

(i) Fishing vessel log reports, required by paragraph (b)(1)(i) of this section, must be postmarked or received within 15 days after the end of the reporting month. \* \* \*

(ii) Surf clam and ocean quahog log reports, required by paragraph (b)(1)(ii) of this section, must be postmarked or received within 3 days after the end of each reporting week.

\* \* \* \* \*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 991108298-9298-01; I.D. 092199C]

RIN 0648-AL88

#### Fisheries of the Exclusive Economic Zone Off Alaska; At-Sea Scales; Community Development Quota Program

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS issues a proposed rule to amend portions of the regulations implementing the equipment and operational requirements for catch weight measurement, observer sampling stations, and observer transmission of data. After the first season of requiring scales and observer sampling stations on specified vessels participating in Community Development Quota (CDQ) fisheries, NMFS has identified aspects of the requirements that need further refinement and correction for effective implementation. This action is necessary to effect those refinements and is intended to further the objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

**DATES:** Comments must be received by January 3, 2000.

**ADDRESSES:** Comments may be mailed to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802-1668, Attn: Lori Gravel. Hand or courier delivered comments may be sent to the Federal Building, 709 West 9th Street, Room 453, Juneau, AK 99801. Copies of the Regulatory Impact Review/Initial

Regulatory Flexibility Analysis (RIR/IRFA) prepared for this action may be obtained from the same address or by calling the Alaska Region, NMFS, at 907-586-7228. A copy of the September 9, 1997, environmental assessment prepared for the Multispecies Community Development Quota (MS CDQ) Program can be obtained from the same address. Send comments on collection-of-information requirements to the same address and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington DC 20503 (Attn: NOAA Desk Officer).

**FOR FURTHER INFORMATION CONTACT:**

Alan Kinsolving, 907-586-7228.

**SUPPLEMENTARY INFORMATION:**

#### Background

Fishing for groundfish by U.S. vessels in the exclusive economic zone of the Gulf of Alaska and the Bering Sea and Aleutian Islands Management Area is managed by NMFS according to the Fishery Management Plan for Groundfish of the Gulf of Alaska and the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMPs). The North Pacific Fishery Management Council (Council) prepared the FMPs under authority of the Magnuson-Stevens Act. Regulations implementing the FMPs at 50 CFR part 679 and subpart H of 50 CFR part 600 govern fishing by U.S. vessels. Equipment and operational requirements for catch weight measurement appear at 50 CFR 679.28 and equipment and operational requirements for transmission of observer data appear at 50 CFR 679.50.

On February 4, 1998 (63 FR 5836), NMFS published a final rule establishing the performance, technical, operational, maintenance, and testing requirements for scales used to weigh catch at sea. On June 4, 1998 (63 FR 30381), NMFS published a final rule that established the requirements for observer sampling stations and required the use of scales and observer sampling stations on specified vessels participating in CDQ fisheries. Further information on the rationale for, and implementation of, the regulations establishing equipment and operational requirements for catch weight measurement appear in the preambles to these final rules.

The regulations at § 679.28 establish performance and technical requirements for scales and observer sampling stations. They do not require their use in any fishery. The first program to which these requirements applied was the MS CDQ Program. Fishing under the

MS CDQ program was authorized to begin October 1, 1998. Section 211(b)(6)(B) of the American Fisheries Act of 1998 (AFA) requires that by January 1, 2000, all of the 20 catcher/processors listed in section 208(e) of the AFA weigh their catch in all groundfish fisheries off Alaska on a scale approved by NMFS. NMFS will be publishing a separate rule to implement this and other provisions of the AFA.

Following implementation of the regulations at § 679.28, NMFS and affected members of the fishing industry realized that some provisions of the regulations required clarification and refinement. Changes are necessary to ensure NMFS' ability to effectively administer the equipment and operational requirements and to improve the clarity and consistency of the implementing regulations.

On December 17, 1998, NMFS held a public workshop in Seattle, WA, to obtain the views of vessel owners affected by the provisions of § 679.28. Twenty-two industry representatives, representing 26 of the 35 catcher/processors currently affected by the regulations, attended.

#### Scales Used to Weigh Catch at Sea

This proposed rule would revise § 679.28(b)(2)(iii) to authorize NMFS staff to inspect scales. Inspectors employed by NMFS were inadvertently excluded from the categories of scale inspectors authorized by NMFS to perform scale inspections. In addition, § 679.28(b)(2)(iii) would be revised to eliminate the category scale inspectors employed by a U.S., state, or local weights and measures agency other than a weights and measures agency designated by NMFS from the categories of scale inspectors authorized by NMFS to perform scale inspections on its behalf. Paperwork Reduction Act clearance was not obtained for the information collections necessary for a person to qualify as a scale inspector under this category. As revised, only scale inspectors employed by NMFS or from a weights and measures agency designated by NMFS to perform scale inspections on its behalf would be authorized to inspect scales.

Section 679.28(b)(2)(vii) requires that scale inspectors use forms supplied by the NMFS-designated weights and measures agency. NMFS could more conveniently design and produce inspection report forms. This proposed rule would change this paragraph to allow the use of NMFS-supplied forms.

Vessels required to use NMFS-approved platform or hanging scales must provide test weights that will allow the scale to be tested daily when

in use. The test weights must be certified by a National Institute of Standards and Technology approved metrology laboratory. NMFS has determined that the test weight certification requirement is needlessly burdensome. Section 679.28(b)(3)(ii)(B) would be revised to allow a test weight to remain in use if approved by the NMFS-authorized scale inspector at the time of the annual dockside inspection.

To meet NMFS' approval, a scale must be capable of producing a printed report that details the amount of product that the scale has weighed. The operator of a vessel required to weigh total catch must ensure that the scale prints a report at least once every 24 hours when use of the scale is required. These reports must be signed by the vessel operator and maintained by the vessel owner for 3 years. Current regulations require that each report include the vessel name, the Federal fisheries or processor permit number, the haul number, the date and time that weighing the haul began, the date and time that weighing the haul ended, the total weight of the haul, the total weight of all catch weighed on the scale and the date and time the report was printed. Because much of this information is also recorded by the observer, NMFS proposes that only the vessel name and permit number, the haul number, the total weight of the haul and the total cumulative weight on the scale be required on the daily printout. The other printout requirements would be removed. This proposed change would reduce a regulatory burden on vessels required to weigh all catch.

Scale manufacturers have proposed using a computer-generated check number instead of a physical seal to protect adjustable components on NMFS-approved scales. Under this system, the scale would display a check number upon startup. If the scale operator were to adjust an adjustable component of the scale, the check number would change. If the check number changed between scale inspections, the inspector would know that an adjustment had been made. Because the check number would be sequential, the inspector would also know how many adjustments had been made. NMFS believes that this system would provide security equal to a physical seal and proposes that its use be allowed. NMFS proposes to change the definition of "security seals or means" in section 5.0 of Appendix A to part 679 to include a sequential check number generated by the scale.

### Observer Sampling Stations

Observer sampling stations are currently required on specified vessels participating in CDQ fisheries. For an observer sampling station to meet the requirements of § 679.28(d), it must meet specifications for equipment, accessibility, location, safety, and size. Each observer sampling station must be inspected and approved by NMFS before its use and annually thereafter. A station must be reinspected if it is altered or moved.

NMFS inspected the first observer sampling station in June of 1998. During 1998, NMFS approved observer sampling stations on 23 vessels. Based on those inspections and comments from affected vessel owners, NMFS proposes to clarify the observer sampling station regulations.

Current regulations at § 679.28(d)(2)(i) require that the observer sampling station on factory trawlers and motherships be located within 4 meters (m) of where the observer samples unsorted catch. There must be clear and unobstructed passage between the sampling station and where the observer samples unsorted catch. On most vessels, the observer can see the entire flow of fish between the bin and the observer sampling station, and vessel crew members would be unable to remove or sort fish without the observer's knowledge. On some vessels the crew could remove fish between the bin and the observer sampling station without the observer's knowledge. Such removal would prevent the observer from ensuring that his or her estimate of total catch and species composition is accurate and unbiased. This proposed rule would require that, when the observer stands at the location where unsorted catch is collected, he or she must be able to see that no fish are removed between the bin and the scale used to weigh total catch. On those factory trawlers and motherships where the observer cannot see the entire flow of fish wherever the crew has access to it, the vessel owners would be required to install mirrors, viewing windows, or other modifications so that the observer could see the entire flow of fish.

The observer sampling station on a vessel using nontrawl gear must be within 5 m of where catch is brought onboard, unless that location is unsafe. There also must be clear and unobstructed passage between the sampling station and where the observer samples unsorted catch (§ 679.28(d)(2)(ii)). The current regulations do not accurately reflect the needs of NMFS observers, nor do they explain clearly to vessel owners what

they must do to build an observer sampling station that meets the requirements. NMFS proposes to clarify and expand the requirements for an observer sampling station on vessels using nontrawl gear by defining and requiring two new areas on nontrawl vessels: The collection area and the tally station. The collection area would be a location where the observer, or a crew member under the observer's guidance, collects fish for sampling as they are brought aboard the vessel, and where the observer can see the gear as it leaves the water. The tally station would be a location within 5 m of where fish enter the vessel and where the observer could see the fishing gear as it leaves the water and could count and identify fish. The tally station and collection area would have to be equipped with railing, grating, and adequate lighting as necessary for the observer to effectively perform his/her duties. Clear and unobstructed passage would be required between the observer sampling station and the collection area, with access provided to the tally station. Because the observer would not need to carry baskets between the tally station and the observer sampling station, access to the tally station would not need to meet to be clear and unobstructed. All nontrawl vessels with currently approved observer sampling stations would meet the proposed requirements for the tally station and collection area, except that some boats would be required to make minor modifications to the tally station or collection area by adding grating or railings.

Current regulations at § 679.28(d)(2)(i) and (ii) require clear and unobstructed passage between the observer sampling station and where the observer samples unsorted catch. The phrase "clear and unobstructed" is ambiguous and needs to be clarified. The proposed change would define "clear and unobstructed passage" as follows:

Where clear and unobstructed passage is required, passageways must be at least 65 cm wide at the narrowest point, be free of tripping hazards, and be at least 1.8 m high. Doorways or companionways must be free of obstacles.

This definition is similar to the procedural definition NMFS staff currently uses when inspecting observer sampling stations, and those vessels with approved sampling stations would meet these proposed criteria.

Current regulations require that an observer sampling station provide a minimum working space at least 1.8 m by 2.5 m. Based on comments from affected vessel owners, NMFS has determined that this requirement is

overly restrictive and proposes to require a minimum area of 4.5 square meters. This would give the observer the same amount of space while allowing the vessel owner greater flexibility in the design of observer sampling stations. To ensure that the observer will have sufficient room to work when standing at the table, this proposed change also would require that the station provide at least 0.9 m of working space in front of the sampling table.

Current regulations require that a NMFS-approved platform scale be provided in each observer sampling station. The scale must be rigidly attached to the vessel. The regulations do not specify at what height it should be attached. In many cases, vessel owners have installed the scale either flush with or on top of the observer sampling table, in some cases as high as 1.5 m off the floor. When the existing regulations were written, NMFS did not consider the need to mount the scale closer to the floor. However, based on comments received from observers, when the scale platform is more than 0.7 m above the floor, some observers cannot lift heavy baskets of fish onto the scale platform, especially during rough weather.

This proposed rule would require that the scale be mounted so that the weighing surface is no more than 0.7 m above the floor. Because many vessels installed scales at greater heights, these vessels would have to remount the scales. Depending on the construction of the scale base and the layout of the sampling station, lowering the scale would cost approximately \$50.00 to \$200.00. In no case would the proposed change require substantial modification of either the factory or the observer sampling station.

Observers estimate the species composition of each haul on factory trawlers and motherships. Weighing all of the catch by species is not practical, so the observer often sorts, weighs, and identifies a sample of the catch. NMFS extrapolates from these samples to estimate the total weight of each species in the haul. Observers take three major types of samples. The smallest sample is a basket sample. When basket sampling, the observer diverts at least 80 kilograms of fish into baskets, and measures and identifies each fish in the basket. Basket samples are often used to determine the size composition of the target catch in a haul. They are also used to determine the species composition of a haul when many species are abundant in the haul.

If the observer believes that counting, weighing, and identifying all of some species in a larger sample will be

possible, he or she will take a partial haul sample. In a partial haul sample, the observer randomly selects a portion of the haul and sorts the chosen species into larger containers, then sorts and weighs them by species. The observer may choose to take a partial haul sample for all species, for non-target species, or only for prohibited species. When a vessel provides a total-catch weighing scale, the observer can use the scale weight to make an unbiased decision about when to start and stop a partial haul sample.

The final sample type is a whole haul sample. In a whole haul sample, the observer counts and weighs all of a given species in a haul. The sampling types can be combined and the observer may take all three types of sample from a single haul. For example, the observer may basket sample for the target species, whole haul for prohibited species, and partial haul for everything else.

As the percentage of the haul sampled increases, the accuracy of the estimates of species composition increase as well. Many vessel owners believe that larger samples prevent overestimation of the total catch of uncommon and prohibited species. Because catch of these species often drives the allowable harvest of target species, the vessel owners and operators often encourage the observer to partial or whole haul for prohibited species. However, the observer's ability to take partial or whole haul samples can be constrained by a lack of belt space where the sample can be sorted. All trawl catcher/processors with approved sampling stations have voluntarily provided sufficient space below the total-catch weighing scale to encourage the observer to take larger samples. In most cases, the space was already available, but in some cases vessels had to make factory modifications that would not have been necessary had they known in advance the requirements for partial haul sampling.

As part of the approval of an observer sampling station, this proposed rule would require that trawl catcher/processors provide at least 1 m of belt space downstream from the total-catch weighing scale for the observer's use when processing samples. This would enable the observer to use each of the three primary sampling strategies on all trawl catcher/processors.

#### **Transmission of Observer Data**

Each of the six CDQ groups is allocated a percentage of the total allowable catch for each species or species group in the BSAI, except squid. Many of the species quotas are further apportioned by season or area. Each

CDQ group is responsible for managing its quotas and ensuring that its harvesting partners do not exceed them. To do this, the CDQ groups depend on the observer's estimates of total catch. In some cases, a CDQ harvesting partner could take a group's entire allocation of a species in a single haul. Thus, both NMFS and the CDQ group must get reliable and timely harvest information from the observer. To ensure timeliness and accuracy, observers use NMFS-supplied data entry and transmission software. This software guides the observer in what information needs to be transmitted, performs basic error checking, and transmits the data to NMFS. For an observer to use this system, the vessel operator must install NMFS-supplied data entry software and provide the computer and communication equipment necessary for its use. All processors currently participating in the CDQ fisheries have done this. However, this proposed rule would make the use of the NMFS-supplied electronic reporting software mandatory to ensure that timely data transmission will continue to occur.

Current regulations at § 679.50(f)(1)(iii)(B)(1) require catcher/processors and motherships to be equipped with the electronic communication equipment, hardware, and software necessary for the communication of observer data. NMFS proposes to amend § 679.32(c)(4) to require that processor vessels engaged in CDQ fishing be required to provide and maintain the NMFS-supplied data transmission software. Also, these vessels would be required to provide and maintain the computer hardware, software, and communication equipment needed for data transmission as specified at § 679.50(f)(1)(iii).

#### **Technical Corrections**

This proposed rule also would make minor editorial revisions to § 679.28 described here. These revisions are necessary to correct errors or clarify the regulatory text.

The phrase "for catch weight measurement" would be removed from the title of § 679.28 because the section also includes the requirements for other equipment.

Paragraph (b)(2)(vii) of § 679.28 would be revised by removing unnecessary text and subdividing the paragraph to improve clarity.

Paragraph (b)(3) of § 679.28 would be clarified by changing the phrase "in which fish are weighed" to "when use of the scale is required."

Paragraph (b)(3)(ii)(A) of § 679.28 would be revised by removing the title

“Maximum Permissible Error,” which is unnecessary.

Paragraph (b)(5)(i) of § 679.28 would be clarified by changing the sentence “Reports must be printed at least once each 24 hour period in which the scale is being used to weigh catch or before any information stored in the scale memory is replaced.” This sentence would be changed to read: “Reports must be printed every 24 hours when use of the scale is required. Reports must also be printed before any information stored in the scale computer memory is replaced.”

Paragraph (d)(5) of § 679.28 would be revised by changing the phrase “electronic motion compensated platform scale” to “NMFS-approved platform scale.” The original phrase is not consistent with wording used elsewhere.

Paragraph (d)(6) of § 679.28 would be clarified by changing the overly restrictive term “floor grating” to “flooring that prevents slipping and drains well (grating or other material where appropriate).”

Paragraph (d)(8) of § 679.28 would be clarified by adding the phrase “when use of the observer sampling station is required” to the second sentence so that it reads: “If the observer sampling station is moved or if the space or equipment available to the observer is reduced or removed, when use of the observer sampling station is required, the observer sampling station inspection report issued under this section is no longer valid.” In many cases, vessel owners wish to use the observer sampling station for other purposes when not engaged in a fishery requiring its use. NMFS did not intend to require that the station be reinspected in this event; this change clarifies that intent.

The first sentence of paragraph (d)(8)(i)(G) of § 679.28 would be revised by changing the phrase “CDQ and PSQ” to “catch” so that it reads as follows: “For catcher/processors using trawl gear and motherships, a diagram drawn to scale showing the location(s) where all catch will be weighed, the location where observers will sample unsorted catch, the location of the observer sampling station as described at paragraph (d) of this section, including the observer sampling scale, the name of the manufacturer, model of the scale to weigh total catch, and the observer sampling scale.” This clarification is necessary because scales and observer sampling stations may be required on vessels not harvesting CDQ or PSQ.

#### Classification

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.

This proposed rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). All have been approved by OMB and none would be changed as a result of this proposed action. The OMB control numbers and estimated response times for these requirements are: The submission of scale inspection reports is approved under 0648–0330 at 15 minutes per response; the retention of scale weight reports is approved under 0648–0330 at 3 minutes per response; the inspection of an observer sampling station is approved under 0648–0269 at 2 hours per response; and the electronic transmittal of observer data is approved under 0648–0307 at 10 minutes per response.

The estimates of response times given here 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 the proposed collection-of-information requirements 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 estimates; 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 the use of automated collection techniques or other forms of information technology. Send comments regarding these, or any other aspects of the collection of information requirements, to NMFS and OMB (see ADDRESSES).

NMFS prepared an IRFA for this proposed rule pursuant to 5 U.S.C. 603, without first making the threshold determination of whether the proposal would have a significant impact on a substantial number of small entities. The Summary and Conclusions section of the IRFA states:

This action would revise and clarify the equipment and technical requirements for at-sea scales, observer sampling stations and observer transmission of data by making numerous, minor revisions to the regulations implementing these programs. The action is necessary to ensure NMFS ability to effectively manage these programs; to improve the clarity and consistency of the implementing regulations; and to reduce unnecessary regulatory burdens. It is being promulgated under the authority of the

Magnuson-Stevens Act. This action would directly impact the 13 freezer longliners currently equipped with scales or observer sampling stations that may be small entities. The preferred alternative would impose no new reporting or recordkeeping requirements nor would it duplicate, overlap, or conflict with existing Federal rules. NMFS estimates that the preferred alternative would cost the owners of directly impacted freezer longliners less than \$8,500 distributed among the 13 directly impacted vessels and in no case would cost any one vessel more than \$1,700. This represents less than .06 percent of the average per-vessel gross revenues for the impacted vessels. In addition to the preferred alternative, the analysis considered two other alternatives: a “no action” alternative that would not revise the existing regulations; and a “partial implementation” alternative that would implement some of the proposed revisions. These alternatives were rejected because they would fail to make the changes necessary for successful management of these programs.

The ownership characteristics of vessels that would be impacted by this action have not been analyzed to determine if they are independently owned and operated or affiliated with a larger parent company.

A copy of the RIR/IRFA can be obtained from NMFS (see ADDRESSES).

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

The President has directed Federal agencies to use plain language in their communications with the public, including regulations. To comply with that directive, we seek public comment on any ambiguity or unnecessary complexity arising from the language used in this proposed rule.

#### List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: November 26, 1999.

#### Penelope D. Dalton,

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

For the reasons set out in the preamble, 50 CFR part 679 is 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.* and 3631 *et seq.*

2. In § 679.28, the section heading is revised; introductory text to paragraphs (b)(2)(iii), (b)(3), (b)(3)(ii)(B), (b)(5), and (d)(8), is revised; and paragraphs (b)(2)(vii), (b)(3)(ii)(A), (b)(5)(i), (b)(6), (d)(2), (d)(3), (d)(5) through (d)(7), and (d)(8)(i)(G) are revised to read as follows:

**§ 679.28 Equipment and operational requirements.**

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(iii) *Who may perform scale inspections?* Scales must be inspected by either a NMFS staff scale inspector or a scale inspector employed by a weights and measures agency designated by NMFS to perform scale inspections on its behalf. A list of NMFS staff scale inspectors and scale inspectors employed by a weights and measures agency designated to perform scale inspections on its behalf is available from the Regional Administrator upon request. Scale inspections are paid for by NMFS.

\* \* \* \* \*

(vii) *Scale inspection report.* (A) A scale is approved for use when the scale inspector completes and signs a scale inspection report verifying that the scale meets all of the requirements specified in this paragraph (b)(2) and appendix A to this part.

(B) The scale inspector must provide the original inspection report to the vessel owner and a copy to NMFS.

(C) The vessel owner must either:

(1) Maintain a copy of the report on board when use of the scale is required and make the report available to the observer, NMFS personnel, or an authorized officer, upon request, or;

(2) Display a valid NMFS-sticker on each approved scale.

(D) When in use, an approved scale must also meet the requirements described in paragraphs (b)(3) through (b)(6) of this section.

(3) *At-sea scale tests.* To verify that the scale meets the MPEs specified in this paragraph (b)(3), the vessel owner must ensure that the vessel operator tests each scale or scale system used to weigh total catch one time during each 24-hour period when use of the scale is required.

\* \* \* \* \*

(ii) \* \* \*

(A) The MPE for platform and hanging scales is plus or minus 0.5 percent of the known weight of the test material.

(B) *Test weights.* Each test weight must have its weight stamped on or otherwise permanently affixed to it. The weight of each test weight must be annually certified by a National Institute of Standards and Technology approved metrology laboratory or approved for continued use by the NMFS authorized inspector at the time of the annual scale inspection. The amount of test weights that must be provided by the vessel owner is specified in paragraphs

(b)(3)(ii)(B)(1) and (b)(3)(ii)(B)(2) of this section.

\* \* \* \* \*

(5) *Printed reports from the scale* (not applicable to observer sampling scales). The vessel owner must ensure that the vessel operator provides the printed reports required by this paragraph. Printed reports from the scale must be maintained on board the vessel until the end of the year during which the reports were made and be made available to observers, NMFS personnel, or an authorized officer. In addition, printed reports must be retained by the vessel owner for 3 years after the end of the year during which the printouts were made.

(i) *Reports of catch weight and cumulative weight.* Reports must be printed at least once every 24 hours when use of the scale is required. Reports must also be printed before any information stored in the scale computer memory is replaced. Scale weights must not be adjusted by the scale operator to account for the perceived weight of water, mud, debris, or other materials. Scale printouts must show:

(A) The vessel name and Federal fisheries or processor permit number;

(B) The haul or set number as recorded in the processor's DCPL (see § 679.5);

(C) The total weight of the haul or set;

(D) The total cumulative weight of all fish or other material weighed on the scale.

\* \* \* \* \*

(6) *Scale installation requirements.* The scale display must be readable from where the observer collects unsorted catch.

\* \* \* \* \*

(d) \* \* \*

(2) *Location.* (i) *Motherships and catcher/processors or catcher vessels using trawl gear.* The observer sampling station must be located within 4 m of the location from which the observer collects unsorted catch. Clear, unobstructed passage must be provided between the observer sampling station and the location where the observer collects unsorted catch. When standing where unsorted catch is sampled, the observer must be able to see that no fish have been removed between the bin and the scale used to weigh total catch.

(ii) *Vessels using nontrawl gear.* The observer sampling station must be located within 5 m of the collection area, described at § 679.28(d)(7)(ii)(B), unless any location within this distance is unsafe for the observer. Clear, unobstructed passage must be provided between the observer sampling station

and the collection area. Access must be provided to the tally station, described at § 679.28(d)(7)(ii)(A). NMFS may approve an alternative location if the vessel owner submits a written proposal describing the alternative location, the reasons why a location within 5 m of where fish are brought on board the vessel is unsafe, and if the proposed observer sampling station meets all other applicable requirements of this section.

(iii) *What is clear, unobstructed passage?* Where clear and unobstructed passage is required, passageways must be at least 65 cm wide at their narrowest point, be free of tripping hazards, and be at least 1.8 m high. Doorways or companionways must be free of obstacles.

(3) *Minimum work space.* The observer must have a working area for sampling of at least 4.5 square meters. This working area includes the observer's sampling table. The observer must be able to stand upright and have a work area at least 0.9 m deep in the area in front of the table and scale.

\* \* \* \* \*

(5) *Observer sampling scale.* The observer sampling station must include a NMFS-approved platform scale with a capacity of at least 50 kg located within 1 m of the observer's sampling table. The scale must be mounted so that the weighing surface is no more than 0.7 m above the floor. The scale must be approved by NMFS under paragraph (b) of this section and must meet the maximum permissible error requirement specified in paragraph (b)(3)(ii)(A) of this section when tested by the observer.

(6) *Other requirements.* The sampling station must include flooring that prevents slipping and drains well (grating or other material where appropriate), adequate lighting, and a hose that supplies fresh or sea water to the observer.

(7) *Requirements for sampling catch.*

(i) *Motherships and catcher/processors using trawl gear.* The conveyor belt conveying unsorted catch must have a removable board to allow fish to be diverted from the belt directly into the observer's sampling baskets. The diverter board must be located after the scale used to weigh total catch so that the observer can use this scale to weigh large samples. At least 1 m of accessible belt space, located after the scale used to weigh total catch, must be available for the observer's use when sampling a haul.

(ii) *Catcher/Processors using non-trawl gear.* In addition to the sampling station, vessels using non-trawl gear must provide: (A) *Tally Station.* A place

where the observer can see the gear as it leaves the water and can count and identify fish. It must be within 5 meters of where fish are brought aboard the vessel and in a location where the observer is not in danger of falling overboard or being gaffed. Where exposed to wind or seas, it must be equipped with a railing at least 1.0 meter high, grating or other non-slip material, and adequate lighting.

(B) *Collection Area*. A place where the observer, or vessel crew under the observer's guidance, collects fish as they come off the line or are removed from pots. It must be located where the observer can see the gear when it leaves the water. Where exposed to wind or seas, it must be equipped with a railing at least 1.0 m high and grating or other non-slip material.

(8) *Inspection of the observer sampling station*. Each observer sampling station must be inspected and approved by NMFS prior to its use for the first time and then one time each year within 12 months of the date of the most recent inspection with the following exceptions: If the observer sampling station is moved or if the space or equipment available to the observer is reduced or removed when use of the observer sampling station is required, the observer sampling station inspection report issued under this section is no longer valid, and the observer sampling station must be

reinspected and approved by NMFS. Inspection of the observer sampling station is in addition to inspection of the at-sea scales by an authorized scale inspector required at paragraph (b)(2) of this section.

(i) \* \* \*

(G) For catcher/processors using trawl gear and motherships, a diagram drawn to scale showing the location(s) where all catch will be weighed, the location where observers will sample unsorted catch, and the location of the observer sampling station as described at paragraph (d) of this section.

\* \* \* \* \*

3. In § 679.32, paragraphs (c)(4)(iii) and (c)(4)(iv) are redesignated as paragraphs (c)(4)(iv) and (c)(4)(v) respectively, and a new paragraph (c)(4)(iii) is added to read as follows:

**§ 679.32 Groundfish and halibut CDQ catch monitoring.**

\* \* \* \* \*

(c) \* \* \*

(4) \* \* \*

(iii) Obtain the data entry software provided by the Regional Administrator (—ATLAS software—) for use by the observer and ensure that observer data can be transmitted from the vessel to NMFS at any time while the vessel is receiving, catching or processing CDQ species.

\* \* \* \* \*

4. In appendix A to part 679, in section 2.3.1.8, paragraphs (a)(iv) and (a)(v), in section 3.3.1.7, paragraphs (a)(iv) and (a)(v), and in section 4.3.1.5, paragraph (iv) are removed; in section 2.3.1.8, paragraphs (a)(vi) through (a)(viii) are redesignated as paragraphs (a)(iv) through (a)(vi) respectively; in section 3.3.1.7, paragraphs (a)(vi) through (a)(viii) are redesignated as paragraphs (a)(iv) through (a)(vi) respectively; in section 4.3.1.5, paragraph (a)(v) is redesignated as paragraph (a)(iv); and the definition of —security seals or means— in section 5.0 is revised to read as follows:

**Appendix A To Part 679**

\* \* \* \* \*

*5. Definitions*

\* \* \* \* \*

*Security seals or means*—A physical seal such as a lead and wire seal that must be broken in order to change the operating or performance characteristics of the scale, or a number generated by the scale whenever a change is made to an adjustable component. The number must be sequential and it must not be possible for the scale operator to alter it. The number must be displayed whenever the scale is turned on.

\* \* \* \* \*

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