

under paragraph (a)(1) of this section and that do not meet the criteria in paragraphs (a)(2) or (a)(3) of this section by the total retained catch of Pacific cod by all groundfish vessels between 1996 and 2000.

(2) *Groundfish other than Pacific cod.* The sideboard ratios for groundfish species and species groups other than Pacific cod and fixed-gear sablefish are calculated by dividing the aggregate landed catch by vessels subject to sideboard directed fishing closures under paragraph (a)(1) of this section by the total landed catch of that species by all groundfish vessels between 1996 and 2000.

(e) *Conversion of sideboard ratios into annual harvest limits.* NMFS will convert sideboard ratios into annual harvest limits according to the following procedures.

(1) *Annual harvest limits.* Annual harvest limits for each groundfish species, except fixed-gear sablefish, will be established by multiplying the sideboard ratios calculated under paragraph (d) of this section by the interim and final TACs in each area for which a TAC is specified. If a TAC is further apportioned by season, the sideboard harvest limit also will be apportioned by season in the same ratio as the overall TAC. The resulting harvest limits expressed in metric tons will be published in the annual GOA groundfish harvest specification notices.

(2) *Sideboard directed fishing allowance.* (i) If the Regional Administrator determines that a harvest limit for a species or species group has been or will be reached, the Regional Administrator may establish a sideboard directed fishing allowance for the species or species group applicable only to the group of crab vessels to which the sideboard limit applies.

(ii) If the Regional Administrator determines that a harvest limit is insufficient to support a directed fishery for that species or species group, then the Regional Administrator may set the sideboard directed fishing allowance at zero for that species or species group.

(3) *Directed fishing closures.* Upon attainment of a sideboard directed fishing allowance, the Regional Administrator will publish notification in the FEDERAL REGISTER prohibiting directed

fishing for the species or species group in the specified subarea, regulatory area, or district. A directed fishing closure is effective for the duration of the fishing year or season.

(f) *Sideboard protections in the State of Alaska parallel groundfish fisheries.* Vessels subject to the sideboard restrictions under paragraph (a) of this section, with a Federal Fisheries Permit or LLP license, shall be subject to the regulations of this section while participating in any groundfish fishery in State waters adjacent to the GOA opened by the State of Alaska and for which the State of Alaska adopts a Federal fishing season.

[70 FR 10241, Mar. 2, 2005, as amended at 71 FR 38301, July 6, 2006]

**§ 680.23 Equipment and operational requirements.**

(a) *Catcher vessel requirements.* A catcher vessel used to harvest CR crab must:

(1) Carry and use a VMS as described in paragraph (d) of this section;

(2) Land all retained crab to an RCR operating under an approved catch monitoring plan as described in paragraph (g) of this section;

(b) *Catcher/processor requirements.* A catcher/processor used to harvest CR crab must:

(1) Carry and use a VMS as described in paragraph (d) of this section;

(2) Weigh all retained crab to be processed on board, in its raw form, on a scale approved by NMFS as described in paragraph (e) of this section;

(3) Land all retained crab not processed on board at an RCR;

(4) Land all product processed on board at a shoreside location in the United States accessible by road or regularly scheduled air service and weigh that product on a scale approved by a state in which CR crab is landed; and

(5) Provide an approved observer platform scale and test weights that meet the requirements in paragraph (e) of this section.

(c) *RCR requirements.* An RCR must:

(1) Ensure that all CR crab landings are weighed on a scale approved by the State in which the landing takes place.

(2) Ensure that all crab landing and weighing be conducted as specified in

an approved crab monitoring plan as described in paragraph (g) of this section, and that a copy of the crab monitoring plan is made available to NMFS personnel or authorized officer upon demand.

(d) *Vessel Monitoring System (VMS) requirements*—(1) *General requirements.* General VMS requirements concerning the approval and installation of VMS components and the responsibilities of vessel owners and operators are detailed at § 679.28(f)(1) through (5).

(2) *VMS transmission requirements.* A vessel's transmitter must be transmitting if:

(i) The vessel is operating in any reporting area (see definitions at § 679.2) off Alaska;

(ii) The vessel has crab pots or crab pot hauling equipment, or a crab pot launcher onboard; and

(iii) The vessel has or is required to have a Federal crab vessel permit for that crab fishing year.

(e) *Scales approved by NMFS.* To be approved by NMFS, a scale used to weigh crab at sea must meet the type evaluation and initial inspection requirements set forth in § 679.28(b)(1) and (2). Once a scale is installed on a vessel and approved by NMFS for use, it must be reinspected annually as described in § 679.28(b) by requesting a scale inspection from NMFS. Each scale must be tested daily and meet the maximum permissible error (MPE) requirements described in paragraph (e)(1) of this section.

(1) *At-sea scale tests.* To verify that the scale meets the MPEs specified in this paragraph, the vessel operator must test each scale or scale system used to weigh CR crab one time during each 24-hour period when use of the scale is required. The vessel owner must ensure that these tests are performed in an accurate and timely manner.

(i) *Belt scales.* The MPE for the daily at-sea scale tests is plus or minus 3 percent of the known weight of the test material. The scale must be tested by weighing at least 400 kg (882 lb) of crab or an alternative material supplied by the scale manufacturer on the scale under test. The known weight of the test material must be determined by

weighing it on a platform scale approved for use under § 679.28 (b)(7).

(ii) *Automatic hopper scales.* An automatic hopper scale must be tested at its minimum and maximum capacity with approved test weights. Test weights must be placed in the bottom of the hopper unless an alternative testing method is approved by NMFS. The MPE for the daily at-sea scale tests is plus or minus 2 percent of the weight of the approved test weights.

(iii) *Platform scales used for observer sampling.* A platform scale used for observer sampling must be tested at 10, 25, and 50 kg (or 20, 50, and 100 lb if the scale is denominated in pounds) using approved test weights. The MPE for the daily at-sea scale test is plus or minus 0.5 percent if the scale is used to determine the known weight of test material for the purpose of testing a belt scale. If the scale is not used for that purpose, the MPE for the daily at-sea scale test is plus or minus 1 percent.

(iv) *Approved 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.

(v) *Requirements for all scale tests.* (A) Notify the observer at least 15 minutes before the time that the test will be conducted, and conduct the test while the observer is present.

(B) Conduct the scale test and record the following information on the at-sea scale test report form:

- (1) Vessel name;
- (2) Month, day, and year of test;
- (3) Time test started to the nearest minute;
- (4) Known weight of test weights;
- (5) Weight of test weights recorded by scale;
- (6) Percent error as determined by subtracting the known weight of the test weights from the weight recorded on the scale, dividing that amount by the known weight of the test weights, and multiplying by 100; and
- (7) Sea conditions at the time of the scale test.

(C) Maintain the test report form on board the vessel until the end of the crab fishing year during which the tests were conducted, and make the report forms available to observers, NMFS personnel, or an authorized officer. In addition, the vessel owner must retain the scale test report forms for 3 years after the end of the crab fishing year during which the tests were performed. All scale test report forms must be signed by the vessel operator.

(2) *Scale maintenance.* The vessel owner must ensure that the vessel operator maintains the scale in proper operating condition throughout its use, that adjustments made to the scale are made so as to bring the performance errors as close as practicable to a zero value, and that no adjustment is made that will cause the scale to weigh inaccurately.

(3) *Printed reports from the scale.* The vessel owner must ensure that the printed reports are provided as 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 NMFS or NMFS authorized personnel. In addition, the vessel owner must retain printed reports 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 prior to submitting a CR crab landing report as described in §680.5. 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 crab vessel permit number;

(B) The weight of each load in the weighing cycle (hopper scales only);

(C) The date and time the information was printed;

(D) The total amount weighed since the last printout was made; and

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

(ii) *Printed report from the audit trail.* The printed report must include the information specified in sections 2.3.1.8, 3.3.1.7, and 4.3.1.8 of appendix A to 50 CFR part 679. The printed report must be provided to the authorized scale inspector at each scale inspection and must also be printed at any time upon request of NMFS staff or other NMFS-authorized personnel.

(iii) *Platform scales used for observer sampling.* A platform scale used for observer sampling is not required to produce a printed record unless that scale is also used to obtain raw weight for a CR crab landing report.

(4) *Scale installation requirements.* Unless otherwise approved by NMFS, a scale used to obtain raw weight for a CR crab landing report must be installed such that:

(i) From the location where the observer samples unsorted crab, the observer can ensure that all crab are being weighed;

(ii) The scale may not be installed in a manner that facilitates bypassing. It must not be possible for the scale inspector and an assistant to bypass the scale with 100 kg (220 lb) of test material in less than 20 seconds.

(f) *Scales approved by the state.* Scale requirements in this paragraph are in addition to those requirements set forth by the State in which the scale is approved, and nothing in this paragraph may be construed to reduce or supersede the authority of the State to regulate, test, or approve scales within the State. Scales used to weigh CR crab that are also required to be approved by the State must meet the following requirements:

(1) *Verification of approval.* The scale must display a valid State sticker indicating that the scale was inspected and approved within the previous 12 months.

(2) *Visibility.* An RCR must ensure that the scale and scale display are visible simultaneously. NMFS personnel or NMFS authorized personnel, including observers, must be allowed to observe the weighing of crab on the scale and be allowed to read the scale display at all times.

(3) *Printed scale weights.* (i) An RCR must ensure that printouts of the scale weight of each delivery or offload are

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made available to NMFS personnel or to NMFS authorized personnel, including observers, at the time printouts are generated. An RCR must maintain printouts on site until the end of the fishing year during which the printouts were made and make them available upon request by an authorized officer for 3 years after the end of the fishing year during which the printout was made.

(ii) A scale used to weigh any portion of a landing of CR crab or an offload of CR crab product must produce a printed record for each landing, or portion of each landing, weighed on that scale. The printed record must include:

- (A) The RCR's name;
- (B) The weight of each load in the weighing cycle;
- (C) The total weight of crab in each landing, or portion of the landing that was weighed on that scale;
- (D) The date and time the information is printed; and
- (E) The name and ADF&G vessel registration number of the vessel making the delivery. The scale operator may write this information on the scale printout in ink at the time of landing.

(4) *Inseason scale testing.* Scales used to weigh CR crab must be tested by RCR personnel when testing is requested by NMFS-staff or by NMFS-authorized personnel.

(i) *Inseason testing criteria.* To pass an inseason test, NMFS staff or NMFS-authorized personnel will verify that the scale display and printed information are clear and easily read under all conditions of normal operation, that weight values are visible on the display until the value is printed, and that the scale does not exceed the maximum permissible errors specified in the following table:

Test load in scale divisions	Maximum error in scale divisions
(A) 0-500 .....	1
(B) 501-2,000 .....	2
(C) 2,001-4,000 .....	3
(D) > 4,000 .....	4

(ii) *Test weight requirements.* Scales must be tested with the amount and type of weight specified for each scale type in the following tables under paragraphs (f)(4)(ii)(A) through (f)(4)(ii)(D) of this section:

(A) Automatic hopper 0 to 150 kg (0 to 300 lb) capacity.

Certified test weights	Other test material
(1) Minimum weight or 10 kg (20 lb), whichever is greater.	Minimum.
(2) Maximum .....	Maximum.

(B) Automatic hopper > 150 kg (300 lb) capacity.

Certified test weights	Other test material
(1) Minimum weight or 10 kg (20 lb), whichever is greater.	Minimum.
(2) 25 percent of maximum of 150 kg (300 lb), whichever is greater.	Maximum.

(C) Platform, flatbed or hanging scales less than 150 kg (300 lb) capacity.

Certified test weights	Other test material
(1) 10 kg (20 lb) .....	Not Acceptable.
(2) Midpoint .....	Not Acceptable.
(3) Maximum .....	Not Acceptable.

(D) Platform, flatbed or hanging scales > 150 kg (300 lb) capacity.

Certified test weights	Other test material
(1) 10 kg (20 lb) .....	Not Acceptable.
(2) 12.5 percent of maximum or 75 kg (150 lb), whichever is greater.	50 percent of maximum or 75 kg (150 lb), whichever is greater.
(3) 25 percent of maximum or 150 kg (300 lb), whichever is greater.	75 percent of maximum or 150 kg (300 lb), whichever is greater.

(iii) *Certified test weights.* An RCR must ensure that there are sufficient test weights on-site to test each scale used to weigh CR crab. Each test weight used for inseason scale testing must have its weight stamped on or otherwise permanently affixed to it. The weight of each test weight must be certified by a National Institute of Standards and Technology approved metrology laboratory every 2 years.

(iv) *Other test material.* When permitted in paragraph (f)(4)(ii) of this section, a scale may be tested with test material other than certified test weights.

(g) *Crab Monitoring Plans (CMP).* A CMP is a plan submitted by an RCR for each location or processing vessel where the RCR wishes to take deliveries of CR crab. The CMP must detail how the RCR will meet the catch monitoring standards detailed in paragraph (g)(5) of this section. An RCR that processes only CR crab harvested under a CPO or CPC IFQ permit is not required to prepare a CMP.

(1) *CMP Approval.* NMFS will approve a CMP if it meets all the performance standards specified in paragraph (g)(5) of this section. The location or vessel identified in the CMP may be inspected by NMFS prior to approval of the CMP to ensure that the location conforms to the elements addressed in the CMP. If NMFS disapproves a CMP, the plant owner or manager may resubmit a revised CMP or file an administrative appeal as set forth under the administrative appeals procedures described in §679.43.

(2) *Inspection scheduling.* The time and place of a CMP inspection may be arranged by submitting a written request for an inspection to NMFS, Alaska Region. An inspection must be requested no less than 10 working days before the requested inspection date. NMFS staff will conduct CMP inspections in any port located in the United States that can be reached by regularly scheduled commercial air service. The inspection request must include:

(i) Name and signature of the person submitting the application and the date of the application;

(ii) Address, telephone number, facsimile number, and e-mail address (if available) of the person submitting the application; and

(iii) A proposed CMP detailing how the RCR will meet each of the standards in paragraph (g)(5) of this section.

(3) *Approval period.* NMFS will approve a CMP for 1 year if it meets the performance standards specified in paragraph (e)(2) of this section. An owner or manager must notify NMFS in writing if changes are made in plant

operations or layout that do not conform to the CMP.

(4) *Changing an approved CMP.* An RCR may change an approved CMP by submitting a CMP addendum to NMFS. Depending on the nature and magnitude of the change requested, NMFS may require a CMP inspection as described in paragraph (g)(2) of this section. A CMP addendum must contain:

(i) Name and signature of the person submitting the addendum;

(ii) Address, telephone number, facsimile number and e-mail address (if available) of the person submitting the addendum; and

(iii) A complete description of the proposed CMP change.

(5) *CMP standards—(i) Crab sorting and weighing requirements.* All crab, including crab parts and crab that are dead or otherwise unmarketable, delivered to the RCR must be sorted and weighed by species. The CMP must detail how and where crab are sorted and weighed.

(ii) *Scales used for weighing crab.* The CMP must identify by serial number each scale used to weigh crab and describe the rationale for its use.

(iii) *Scale testing procedures.* Scales identified in the CMP must be accurate within the limits specified in paragraph (f)(4)(i) of this section. For each scale identified in the CMP a testing plan must be developed that:

(A) Describes the procedure the plant will use to test the scale;

(B) Lists the test weights and equipment required to test the scale;

(C) Lists where the test weights and equipment will be stored; and

(D) Lists the names of the personnel responsible for conducting the scale testing.

(iv) *Printed record.* An RCR must ensure that the scale produces a complete and accurate printed record of the weight of each species in a landing. All of the crab in a delivery must be weighed on a scale capable of producing a complete printed record as described in paragraph (e)(3) of this section. A printed record of each landing must be printed before the RCR submits a CR crab landing report.

(v) *Observation area.* Each CMP must designate an observation area. The observation area is a location designated

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on the CMP where an individual may monitor the offloading and weighing of crab. The observation area must meet the following standards:

(A) *Access to the observation area.* The observation area must be freely accessible to observer, NMFS staff or enforcement aides at any time during the effective period of the CMP.

(B) *Monitoring the offloading and weighing of crab.* From the observation area, an individual must have an unobstructed view or otherwise be able to monitor the entire offload of crab between the first location where crab are removed from the boat and a location where all sorting has taken place and each species has been weighed.

(C) *Other requirements.* The observation area must be sheltered from the weather and not exposed to unreasonable safety hazards.

(vi) *Plant liaison.* The CMP must designate a plant liaison. The plant liaison is responsible for:

(A) Orienting new observers, NMFS staff and enforcement aides to the plant;

(B) Assisting in the resolution of observer concerns; and

(C) Informing NMFS if changes must be made to the CMP.

(vii) *Drawing to scale of delivery location.* The CMP must be accompanied by a drawing to scale of the delivery location or vessel showing:

(A) Where and how crab are removed from the delivering vessel;

(B) The observation area;

(C) The location of each scale used to weigh crab; and

(D) Each location where crab is sorted.

(viii) *Single geographic location.* All offload and weighing locations detailed in a CMP must be located on the same vessel or in the same geographic location. If a CMP describes facilities for the offloading of vessels at more than one location, it must be possible to see all locations simultaneously.

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**§ 680.30 [Reserved]**

**Subpart C—Quota Management Measures**

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

(a) *Crab QS and Crab QS fisheries.* The Regional Administrator will issue crab QS for the crab QS fisheries defined in paragraph (a)(1) of this section. The Regional Administrator will annually issue IFQ based on the amount of QS a person holds. Crab harvested and retained in each crab QS fishery may be harvested and retained only by persons holding the appropriate crab IFQ for that crab QS fishery.

(1) *Allocations.* With the exception of the WAI golden king crab fishery, the Regional Administrator shall annually apportion 10 percent of the TAC specified by the State of Alaska for each of the fisheries described in Table 1 to this part to the Western Alaska CDQ program. Ten percent of the TAC in the Western Aleutian Islands golden king crab fishery will be allocated to the Adak community entity. The remaining TACs for the crab QS fisheries will be apportioned for use by QS holders in each fishery.

(2) *Official crab rationalization record.* The official crab rationalization record will be used to determine the amount of QS that is to be allocated for each crab QS fishery. The official crab rationalization record is presumed to be correct. An applicant for QS has the burden to prove otherwise. For the purposes of creating the official crab rationalization record the Regional Administrator will presume the following:

(i) An LLP license is presumed to have been used onboard the same vessel from which that LLP is derived, unless documentation is provided establishing otherwise.

(ii) If more than one person is claiming the same legal landings or legal processing activities, then each person eligible to receive QS or PQS based on those activities will receive an equal share of any resulting QS or PQS unless the applicants can provide written