

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Parts 679 and 680****[Docket No. 080312430–8503–01]****RIN 0648–AW56****Fisheries of the Exclusive Economic Zone Off Alaska; Western Alaska Community Development Quota Program, Rockfish Program, Amendment 80 Program; Bering Sea and Aleutian Islands Area 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 to provide harvesting cooperatives, crab processing quota share holders, and Western Alaska Community Development Quota (CDQ) groups with the option to make intercooperative transfers, crab individual processing quota transfers, and inter-group transfers through an automated, web-based process. To facilitate web-based transfers, NMFS would remove the requirement for notarized signatures for all crab non-permanent leases of individual fishing quota and individual processor quota and remove unnecessary quota share price-related questions. The purpose of this action is to reduce paperwork burdens placed on the fishing industry by providing the option of electronic transfer through the Internet. This action would allow cooperatives, processors, and CDQ groups to shorten response time to management, market, weather, and other fishery and operational conditions and to increase harvesting and processing efficiency. This action also proposes a variety of “housekeeping” but necessary regulatory amendments including: removing detailed description of applications from regulatory text; removing detailed NMFS mail, fax, and delivery addresses and replacing them with one paragraph stating that the form may be submitted in accordance with instructions on the form; removing outdated survey-type questions from two applications; dividing one application into three separate applications; revising the NMFS Alaska Region web address; and correcting cross-references.

**DATES:** Comments must be received no later than June 10, 2009.

**ADDRESSES:** You may submit comments, identified by 0648–AW56, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>.
- Fax: 907–586–7557
- Mail: P.O. Box 21668, Juneau, AK 99802.
- 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 (for example, name, address, etc.) 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 (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Copies of the Categorical Exclusion (CE), Regulatory Impact Review (RIR), and Initial Regulatory Flexibility Analysis (IRFA) prepared for this action may be obtained from the NMFS Alaska Region, P.O. Box 21668, Juneau, Alaska 99802, Attn: Ellen Sebastian, and on the NMFS Alaska Region website at <http://alaskafisheries.noaa.gov>.

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 e-mail to [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov) or by fax to 202–395–7285.

**FOR FURTHER INFORMATION CONTACT:** Patsy A. Bearden, 907–586–7008.

**SUPPLEMENTARY INFORMATION:** NMFS manages the U.S. groundfish fisheries of the Bering Sea and Aleutian Islands in the Exclusive Economic Zone under the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI FMP) and the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA FMP). The crab fisheries are managed under the Fishery Management Plan for Bering Sea and Aleutian Islands King and Tanner Crabs (Crab FMP). The BSAI FMP, GOA FMP, and Crab FMP were prepared by the North Pacific Fishery Management Council (Council) under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens

Act). Regulations implementing the FMPs appear at 50 CFR part 679 and part 680. General regulations that pertain to U.S. fisheries appear at subpart H of 50 CFR part 600.

**Background**

The Council has adopted and NMFS has implemented five management programs that allocate quota share and associated harvesting or processing privileges to qualified entities and allow for the transfer of these privileges among qualified entities upon approval by NMFS. The provision for electronic online quota transfers is proposed for four of these programs—the Western Alaska Community Development Quota Program (CDQ Program), the Central GOA Rockfish Pilot Program (Rockfish Program), Amendment 80 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (Amendment 80 Program), and in the Bering Sea and Aleutian Islands Area Crab Rationalization (CR) Program. Each of these programs authorizes transfers of quota shares under particular circumstances. Depending on the circumstances, the transfers—which are typically leasing arrangements—are between individuals, cooperatives, or various commercial entities. The fifth quota share program, Halibut and Sablefish IFQ, is not proposed to be included in online transfers. There are minimal leasing opportunities for this program that are conditioned upon submission of documentation that can only be provided in paper form, such as medical records.

**Need for Action**

Currently, applications for transfers must be submitted to NMFS by mail, courier, or fax. The current hard-copy application transfer process is too slow to meet operational and market demands of fishery participants. The efficacy of current system of transfers is limited by NMFS business hours; requirements for original application documents and notarized signatures; and the lengths of time needed for application submission, approval, and receipt of permits.

This action would offer an additional electronic option for applicants to accomplish certain transfers through automated, online submittals and automated transfer processing. Electronic transfer service also would benefit NMFS as it would reduce existing transfer processing labor needs, improve data quality, and promote the objectives of the Government Paperwork Elimination Act.

This rule standardizes the regulatory text that the individuals providing information certify that the information provided is "true, correct, and complete to the best of his or her knowledge and belief." In paragraph 679.5(n)(1), this text is added for the CDQ Program. Paragraph 679.81(f)(2) is revised for the Rockfish Program. Paragraph 679.91(g) is revised for the Amendment 80 Program. Paragraphs 680.21(f) and 680.41(h) are revised for the CR Program.

With respect to quota transfers, this action would not change any eligibility requirements, schedules, or any part of the programs involved other than to provide a web-based option to submit applications and conduct transfers online. The transfer regulations for each program would be amended to specify that both paper and online applicants certify information supporting the transfers. Particular amendments for each program would be as follows:

*Section 679.5(n) Groundfish CDQ Fisheries*

Paragraph (n) of § 679.5 details the recordkeeping and reporting (R&R) requirements for groundfish CDQ fisheries, including CDQ and PSQ transfers. In addition to adding an online transfer process, paragraph (n)(1) would be revised by removing the detailed description of transfer applications, because that detail is provided on the application and in the instructions.

*Section 679.81 Rockfish Program Annual Harvester and Processor Privileges*

Section 679.81(e) describes the applications for the Rockfish Program. Paragraph (e) would be amended to establish the application for the online transfers. Paragraph (e)(1) would be amended to update application mailing and website addresses.

Section 679.81(f) describes the "Application for Inter-Cooperative Transfer of Rockfish Cooperative Quota (CQ)." Paragraph (f) would be revised by removing duplicative and unnecessary description of the transfer request, because the information is provided on the application and in the instructions.

*Section 679.91 Amendment 80 Program Annual Harvester Privileges*

Section 679.91 describes requirements for the Amendment 80 Program annual harvester privileges and transfer processes. An online transfer process would be added and application mailing and website addresses would be updated.

NMFS would amend the regulatory text to enhance its accuracy and usefulness. Paragraph (g) would be revised to read "Application for Inter-Cooperative Transfer of Amendment 80 Cooperative Quota (CQ)" because this is the only application described in this section. Paragraph (g) would be revised to remove detailed description of the application and other information that may be found on the form and in the instructions. Paragraph (g)(1), a general description of the transfer request, would be added. Paragraphs (g)(4)(iv) through (vi) would be redesignated as paragraphs (g)(2) through (4), respectively.

*Section 680.41 Transfer of QS, PQS, IFQ and IPQ*

The proposed rule would provide for online transfers and add the Alaska Region website address and location of forms. NMFS also proposes to remove duplicative text regarding each of the quota transfer applications. As this change would eliminate text, the proposed rule would redesignate paragraphs accordingly. The section describing notification of approval by the Regional Administrator would be revised by simplifying the language and removing the text specifying that the applicants would be notified of a successful transfer or denial of a transfer by mail because NMFS would have more than one method of notifying applicants.

Paragraph (h) describes transfer of crab QS/IFQ or PQS/IPQ all in one application. NMFS proposes to divide-up the unified application. The proposed rule would reorganize and revise paragraph (h) to separate the single application into three applications and revise the heading for paragraph (h). Using one form to request information for three different permits with different information requirements is overly complicated and confusing. In view of the proposed changes, the heading for paragraph 680.41(h) would be revised to accurately describe this section.

The regulations governing QS/PQS transfers would be revised to allow submittal of legible faxes. Cooperative transfers and transfers of IFQ or IPQ would be revised to remove requirements for notary and price data and to allow submittal of legible faxes.

In addition, six "survey type" questions asking for background information would be removed from applications for cooperative transfers and transfers of IFQ or IPQ. These questions seek costs associated with transfers, prices paid for leasing, and reasons for the transfer. These are

temporary annual transfers. NMFS has determined that the information on reasons for transfers is not helpful or informative for management goals. Data on permanent quota share transfers are more significant socio-economic information and NMFS will continue to seek this information.

Paragraphs (h)(1) through (h)(3) would be revised by removing the detailed description of the electronic and paper transfer request, because that detail is provided on the form and in the instructions to the form.

*Other Regulatory Amendments*

*Section 680.5 Recordkeeping and reporting (R&R).* Section 680.5 describes recordkeeping and reporting requirements for the CR Program. As one of two housekeeping measures, a cross-reference to the CR crab landing report would be corrected.

The proposed rule would revise paragraph (g) by removing the descriptions of various methods and addresses for submittal of the RCR fee submission form and by replacing it with text instructing the participants to refer to the fee form submittal instructions on the NMFS Alaska Region website at <http://alaskafisheries.noaa.gov>. This would simplify and shorten regulatory text.

*Section 680.20 Arbitration System.* Section 680.20 describes the CR Program Arbitration System and requirements to submit arbitration reports and other arbitration information to NMFS and related submittal deadlines. The proposed rule would standardize submittal addresses for the CR Program Arbitration System by placing the complete mailing address for NMFS into paragraph 680.20(a)(3), by removing NMFS address information from paragraphs (d)(3), (d)(4), (e)(5), (f)(4)(ii)(B), (g)(2)(viii)(C)(2), and (h)(6) introductory text, and by adding a cross-reference to paragraph (a)(3) to identify what information must be submitted and by whom.

*Section 680.21 Crab Harvesting Cooperatives.* Section 680.21 contains provisions for CR Program harvesting cooperatives, including transfer requirements. The heading for paragraph (f) would be revised to read "Application for Transfer of Crab Harvesting Cooperative IFQ" to correct the name of the application. NMFS would change the format of paragraph (f) by removing detailed descriptions of the transfer application and replacing that text with information stating that a complete and timely application must be filed with NMFS and that instructions are provided on the form. NMFS believes that all participants have

access to and knowledge of the applications on the Alaska Region website.

*Section 680.40 Crab QS, PQS, IFQ, IPQ Issuance.* The section heading and paragraph heading would be amended to clarify the topic descriptions. The proposed rule would modify the various methods and addresses for submittal, so that applicants would be directed to the Alaska Region website address for forms and instructions.

*Section 680.44 Cost Recovery.* Paragraph (a)(4)(iii) would be revised by removing the detailed submittal addresses for mail, fax, and courier delivery and replacing them with a paragraph stating that the form may be submitted in accordance with instructions on the form.

The proposed rule would revise the NMFS Alaska Region web address to <http://alaskafisheries.noaa.gov> for all information submitted electronically and for all other uses, including access to application forms and program information in the 50 CFR part 679 and in the 50 CFR part 680 regulations.

#### Classification

Pursuant to section 305(d) of the Magnuson-Stevens Act, the NMFS Acting Assistant Administrator has determined that this proposed rule is consistent with the provisions of the Magnuson-Stevens Act and other applicable law, subject to further consideration after public comment.

NMFS prepared an initial regulatory flexibility analysis (IRFA), as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. Descriptions of the action, the reasons it is under consideration, and its objectives and legal basis, are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. A summary of the analysis follows. A copy of this analysis is available from NMFS (see **ADDRESSES**).

The IRFA for this proposed action describes in detail the reasons why this action is being proposed; describes the objectives and legal basis for the proposed rule; describes and estimates the number of small entities to which the proposed rule would apply; describes any projected reporting, recordkeeping, or other compliance requirements of the proposed rule; 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 any other applicable statutes, and that would minimize any significant adverse economic impact of the proposed rule on small entities.

The description of the proposed action, its purpose, and its legal basis are described in the preamble and are not repeated here.

This action would provide participants in the CDQ Program, Rockfish Program, Amendment 80 Program, and CR Program the opportunity to submit quota transfer applications electronically, with the potential for processing and approving quota transfers electronically, entirely over the Internet. Program participants have commented that current transfer processes are not flexible or responsive enough to meet the needs of a 24-hour, seven-days-a-week, short-term fishery that must continually reorganize allocations to meet operational and market demands. For example, cooperatives frequently use inter-cooperative leases to maximize the efficient use of vessels and allocations. The proposed electronic processes would address the problems of limited business hours of NMFS staff; requirements for original application documents and notarized signatures; and the lengths of time needed for application submission, approval, and receipt of permits. The proposed revisions would benefit Program participants by reducing the time, expense, and administrative effort associated with submitting requests to NMFS for approval of quota transfers.

This action would impact administrative procedures for fisheries management programs within the Alaska Region. This rule creates a new option for CDQ groups, Rockfish Cooperatives, the Amendment 80 cooperatives, the Crab Harvesting cooperatives, and crab IPQ holders to transfer annual allocations of CDQ, CQ, IFQ, or IPQ (as appropriate) among themselves online to make transfers more efficient and faster. Prior to this action these entities submitted transfer paperwork to NMFS using only the mail, fax, and/or courier.

These changes would create no new costs for industry, because the costs of implementation have already been incurred. In fact, the industry may have fewer costs. NMFS expects that the participants of those programs will tend to participate in online activities because the option is expected to reduce their reporting requirements, increase operational flexibility, enhance potential for collaboration and coordination among transferors and transferees, and provide an augmented ability to respond in a timely way to

operational logistics and market changes. Transfer participants will not have to wait for NMFS to approve and complete the transfer and notify them on completion. They can conduct such transfers when it is convenient for them to do so—evenings, weekends, holidays and other non-business hours.

This change would create no new costs for NMFS, because the costs of implementation have already been incurred. To the extent that industry uses this option, administrative costs for NMFS would also be reduced by streamlining the administrative process, with no appreciable loss of necessary data or management capabilities. Automated checks in the submission system will monitor applications for completeness and consistency with law. Paper applications would only be required if problems occurred with the electronic transfer attempt or in some situations requiring attachments that must be examined by NMFS staff.

This action also would divide the single form currently used to apply for transfers of crab QS/IFQ or PQS/IPQ into three separate forms governing transfers of crab IFQ, crab IPQ, and crab QS or PQS. Currently somewhat different information is collected for each type of transfer, but only one form is used for the applications. This form is therefore unnecessarily complicated.

NMFS estimates that this action may directly regulate six small CDQ groups, one small rockfish cooperative, no small Amendment 80 cooperatives, four small crab cooperatives, 18 small crab PQS holders, 31 small crab IFQ holders, 13 small crab IPQ holders, 250 small crab QS holders, and 25 small crab PQS holders.

The IRFA did not reveal any Federal rules that duplicate, overlap, or conflict with the proposed action.

The alternatives were developed to minimize potential adverse economic effects on directly regulated entities. The objectives of this action are to:

- ◆ Maintain recordkeeping and reporting requirements for the impacted programs that provide the information necessary to manage the fisheries and to enforce Federal regulations applicable to the programs.

- ◆ Reduce the time, effort, and documentation involved in the process of making quota transfers.

- ◆ Maintain the overall economic and social goals and purpose of the regulated programs.

NMFS initially considered an alternative that would have required use of the online systems rather than making them optional. NMFS rejected this alternative without analysis because NMFS could not be certain that all

entities in all impacted industry sectors had the capability of submitting forms electronically and because some transfers still require attachments that must be examined by NMFS staff. The preferred alternative reflects the least burdensome of management structures in terms of directly regulated small entities available, while fully achieving the conservation and management purposes consistent with applicable statutes.

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

This regulation does not impose new recordkeeping and reporting requirements on the regulated small entities.

#### *Collection-of-Information Requirements*

This rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA) and which have been approved by the Office of Management and Budget (OMB). Public reporting burden estimates per response for these requirements are listed by OMB control number.

*OMB Control No. 0648-0269:* 30 minutes for CDQ or PSQ Transfer Request.

*OMB Control No. 0648-0565:* Two hours for Application to Transfer Amendment 80 Cooperative Quota.

*OMB Control No. 0648-0545:* Two hours for Application for Inter-cooperative Transfer of Rockfish Quota Share.

This proposed rule contains collection-of-information requirements subject to review and approval by OMB under the PRA and which have been submitted to OMB for approval. Public reporting burden estimates per response for these requirements are listed by OMB control number.

*OMB Control No. 0648-0514:* Two hours for Application for Transfer of Crab QS, IFQ, and IPQ; this form will be removed from this collection, and the following three new forms will be added in its place. Two hours each for: Application for Transfer of Crab Individual Fishing Quota, Application for Transfer of Individual Processor Quota, Application for Transfer of Crab Quota Share and Crab Processor Quota Share, and Application for Transfer of Individual Fishing Quota Between Crab Harvesting Cooperatives; and two and one half hours for Application for Annual Crab Harvester Cooperative IFQ Permit.

Public reporting estimates include 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 these proposed collections-of-information are 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 Alaska Region at the ADDRESSES above, 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 Parts 679 and 680**

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: May 18, 2009.

**John Oliver,**

*Deputy Assistant Administrator for Operations, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR parts 679 and 680 are proposed to be amended as follows:

#### **PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA**

1. The authority citation for part 679 continues to read as follows:

**Authority:** 16 U.S.C. 773 *et seq.*; 1801 *et seq.*; 3631 *et seq.*; Pub. L. 108-447.

2. In § 679.5, revise paragraph (n)(1) to read as follows:

#### **§ 679.5 Recordkeeping and reporting (R&R).**

\* \* \* \* \*

(n) \* \* \*

(1) *CDQ or PSQ transfer.* NMFS will process a request for CDQ or PSQ transfer between CDQ groups provided that the requirements of this paragraph are met.

(i) *Completed application.* A paper or electronic request form must be completed with all information fields accurately filled in by transferors and transferees, and all required additional documentation must be attached.

(ii) *Transfer acceptance.* In the case of an online transfer, the transferee group must accept the transfer.

(iii) *Certification of transferor—(A) Non-electronic submittal.* The transferor's designated representative must sign and date the application certifying that all information is true, correct, and complete.

(B) *Electronic submittal.* The transferor's designated representative must submit the application as indicated on the computer screen. By using the transferor's NMFS ID, password and Transfer Key and submitting the application, the designated representative certifies that all information is true, correct, and complete.

(iv) *Certification of transferee—(A) Non-electronic submittal.* The transferee's designated representative must sign and date the application certifying that all information is true, correct, and complete.

(B) *Electronic submittal.* The transferee's designated representative must submit the application as indicated on the computer screen. By using the transferee's NMFS ID, password and Transfer Key and submitting the application, the designated representative certifies that all information is true, correct, and complete.

\* \* \* \* \*

3. In § 679.81, add paragraph (e)(1)(iv); and revise paragraphs (e)(2) and (f) to read as follows:

#### **§ 679.81 Rockfish Program annual harvester and processor privileges.**

\* \* \* \* \*

(e) \* \* \*

(1) \* \* \*

(iv) *Electronic:* <http://alaskafisheries.noaa.gov>.

(2) *Application forms.* Application forms are available on the NMFS Alaska Region website at <http://alaskafisheries.noaa.gov>, or by contacting NMFS at 800-304-4846, Option 2.

\* \* \* \* \*

(f) *Application for inter-cooperative transfer of cooperative quota (CQ)—(1) Completed application.* NMFS will process an application for inter-cooperative transfer of cooperative quota (CQ) provided that a paper or electronic online transfer application is completed by the transferor and transferee, with all applicable fields accurately filled-in, and all required additional documentation is attached.

(2) *Certification of transferor—(i) Non-electronic submittal.* The transferor's designated representative must sign and date the application

certifying that all information is true, correct, and complete.

(ii) *Electronic submittal.* The transferor's designated representative must submit the application as indicated on the computer screen. By using the transferor's NMFS ID, password and Transfer Key and submitting the application, the designated representative certifies that all information is true, correct, and complete.

(3) *Certification of transferee—(i) Non-electronic submittal.* The transferee's designated representative must sign and date the application certifying that all information is true, correct, and complete.

(ii) *Electronic submittal.* The transferee's designated representative must submit the application as indicated on the computer screen. By using the transferee's NMFS ID, password and Transfer Key and submitting the application, the designated representative certifies that all information is true, correct, and complete.

\* \* \* \* \*

4. In § 679.91, add paragraph (b)(1)(iv); and revise paragraphs (b)(2) and (g) to read as follows:

**§ 679.91 Amendment 80 Program annual harvester privileges.**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(iv) *Electronic:* <http://alaskafisheries.noaa.gov>.

(2) *Application forms.* Application forms are available on the NMFS Alaska Region website at <http://alaskafisheries.noaa.gov>, or by contacting NMFS at 800-304-4846, Option 2.

\* \* \* \* \*

(g) *Application for inter-cooperative transfer of Amendment 80 CQ—(1) Completed application.* NMFS will process an application for inter-cooperative transfer of Amendment 80 cooperative quota (CQ) provided that a paper or electronic application is completed by the transferor and transferee, with all applicable fields accurately filled in, and all required additional documentation is attached.

(2) *Amendment 80 species CQ assignment.* Amendment 80 species CQ must be assigned to a member of the Amendment 80 cooperative receiving the CQ for purposes of use cap calculations. No member of an Amendment 80 cooperative may exceed the CQ use cap applicable to that member.

(3) *Total amount of Amendment 80 species CQ.* For purposes of

Amendment 80 species CQ use cap calculations, the total amount of Amendment 80 species CQ held or used by a person is equal to all metric tons of Amendment 80 species CQ derived from all Amendment 80 QS units on all Amendment 80 QS permits held by that person and assigned to the Amendment 80 cooperative and all metric tons of Amendment 80 species CQ assigned to that person by the Amendment 80 cooperative from approved transfers.

(4) *Amendment 80 QS units.* The amount of Amendment 80 QS units held by a person, and CQ derived from those Amendment 80 QS units, is calculated using the individual and collective use cap rule established in § 679.92(a).

(5) *Certification of transferor—(i) Non-electronic submittal.* The transferor's designated representative must sign and date the application certifying that all information is true, correct, and complete.

(ii) *Electronic submittal.* The transferor's designated representative must submit the application as indicated on the computer screen. By using the transferor's NMFS ID, password and Transfer Key and submitting the application, the designated representative certifies that all information is true, correct, and complete.

(6) *Certification of transferee—(i) Non-electronic submittal.* The transferee's designated representative must sign and date the application certifying that all information is true, correct, and complete.

(ii) *Electronic submittal.* The transferee's designated representative must submit the application as indicated on the computer screen. By using the transferee's NMFS ID, password and Transfer Key and submitting the application, the designated representative certifies that all information is true, correct, and complete.

\* \* \* \* \*

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

5. The authority citation for part 680 continues to read as follows:

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

6. In § 680.5, revise paragraphs (a)(2)(i)(G), (g)(1), and (g)(2) to read as follows:

**§ 680.5 Recordkeeping and reporting (R&R).**

(a) \* \* \*

(2) \* \* \*

(i) \* \* \*

Record-keeping and reporting report	Person responsible	Reference
* * * * *		
(G) CR Crab Landing Report	RCR	§ 679.5(e)
* * * * *		

\* \* \* \* \*

(g) \* \* \*

(1) *Applicability.* An RCR or the RCR's authorized representative, who receives any CR crab pursuant to § 680.44 must submit to NMFS online a complete RCR fee form as instructed on the form at NMFS Alaska Region website at <http://alaskafisheries.noaa.gov>.

(2) *Due date and submittal.* The reporting period of the RCR fee submission shall be the crab fishing year. An RCR must submit any crab cost recovery fee liability payment(s) and the RCR fee submission form to NMFS online not later than July 31 following the crab fishing year in which the CR crab landings were made.

\* \* \* \* \*

7. In § 680.20, add paragraph (a)(3); and revise paragraphs (d)(3), (d)(4), (e)(5), (f)(4)(ii)(B), (g)(2)(viii)(C)(2), and (h)(6) introductory text to read as follows:

**§ 680.20 Arbitration System.**

(a) \* \* \*

(3) *Document submittal information.* Submit documents and reports to NMFS as follows: by mail to the Regional Administrator, NMFS, P.O. Box 21668, Juneau, AK 99802; by courier to NMFS, Room 401, 709 West 9<sup>th</sup> Street, Juneau, AK 99801; or by fax to 907-586-7465.

\* \* \*

(d) \* \* \*

(3) An Arbitration Organization, with members who are QS or PQS holders, must submit a complete Annual Arbitration Organization Report to NMFS in accordance with paragraph (a)(3) of this section by August 20, 2005, for the crab fishing year beginning on July 1, 2005, and by May 1 of each subsequent year for the crab fishing year beginning on July 1 of that year.

(4) An Arbitration Organization, with members who are IFQ or IPQ holders, must submit a complete Annual Arbitration Organization Report to NMFS in accordance with paragraph (a)(3) of this section by not later than 15 days after the issuance of IFQ and IPQ for that crab QS fishery.

(e) \* \* \*

(5) *Notification to NMFS.* Not later than June 1 for that crab fishing year,

except as provided in paragraph (e)(6) of this section, the Arbitration

Organizations representing the holders of Arbitration QS and PQS in each fishery shall notify NMFS of the persons selected as the Market Analyst, Formula Arbitrator, and Contract Arbitrator(s) for the fishery in accordance with paragraph (a)(3) of this section.

\* \* \* \* \*

(f) \* \* \*

(4) \* \* \*

(ii) \* \* \*

(B) NMFS Alaska Region in accordance with paragraph (a)(3) of this section; and

\* \* \* \* \*

(g) \* \* \*

(2) \* \* \*

(viii) \* \* \*

(C) \* \* \*

(2) NMFS in accordance with paragraph (a)(3) of this section; and

\* \* \* \* \*

(h) \* \* \*

(6) *Information provided to NMFS.* The Contract Arbitrator must provide any information, documents, or data required under this paragraph to NMFS in accordance with paragraph (a)(3) of this section not later than 30 days prior to the end of the crab fishing year for which the open negotiation or arbitration applied. The contract with the Contract Arbitrator must specify that the Contract Arbitrator provide NMFS with:

\* \* \* \* \*

8. In § 680.21, revise paragraph (f) to read as follows:

**§ 680.21 Crab harvesting cooperatives.**

\* \* \* \* \*

(f) *Application for transfer of crab harvesting cooperative IFQ—(1) Completed application.* NMFS will process an application for transfer of crab harvesting cooperative individual fishing quota (IFQ) provided that a paper or electronic request form is completed by the applicant, with all applicable fields accurately filled in, and all required additional documentation is attached.

(2) *Certification of transferor—(i) Non-electronic submittal.* The transferor's designated representative must sign and date the application certifying that all information is true, correct, and complete.

(ii) *Electronic submittal.* The transferor's designated representative must submit the application as indicated on the computer screen. By using the transferor's NMFS ID, password and Transfer Key and submitting the application, the designated representative certifies that

all information is true, correct, and complete.

(3) *Certification of transferee—(i) Non-electronic submittal.* The transferee's designated representative must sign and date the application certifying that all information is true, correct, and complete.

(ii) *Electronic submittal.* The transferee's designated representative must submit the application as indicated on the computer screen. By using the transferee's NMFS ID, password and Transfer Key and submitting the application, the designated representative certifies that all information is true, correct, and complete.

(4) *Submittal information.* Submit applications and other documents in this section to NMFS as follows: by mail addressed to the Regional Administrator, NMFS, P.O. Box 21668, Juneau, AK 99802; by courier to NMFS, Room 713, 709 West 9<sup>th</sup> Street, Juneau, AK 99801; by fax to 907-586-7354; or online at <http://alaskafisheries.noaa.gov>.

(5) *Forms.* Forms are available on the NMFS Alaska Region website at <http://alaskafisheries.noaa.gov>, or by contacting NMFS at 800-304-4846, Option 2.

\* \* \* \* \*

9. In § 680.40, revise the section heading, paragraph (f) heading, and paragraph (f)(1)(ii) to read as follows:

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

\* \* \* \* \*

(f) Application for crab QS or PQS.

(1) \* \* \*

(ii) An application for crab QS or PQS may be submitted to NMFS as instructed on the application. Forms are available on the NMFS Alaska Region website at <http://alaskafisheries.noaa.gov>, or by contacting NMFS at 800-304-4846, Option 2.

\* \* \* \* \*

10. In § 680.41, revise paragraphs (b) and (h) to read as follows:

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

\* \* \* \* \*

(b) *Transfer applications—(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 August 1 until the date of the issuance of IFQ or IPQ for that crab QS fishery.

(2) *Notification of application approval or disapproval.* Persons submitting any application for approval under § 680.41 will receive notification of the Regional Administrator's decision to approve or disapprove the application, and if applicable, the reason(s) for disapproval.

(3) *Reasons for disapproval.* Reasons for disapproval of an application include, but are not limited to:

(i) Lack of U.S. citizenship, where U.S. citizenship is required;

(ii) Failure to meet minimum requirements for sea time as a member of a harvesting crew;

(iii) An incomplete application, including fees and an EDR, if required;

(iv) An untimely application; or

(v) Fines, civil penalties, or other payments due and owing, or outstanding permit sanctions resulting from Federal fishery violations.

(4) *QS, PQS, IFQ, or IPQ accounts.* (i) QS, PQS, IFQ, or IPQ accounts affected by a transfer approved by the Regional Administrator will change on the date of approval.

(ii) For non-electronic submittals, any necessary IFQ or IPQ permits will be sent with the notification of approval if the receiver of the IFQ or IPQ permit has completed an annual application for crab IFQ or IPQ permit for the current fishing year as required under § 680.4.

(iii) For electronic submittals, the parties to the transfer would access and print approvals and permits online.

(5) *Submittal.* Submit applications and other documents to NMFS as instructed on the application. Forms are available on the NMFS Alaska Region website at <http://alaskafisheries.noaa.gov>, or by contacting NMFS at 800-304-4846, Option 2.

\* \* \* \* \*

(h) *Applications for transfer—(1) Application for transfer of crab IFQ.* NMFS will process a request for transfer of crab individual fishing quota (IFQ) provided that a paper application is completed, with all information fields accurately filled in, and all required additional documentation is attached. The transferor's and the transferee's designated representatives must sign and date the application certifying that all information is true, correct, and complete.

(2) *Application for transfer of crab IPQ—(i) Completed application.* NMFS will process a request for transfer of crab individual processor quota (IPQ)

provided that a paper or electronic request form is completed, with all information fields accurately filled in, and all required additional documentation is attached.

(ii) *Certification of transferor*—(A) *Non-electronic submittal*. The transferor's designated representative must sign and date the application certifying that all information is true, correct, and complete.

(B) *Electronic submittal*. The transferor's designated representative must submit the application as indicated on the computer screen. By using the transferor's NMFS ID, password and Transfer Key and submitting the application, the designated representative certifies that all information is true, correct, and complete.

(iii) *Certification of transferee*—(A) *Non-electronic submittal*. The

transferee's designated representative must sign and date the application certifying that all information is true, correct, and complete.

(B) *Electronic submittal*. The transferee's designated representative must submit the application as indicated on the computer screen. By using the transferee's NMFS ID, password and Transfer Key and submitting the application, the designated representative certifies that all information is true, correct, and complete.

(3) *Application for transfer of crab QS or PQS*. NMFS will process a request for transfer of crab quota share (QS) or crab processor quota share (PQS) provided that a paper request form is completed and notarized, with all information fields accurately filled in, and all required additional documentation is attached. The transferor's and the

transferee's designated representatives must sign and date the application certifying that all information is true, correct, and complete.

\* \* \* \* \*

11. In § 680.44, revise paragraph (a)(4)(iii) to read as follows:

**§ 680.44 Cost recovery.**

(a) \* \* \*

(4) \* \* \*

(iii) *Payment address*. Submit payment and related documents as instructed on the fee form; payments may also be submitted electronically to NMFS. Forms are available on the NMFS Alaska Region website at <http://alaskafisheries.noaa.gov>, or by contacting NMFS at: 800-304-4846, Option 2.

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