not apply to a vessel if all of the CVO or CPO IFQ used on that vessel in a crab fishing 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 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

§ 680.44

50 CFR Ch. VI (10–1–23 Edition)

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, as amended at 87 FR 42394, July 15, 2022]

§ 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