

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

For additional information, see the direct final rule which is located in the Rules section of this **Federal Register**.

Dated: February 1, 2008.

**Ira W. Leighton,**

*Acting Regional Administrator, EPA New England.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 680

[Docket No. 070718364-7908-02]

RIN 0648-AV19

#### 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 proposes regulations implementing Amendment 25 to the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs (FMP) and a provision of the Coast Guard and Maritime Transportation Act of 2006 (Coast Guard Act). These proposed regulations would amend the Crab Rationalization Program. Amendment 25 to the FMP satisfies the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 requirement for the Secretary of Commerce to amend the FMP to authorize conversion of catcher vessel owner quota shares and processor quota shares to newly created converted catcher processor owner quota shares. The Secretary approved Amendment 25 on April 12, 2007. The Coast Guard Act mandates the Secretary to issue processing quota share to Blue Dutch, LLC, under specific conditions. This proposed action is necessary to implement Amendment 25 and the Coast Guard Act. This action is intended to promote the goals and objectives of

the Magnuson-Stevens Fishery Conservation and Management Act, the Coast Guard Act, the FMP, and other applicable law.

**DATES:** Comments must be received no later than March 17, 2008.

**ADDRESSES:** Send comments to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by "RIN 0648-AV19", by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal website at <http://www.regulations.gov>.
- Mail: P. O. Box 21668, Juneau, AK 99802.
- Fax: (907) 586-7557.
- Hand delivery to the Federal Building: 709 West 9<sup>th</sup> Street, Room 420A, Juneau, AK.

All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (e.g., name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

NMFS will accept anonymous comments. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe portable document file (pdf) formats only.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this rule may be submitted to NMFS at the above address, and by email to [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov) or fax to 202-395-7285.

Copies of Amendment 25 and the Regulatory Impact Review (RIR) for this action may be obtained from the NMFS Alaska Region at the address above or from the Alaska Region website at <http://www.fakr.noaa.gov/sustainablefisheries.htm>.

**FOR FURTHER INFORMATION CONTACT:**

Glenn Merrill, 907-586-7228, [glenn.merrill@noaa.gov](mailto:glenn.merrill@noaa.gov) or Gretchen Harrington, 907-586-7228, [gretchen.harrington@noaa.gov](mailto:gretchen.harrington@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The king and Tanner crab fisheries in the exclusive economic zone of the Bering Sea/Aleutian Islands are managed under the FMP. The FMP was prepared by the North Pacific Fishery Management Council (Council) under the Magnuson-

Stevens Fishery Conservation and Management Act as amended by the Consolidated Appropriations Act of 2004 (Public Law 108-199, section 801). Amendments 18 and 19 to the FMP amended the FMP to include the Crab Rationalization Program. A final rule implementing these amendments was published on March 2, 2005 (70 FR 10174).

#### Crab Rationalization Program (Program)

To implement the Program in 2005, NMFS initially issued processing quota shares (PQS), catcher vessel owner quota share (CVO QS), and catcher processor owner quota share (CPO QS) to eligible applicants. NMFS issued PQS and QS for nine crab fisheries in the BSAI. In 2006, NMFS initially issued Bristol Bay red king crab (*Paralithodes camtschaticus*) and snow crab (*Chionoecetes opilio*) PQS to the Blue Dutch, LLC, under the requirements of section 417 of the Coast Guard Act.

CVO QS represents an exclusive but revocable privilege that authorizes the holder to receive an annual allocation to harvest a specific percentage of the total allowable catch (TAC) from a fishery. The annual allocations of TACs, in pounds, are referred to as individual fishing quotas (IFQs).

PQS represents an exclusive but revocable privilege to receive deliveries of a specific portion of the annual TAC from a fishery. An annual allocation of PQS is referred to as individual processing quota (IPQ) and expressed in pounds of crab. Harvesters holding CVO IFQ must deliver a portion of their IFQ to processors with a like amount of IPQ available.

For most crab fisheries, CVO QS and PQS is designated for specific geographic regions. Crab harvested with regionally designated CVO QS is required to be delivered to a processor in the designated region. Likewise, a processor with regionally designated PQS is required to accept delivery of and process crab in the designated region. Two regional designations were created for the snow crab and Bristol Bay red king crab fisheries. The North Region consists of all areas in the Bering Sea north of 56°20' N. latitude. The South Region is all other areas. The regional designation of CVO QS and PQS preserves the historic geographic distribution of landings in the fisheries.

CPO QS represents an exclusive but revocable privilege to harvest a percentage of the TAC and process that crab onboard. Under the Program, CPO QS does not have regional designations and is not required to be delivered to a processor holding available IFQ.

### Coast Guard Act

On July 11, 2006, the President signed the Coast Guard Act which contained in section 417 a provision mandating the Secretary of Commerce to issue PQS for the Bristol Bay red king crab and the Bering Sea snow crab fisheries to Blue Dutch, LLC, under two specific conditions.

First, NMFS must issue Blue Dutch PQS equal to 0.75 percent of the total number of PQS units. NMFS issued an initial administrative determination on July 31, 2006, to issue Blue Dutch 3,015,229 units of Bristol Bay red king crab PQS and 7,516,253 units of snow crab PQS. NMFS assigned a regional designation to the PQS units issued to Blue Dutch according to the procedures established in the regulations at 50 CFR 680.40(b)(2)(iv).

Second, NMFS must issue IPQ for that PQS whenever the TAC for that fishery is more than 2 percent higher than the most recent TAC in effect for that fishery prior to September 15, 2005. The TAC used for this calculation is the total TAC, which includes the CDQ allocation. Accordingly, NMFS determined that it will issue Bristol Bay red king crab IPQ to Blue Dutch when the TAC for that fishery is greater than 15,732,480 lb (7,136.1 mt). NMFS will issue snow crab IPQ to Blue Dutch when the TAC for that fishery is greater than 21,350,640 lb (9,684.5 mt). This proposed rule is necessary to specify in regulations the statutory thresholds for annually issuing IPQ to Blue Dutch to ensure the regulations implementing the Program conform to the Coast Guard Act. The proposed rule prohibits the transfer of the PQS units issued under the Coast Guard Act because the Act explicitly requires NMFS to issue the PQS to Blue Dutch.

### Amendment 25

On January 12, 2007, the President signed the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (MSRA, Public Law 109-479), which added a new requirement in section 122(a) for the Secretary of Commerce, not later than 90 days after the date of enactment of that act, to amend the FMP to modify the Program to authorize conversion of North CVO QS and North PQS to newly created converted CPO QS.

Amendment 25 to the FMP complies with the MSRA by amending the FMP to authorize an eligible entity and its commonly owned affiliates to combine North PQS and North CVO QS and exchange these shares for newly created converted CPO QS. While the MSRA does not specifically define which

fisheries are subject to this provision, converted CPO QS would be created for only the snow crab and Bristol Bay red king crab fisheries, because these were the only fisheries for which the eligible entities were initially issued North PQS and North CVO QS, as specified in the MSRA.

NMFS published the notice of availability for Amendment 25 on February 5, 2007 (72 FR 5255), with a public comment period that closed on April 6, 2007. NMFS received one public comment on Amendment 25. The commenter opposed Amendment 25 because she is quite concerned about the legislation. The Secretary of Commerce approved Amendment 25 on April 12, 2007. This proposed rule is necessary to implement Amendment 25.

This proposed rule would authorize two types of quota share conversions and define the entities eligible to make those conversions.

First, an eligible entity holding PQS, along with its commonly owned affiliates, could combine its North CVO QS for Bristol Bay red king crab or snow crab with its North PQS for that fishery and exchange these shares for converted CPO QS on an annual basis. Entities could do this under the following two conditions: (1) if NMFS initially issued the entity both CPO QS and PQS under the Program, and that PQS, in combination with the PQS of its commonly owned affiliates, is less than 7 percent of the total PQS pool for that year; or (2) if NMFS initially issued the entity CPO QS under the Program and PQS under the Coast Guard Act. An eligible entity would be limited to converting only the PQS that it, along with its commonly owned affiliates, was initially issued by NMFS.

Second, an eligible entity holding CVO QS, along with its commonly owned affiliates, could combine its North PQS for Bristol Bay red king crab or snow crab with its North CVO QS for that fishery and exchange these shares for converted CPO QS on an annual basis. The only entity that could do this would be an entity to which NMFS initially issued CPO QS and PQS under the Program, and that PQS, in combination with the PQS of its commonly owned affiliates, is more than 7 percent of the total PQS pool for that year. This eligible entity would be limited to converting only the CVO QS that it, along with its commonly owned affiliates, was initially issued by NMFS.

According to the NMFS Official Record, three individual entities are eligible for these new provisions. Yardarm Knot, Inc., and Blue Dutch, LLC, would be eligible for the first type of conversion. Trident Seafoods, Inc.,

would be eligible for the second type of conversion. These entities would elect on an annual basis whether to receive converted CPO QS and the amount of North CVO QS and North PQS they wish to convert by completing the annual application for converted CPO QS/IFQ permit and submitting that application along with the annual application for crab IFQ/IPQ permit by August 1 for that crab fishing year.

Entities applying for a converted CPO QS permit and resulting CPO IFQ would be required to provide information on any person who is affiliated, as the term "affiliation" is defined at § 680.2, to that entity and indicate the amount of PQS and CVO QS in either the BBR or BSS crab QS fishery with a north region designation for issuance as converted CPO QS.

The proposed rule specifies a number of provisions for converted QS/IFQ to conform with the MSRA and the Program's implementing regulations. Converted CPO QS and the resulting CPO IFQ would not be transferable. This restriction on transfers is consistent with the MSRA eligibility standards that only entities that meet the specific requirements of the Act are eligible to receive converted CPO QS. However, CPO IFQ derived from converted CPO QS may be issued to a cooperative.

The proposed rule specifies that (1) eligible entities would receive one unit of North CPO QS in exchange for one unit of North CVO QS and 0.9 units of North PQS and (2) the amount of IFQ derived from the converted CPO QS issued to each entity could not exceed one million pounds per fishery during any calendar year.

Additionally, the proposed rule would implement the area of validity in section 122(a)(4) of the MSRA by requiring that any crab harvested under a CPO IFQ permit derived from converted CPO QS must be offloaded in the North Region, defined in the Program as the Bering Sea subarea north of 56°20' N. latitude.

Converting PQS and CVO QS to converted CPO QS would allow entities to harvest and process crab onboard a catcher processor. Conversion could reduce each eligible entity's operating costs associated with purchasing crab, processing crab on land or in a stationary floater processor, and complying with the Program's arbitration system. NMFS can not predict the annual amount of converted CPO QS that would be annually issued because the participants would annually elect to exercise this provision and need not request conversion of all CVO QS and PQS held.

Sections 122(b) and (c) of the MSRA include additional requirements for fees and off-loading for converted CPO QS; however, the statute does not require the Secretary of Commerce to implement these requirements and therefore they are not part of Amendment 25 and will not be implemented by Federal rulemaking. The MSRA requires the holder of converted CPO QS to pay a fee of five percent of the ex-vessel value of the crab harvested with those shares to any local governmental entities in the North Region, if the PQS used to produce the converted CPO QS was originally derived from the processing activities that occurred in a community under the jurisdiction of those local governmental entities. The State of Alaska may collect from the holder of the converted CPO QS a fee of one percent of the ex-vessel value of the crab harvested with those shares. Additionally, crab harvested with converted CPO QS shall be off-loaded in those communities receiving the local governmental entities fee revenue.

Section 122(d) of the MSRA also provides that, as part of its periodic review of the Program, the North Pacific Fishery Management Council may review the effects on communities in the North Region of allowing the conversion to CPO QS. Under this section, if the Council determines that Amendment 25 adversely affects the communities, the Council may recommend to the Secretary of Commerce, and the Secretary may approve, changes to the Program necessary to mitigate those adverse effects.

Section 122(e) of the MSRA requires an additional FMP amendment and rule making to modify the use caps for processing North Region snow crab. Under this section, custom processing arrangements do not count against any use cap for the processing of snow crab in the North Region by a shore-based crab processor. NMFS issued an enforcement policy on January 19, 2007, that provides guidance to the industry on NMFS' enforcement and interpretation of this section, which is effective until superseded by future rulemaking. At its December meeting, the Council adopted Amendment 27 to the FMP that would implement this MSRA provision. NMFS intends to publish a proposed rule for Amendment 27 in the spring of 2008.

#### Classification

The Assistant Administrator for Fisheries, NOAA, has determined that this proposed rule is consistent with the Magnuson-Stevens Fishery

Conservation and Management Act and other applicable laws.

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

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

Department of Commerce Chief Counsel for Regulations has certified to the Small Business Administration, under Section 605(b) of the Regulatory Flexibility Act, that this proposed rule would not have a significant economic impact on a substantial number of small entities. NMFS finds that the proposed action is not likely to have the potential to have a significant economic impact on any small entities participating in these fisheries because no small entities will be directly regulated by this action.

Section 122(a) of the MSRA defines the entities eligible to elect to exercise this provision. According to the NMFS Official Record, three individual entities are eligible under the MSRA for these new provisions; Yardarm Knot, Inc., Blue Dutch, LLC, and Trident Seafoods Corporation. These three entities do not qualify as small entities according to the Small Business Administration criteria.

The Small Business Administration has established size criteria for all major industry sectors in the United States, including fish harvesting and fish processing businesses. A business involved in fish harvesting is a small business if it is independently owned and operated and not dominant in its field of operation (including its affiliates) and if it has combined annual receipts not in excess of \$4 million for all its affiliated operations worldwide. A seafood processor is a small business if it is independently owned and operated, not dominant in its field of operation, and employs 500 or fewer persons on a full-time, part-time, temporary, or other basis, at all its affiliated operations worldwide. A business involved in both the harvesting and processing of seafood products is a small business if it meets the \$4 million criterion for fish harvesting operations.

Yardarm Knot and its affiliates own two large catcher processors, the Highland Light and the Westward Wind. The Highland Light primarily targets pollock, and the Westward Wind participates in the Bristol Bay red king

crab and Bering Sea snow crab and Tanner crab fisheries. In addition, Yardarm Knot operates a salmon processing plant in Naknek that employs up to 450 people during the peak season. Yardarm Knot substantially exceeds the 500 employee threshold applicable to shore-based processing entities.

Blue Dutch operates vessels in the crab and groundfish fisheries in the North Pacific. Blue North Fisheries (an affiliate of Blue Dutch) has a fleet of seven catcher processors, ranging in size from 124 ft to 180 ft. The fleet primarily participates in the hook-and-line Pacific cod fishery in the Bering Sea. Since Blue Dutch operates no shore-based facilities, it is not regulated by this action as a shore-based facility. Instead it is subject to regulation as an at-sea operation and as a catcher vessel operation. Catch by Blue Dutch and its affiliates substantially exceeds the \$4.0 million annual gross receipts threshold applicable to at-sea operations and catcher vessels.

Trident Seafoods operates 3 factory trawlers that primarily target pollock in the Bering Sea. Trident also owns seven at-sea processors that produce salmon, herring, crab, and groundfish products, eleven catcher vessels that target pollock and Pacific cod, and five catcher vessels that primarily catch Bristol Bay red king crab, Bering Sea snow crab, and Tanner crab (*C. bairdi*). Trident operates large shore-side processing plants in Akutan, St. Paul, Kodiak, and Sand Point, Alaska, in addition to smaller plants in other Alaska communities. The Akutan facility is the largest seafood processing plant in North America, and processes pollock, crab, and halibut. The St. Paul plant primarily processes crab, and the Sand Point and Kodiak facilities process Pacific cod, sablefish, crab, halibut, pollock, salmon, and other groundfish. Trident's corporate offices are located in Seattle, Washington, and the company also operates fish processing facilities in Seattle, Anacortes, and Bellingham, Washington; Motley, Minnesota; and Newport, Oregon. Trident substantially exceeds the 500 employee threshold criterion applicable to shore-based processors.

A Regulatory Impact Review was prepared to assess all costs and benefits of available regulatory alternatives. The Regulatory Impact Review describes the potential size, distribution, and magnitude of the economic impacts that this action may be expected to have. Copies of the RIR prepared for this proposed rule are available from NMFS (see **ADDRESSES**).

*Collection-of-Information*

This proposed rule contains a collection-of-information requirement subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). This requirement has been submitted to OMB for approval. Public reporting burden for annual application for converted CPO QS and CPO IFQ permit is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection-of-information.

Public comment is sought regarding whether (1) 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; (2) ways to enhance the quality, utility, and clarity of the information to be collected; and (3) 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 the National Marine Fisheries Service (see **ADDRESSES**), and e-mail to [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov), or fax to (202) 395-7285.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a 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, Recordkeeping and reporting requirements.

Dated: February 11, 2008.

**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 is revised to read as follows:

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

2. In § 680.2, add the definition of "Converted CPO QS" in alphabetical order to read as follows:

**§ 680.2 Definitions.**

\* \* \* \* \*

*Converted CPO QS* means CPO QS for the BBR and BSS crab QS fisheries that is issued to the entities defined in § 680.40(c)(5)(ii), (c)(5)(iii), or (c)(5)(iv) based on the procedures established in § 680.40(c)(5).

\* \* \* \* \*

3. In § 680.4, revise paragraph (b)(1) and add paragraphs (b)(3) and (n) to read as follows:

**§ 680.4 Permits.**

\* \* \* \* \*

(b) \* \* \*

(1) Crab QS is issued by the Regional Administrator to persons who qualify for an initial allocation under § 680.40 or receive QS by transfer under § 680.41. Once issued, a crab QS permit is valid until modified under paragraphs (b)(2) or (b)(3) of this section, or by transfer under § 680.41; or until the permit is revoked, suspended, or modified pursuant to § 679.43 of this chapter or under 15 CFR part 904. To qualify for a crab QS permit, the applicant must be a U.S. citizen.

\* \* \* \* \*

(3) A converted CPO QS permit is valid until the end of the crab fishing year for which the permit is issued.

\* \* \* \* \*

(n) *Contents of annual application for converted CPO QS/IFQ permit.* (1)(i) A complete application must be received by NMFS no later than August 1 of the 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, that person or crab harvesting cooperative will not receive converted CPO QS and the IFQ derived from that converted CPO QS for that crab fishing year.

(ii) To receive converted CPO QS/IFQ this application must be accompanied by a timely and complete application for crab IFQ/IPQ described at paragraph (f) of this section or a timely and complete application for a crab harvesting cooperative IFQ permit described at paragraph (m) of this section.

(2) For the application to be considered complete, all fees required by NMFS must be paid, and any EDR required under § 680.6 must be submitted to the DCA. In addition, the applicant must include the following information..

(i) *Entity identification.* Indicate the entity (Entity A, B, or C) described in § 680.40(c)(5)(ii) through (c)(5)(iv) for which you are applying to receive converted CPO QS.

(ii) *Applicant information.* Enter applicant's name and NMFS Person ID; applicant's permanent business mailing address and any temporary mailing address the applicant wishes to use; and applicant's business telephone number, facsimile number, and e-mail address.

(A) For Entity A or B.

(1) Identify the amount of CVO QS in either the BBR or BSS crab QS fishery with a north region designation for issuance as converted CPO QS; and

(2) Identify the amount of PQS in either the BBR or BSS crab QS fishery initially issued to you by NMFS with a north region designation for issuance as converted CPO QS.

(B) For Entity C.

(1) Identify the amount of CVO QS in either the BBR or BSS crab QS fishery initially issued to you by NMFS with a north region designation for issuance as converted CPO QS; and

(2) Identify the amount of PQS in either the BBR or BSS crab QS fishery with a north region designation for issuance as converted CPO QS.

(iii) *Affiliate information for Entities A and B.* (A) For Entities A and B

described in § 680.40(c)(5)(ii) and (c)(5)(iii), indicate the permanent business mailing address and any temporary mailing address; business telephone number, facsimile number, and e-mail address of any person who is affiliated with you based on information provided in an annual application for IFQ/IPQ that is approved by the Regional Administrator for that crab fishing year;

(B) Indicate the amount of PQS in either the BBR or BSS crab QS fishery initially issued to that person with a north region designation for issuance as converted CPO QS.

(C) Indicate the amount of CVO QS in either the BBR or BSS crab QS fishery with a north region designation held by that person for issuance as converted CPO QS.

(iv) *Affiliate information for Entity C.*

(A) For Entity C described in § 680.40(c)(5)(iv), indicate the permanent business mailing address and any temporary mailing address; business telephone number, facsimile number, and e-mail address of any person who is affiliated with you based on information provided in an annual application for IFQ/IPQ that is approved by the Regional Administrator for that crab fishing year;

(B) Indicate the amount of PQS in either the BBR or BSS crab QS fishery with a north region designation for issuance as converted CPO QS.

(C) Indicate the amount of CVO QS in either the BBR or BSS crab QS fishery issued to that person with a north region

designation for issuance as converted CPO QS.

(v) *Certification of applicant and affiliates.* The applicant and any persons who are affiliated with the applicant and named on the application must sign and date the application certifying that all information is true, correct, and complete to the best of his/her knowledge and belief. If the application is completed by an authorized representative, proof of authorization must accompany the application.

4. In § 680.7, add paragraph (c)(6) to read as follows:

**§ 680.7 Prohibitions.**

\* \* \* \* \*

(c) \* \* \*

(6) For any person who is not an entity defined in § 680.40(c)(5)(ii), (c)(5)(iii), or (c)(5)(iv) to:

(i) Hold converted CPO QS.

(ii) Use the CPO IFQ derived from that converted CPO QS outside of a crab harvesting cooperative.

\* \* \* \* \*

5. In § 680.40, add paragraphs (c)(5), (c)(6), (e)(3), and (j)(4) to read as follows:

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

\* \* \* \* \*

(c) \* \* \*

(5) *Issuance of converted CPO QS.* (i) For each crab fishing year, the Regional Administrator may issue converted CPO QS for the BBR or BSS crab QS fishery with a north region designation to an entity described in paragraphs (c)(5)(ii), (c)(5)(iii), or (c)(5)(iv) of this section if NMFS has approved an application for converted CPO QS/IFQ for that crab fishing year.

(ii) Entity A is comprised only of Yardarm Knot, Inc. (NMFS ID # 675).

(iii) Entity B is comprised only of Blue Dutch, LLC (NMFS ID # 3163).

(iv) Entity C is comprised only of Trident Seafoods, Inc. (NMFS ID # 8184).

(v) NMFS will issue Entity A, B, or C described in paragraphs (c)(5)(ii)

through (c)(5)(iv) of this section one unit of converted CPO for each unit of CVO QS and 0.9 units of PQS indicated in an approved application for converted CPO QS/IFQ.

(vi) For each crab fishing year, the Regional Administrator will not issue CPO QS for the BBR or BSS crab QS fishery:

(A) To Entity A described in paragraph (c)(5)(ii) of this section that is greater than the amount of converted CPO QS that may be derived from the amount of PQS units with a north region designation initially issued by NMFS to Yardarm Knot, Inc. (NMFS ID # 675), and any affiliates of Yardarm Knot Inc. as listed on an annual application for converted CPO QS/IFQ for that crab fishing year;

(B) To Entity B described in paragraph (c)(5)(iii) of this section that is greater than the amount of converted CPO QS that may be derived from the amount of PQS units with a north region designation initially issued by NMFS to Blue Dutch, LLC, (NMFS ID # 3163) under paragraph (e)(3) of this section and any affiliates of Blue Dutch, LLC, as listed on an annual application for annual application for converted CPO QS/IFQ for that crab fishing year; and

(C) To Entity C described in paragraph (c)(5)(iv) of this section that is greater than the amount of converted CPO QS that may be derived from the amount of CVO QS units with a north region designation initially issued by NMFS to Trident Seafoods, Inc., (NMFS ID # 8184) and any affiliates of Trident Seafoods Inc. as listed on an annual application for converted CPO QS/IFQ for that crab fishing year;

(vii) CPO IFQ derived from converted CPO QS may be issued to a crab harvesting cooperative only if the entity described in paragraph (c)(5)(ii), (c)(5)(iii), or (c)(5)(iv) of this section holding the converted CPO QS is a member of that crab harvesting cooperative.

(6) *Offloading requirements for CPO IFQ derived from converted CPO QS.* Any crab harvested under a CPO IFQ permit derived from converted CPO QS

must be offloaded in the Bering Sea subarea north of 56°20' N. lat.

\* \* \* \* \*

(e) \* \* \*

(3) *PQS issued to Blue Dutch, LLC.* (i) Pursuant to Public Law 109–241, NMFS issued 3,015,229 units of PQS for the BBR crab QS fishery and 7,516,253 units of PQS for the BSS crab QS fishery.

(ii) PQS units issued to Blue Dutch, LLC, under paragraph (e)(3)(i) of this section were assigned a regional designation according to the procedures established in paragraph (b)(2)(iv) of this section.

(iii) PQS units issued to Blue Dutch, LLC, under paragraph (e)(3)(i) of this section may not be transferred to any other person.

\* \* \* \* \*

(j) \* \* \*

(4) *IPQ issued to Blue Dutch, LLC—(i) BBR IPQ.* For each crab fishing year that the total allowable catch for BBR CR crab is greater than 15,732,480 lb (7,136.2 mt), NMFS will issue IPQ for the 3,015,229 units of PQS issued to Blue Dutch, LLC, pursuant to Public Law 109–241.

(ii) *BSS PQS.* For each crab fishing year that the total allowable catch for BSS CR crab is greater than 21,350,640 lb (9,684.6 mt), NMFS will issue IPQ for the 7,516,253 units of PQS issued to Blue Dutch, LLC, pursuant to Public Law 109–241.

\* \* \* \* \*

6. In § 680.41:

a. Paragraphs (c)(1)(iv) through (c)(1)(vi) are redesignated as paragraphs (c)(1)(vi) through (c)(1)(viii), respectively.

b. New paragraphs (c)(1)(iv) and (c)(1)(v) are added.

c. Paragraph (c)(1)(i) is revised.

The additions and revision read as follows:

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

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

Quota type	Eligible person	Eligibility requirements
(i) PQS not issued under § 680.40(e)(3)(i) * * * * *	Any person	None.
(iv) Converted CPO QS	N/A	Converted CPO QS may not be transferred.
(v) CPO IFQ derived from Converted CPO QS * * * * *	N/A	CPO IFQ derived from Converted CPO may not be transferred.

\* \* \* \* \*

7. In § 680.42, paragraph (a)(5) is revised, and paragraph (a)(7) is added to read as follows:

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

(a) \* \* \*

(5) IFQ that is used by a crab harvesting cooperative is not subject to the use caps in this paragraph (a) except as provided for in paragraph (a)(7) of this section.

\* \* \* \* \*

(7) In a calendar year, an entity as described in § 680.40(c)(5)(ii), (c)(5)(iii),

or (c)(5)(iv), may not use more than 1,000,000 lb (453.6 mt) of IFQ derived from converted CPO QS in the BBR or BSS crab QS fisheries.

\* \* \* \* \*

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