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(2) The affiliated party may not participate in the board's deliberations or decision.

(3) If a majority of the board are respondents in the action, the remaining board members may approve payment after obtaining a written opinion of outside counsel that the conditions of this regulation have been met.

(4) If all of the board members are respondents, they may approve payment after obtaining a written opinion of outside counsel that the conditions of this regulation have been met.

(d) *Scope.* This section does not apply to a regulated entity operating in conservatorship or receivership or to a limited-life regulated entity.

Dated: September 28, 2018.

**Melvin L. Watt,**

*Director, Federal Housing Finance Agency.*

[FR Doc. 2018-21592 Filed 10-3-18; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 15 CFR Part 902

#### 50 CFR Part 679

[Docket No. 170630613-8749-02]

RIN 0648-BH02

### Fisheries of the Exclusive Economic Zone Off Alaska; Yellowfin Sole Management in the Groundfish Fisheries of the Bering Sea and Aleutian Islands

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues regulations to implement Amendment 116 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP). Amendment 116 and this final rule limit access to the Bering Sea and Aleutian Islands (BSAI) Trawl Limited Access Sector (TLAS) yellowfin sole directed fishery by vessels that deliver their catch of yellowfin sole to motherships for processing. This final rule establishes eligibility criteria based on historical participation in the BSAI TLAS yellowfin sole directed fishery; issues an endorsement to those groundfish License Limitation Program

(LLP) licenses that meet the eligibility criteria; and authorizes delivery of BSAI TLAS yellowfin sole to motherships by only those vessels designated on a groundfish LLP license that is endorsed for the BSAI TLAS yellowfin sole directed fishery. This action is necessary to prevent increased catcher vessel (CV) participation from reducing the benefits the fishery provides to historic and recent participants, mitigate the risk that a "race for fish" could develop, and help to maintain the consistently low rates of halibut bycatch in the BSAI TLAS yellowfin sole directed fishery. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, Amendment 116, the BSAI FMP, and other applicable laws.

**DATES:** This rule is effective November 5, 2018.

**ADDRESSES:** Electronic copies of Amendment 116 and the Environmental Assessment/Regulatory Impact Review (collectively the "Analysis") prepared for this action may be obtained from [www.regulations.gov](http://www.regulations.gov). A Small Entity Compliance Guide for this final rule is available on the NMFS Alaska Region website at <https://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 by mail to NMFS Alaska Region, P.O. Box 21668, Juneau, AK 99802-1668, Attn: Ellen Sebastian, Records Officer; in person at NMFS Alaska Region, 709 West 9th Street, Room 420A, Juneau, AK; by email to [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov); or by fax to (202)-395-5806.

**FOR FURTHER INFORMATION CONTACT:** Bridget Mansfield, 907-586-7228.

**SUPPLEMENTARY INFORMATION:**

#### Authority for Action

NMFS manages the groundfish fisheries in the exclusive economic zone of the BSAI under the BSAI FMP. The North Pacific Fishery Management Council (Council) prepared the BSAI FMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.* Regulations governing U.S. fisheries and implementing the BSAI FMP appear at 50 CFR parts 600 and 679.

This final rule implements Amendment 116. The Council submitted Amendment 116 for review by the Secretary of Commerce, and the notice of availability of this amendment

was published in the **Federal Register** on May 18, 2018 (83 FR 23250), with comments invited through July 17, 2018. NMFS published the proposed rule for this action on June 6, 2018 (83 FR 26237), with comments invited through July 6, 2018. A correction notice to the proposed rule was published on June 20, 2018 (83 FR 28604). The Secretary of Commerce approved Amendment 116 on August 10, 2018. NMFS received five comment letters containing nine individual comments from five unique individuals during the comment periods for Amendment 116 and the proposed rule. The five commenters consisted of three individuals and two companies representing CVs. A summary of these comments and the responses by NMFS are provided under the heading "Comments and Responses" below.

A detailed review of the provisions of Amendment 116, the proposed regulations to implement Amendment 116, and the rationale for this action is provided in the preamble to the proposed rule and is briefly summarized in this final rule.

#### Background

The BSAI yellowfin sole directed fishery is managed under a total allowable catch (TAC) limit with portions of the TAC allocated to the Community Development Quota (CDQ) Program, the Amendment 80 sector, and the BSAI TLAS. The BSAI TLAS comprises all BSAI trawl fishery participants not in the CDQ Program or Amendment 80 sector. The Council's intent in establishing the BSAI TLAS was to provide harvesting opportunities for American Fisheries Act (AFA) catcher/processors (CPs), AFA CVs, and non-AFA CVs. The current BSAI TLAS yellowfin sole directed fishery is almost entirely an offshore fishery composed of two primary harvesting groups: (1) AFA CPs, and (2) AFA and non-AFA CVs delivering yellowfin sole to AFA and Amendment 80 CPs or stationary floating processors operating as motherships. A "motherhip" is defined as a vessel that receives and processes groundfish from other vessels (see definition at 50 CFR 679.2) and for purposes of this rule includes stationary floating processors.

Since 2015, the BSAI TLAS yellowfin sole directed fishery has seen dramatic increases in CV and mothership participation as compared to the first seven years of the fishery (2008 through 2014). Also since 2015, the BSAI TLAS yellowfin sole TAC has been more fully harvested and the fishing season has grown shorter as the TAC has been reached earlier. The Analysis prepared

for this action notes that the potential exists for up to seven additional Amendment 80 CPs to participate as motherships in the fishery, providing processing capacity for up to 21 additional CVs, which would put greater fishing pressure on the fishery. The Council determined and NMFS agrees that limiting access to the BSAI TLAS yellowfin sole directed fishery by CVs delivering to motherships is needed given the expectation of additional capacity entering the fishery. The Council adopted its preferred alternative for Amendment 116 at its June 2017 meeting.

This final rule balances protections for the benefits from the fishery for long-time, historic, and recent participants, given the increasing number of participants in the fishery and shorter fishing seasons. This final rule promotes stability in the fishery by reducing the risk of a race for fish, lengthening the fishing season, and creating a safer, more predictable fishery. That stability will also minimize the potential for increased halibut prohibited species catch (PSC) rates, which could lead to closure of the fishery before the TAC is fully harvested.

This final rule establishes the requirement that a vessel used to harvest yellowfin sole in the BSAI TLAS yellowfin sole directed fishery and deliver that catch to a mothership must be designated on a groundfish LLP license with a BSAI TLAS yellowfin sole directed fishery endorsement. This final rule also establishes the eligibility criteria and issuance process for this new endorsement. Vessels not designated on groundfish LLP licenses that receive the endorsement are prohibited from participating in the BSAI TLAS yellowfin sole directed fishery and delivering their catch to a mothership for processing. This final rule does not preclude any vessel from delivering BSAI TLAS yellowfin sole to a shoreside processor. This final rule also does not preclude a vessel without a BSAI TLAS yellowfin sole directed fishery endorsement from delivering incidental catch of yellowfin sole that is caught while participating in other directed fisheries to a mothership for processing. Finally, this final action does not preclude a vessel from participating as a CP and processing its own catch in the BSAI TLAS yellowfin sole directed fishery.

Under this action, NMFS will issue a BSAI TLAS yellowfin sole directed fishery endorsement to a groundfish LLP license with a Bering Sea trawl endorsement if (1) the groundfish LLP license is credited with at least one legal trip target landing in the BSAI TLAS

yellowfin sole directed fishery; and (2) the credited legal trip target landing was to a mothership in any one year of the qualifying period (2008 through 2015). Under this final rule, the term “trip target” is defined as a groundfish species that is retained in an amount greater than the retained amount of any other groundfish species for that trip. Where a vessel that made at least one trip target landing in the BSAI TLAS directed fishery from 2008 through 2015 was designated on more than one groundfish LLP license during the qualifying period, all groundfish LLP licenses on which the vessel was designated and was used to make a trip target landing in a BSAI TLAS fishery during the qualifying period are eligible to be credited with the qualifying landings made by the vessel. However, none of these groundfish LLP licenses will be credited with a qualifying landing and receive an endorsement from NMFS until the vessel owner notifies NMFS in writing to identify which single groundfish LLP license is to be credited with the qualifying landing(s). NMFS anticipates that a total of eight groundfish LLP licenses will receive a BSAI TLAS yellowfin sole directed fishery endorsement under this final rule, resulting in up to eight vessels that may participate in the BSAI TLAS yellowfin sole directed fishery and deliver their catch to a mothership.

#### Overview of Measures Implemented by This Rule

This final rule limits access to the BSAI TLAS yellowfin sole directed fishery by CVs delivering to motherships to those CVs designated on a groundfish LLP license with a BSAI TLAS yellowfin sole directed fishery endorsement.

In order to implement Amendment 116, this final rule—

- Authorizes delivery of BSAI TLAS yellowfin sole to motherships by only those vessels designated on a groundfish LLP license endorsed for the BSAI TLAS yellowfin sole directed fishery.
- Includes the provisions that are necessary for a groundfish LLP license to qualify for and receive a BSAI TLAS yellowfin sole directed fishery endorsement.
- Prohibits the delivery of yellowfin sole harvested with trawl gear in the BSAI TLAS directed fishery to a mothership without a copy of a valid LLP license with a BSAI TLAS yellowfin sole directed fishery endorsement.

• Lists those groundfish LLP licenses that NMFS has determined are eligible, will be credited with qualifying landings, and will receive a BSAI TLAS

yellowfin sole directed fishery endorsement under this final rule.

• Lists those pairs of groundfish LLP licenses that NMFS has determined are eligible, but will not be credited with qualifying landings and will not receive a BSAI TLAS yellowfin sole directed fishery endorsement until the vessel owner notifies NMFS which single groundfish LLP license on which the vessel was designated during the qualifying period NMFS should credit with the qualifying landings.

• Establishes the process for notifying groundfish LLP license holders of eligibility for a BSAI TLAS yellowfin sole directed fishery endorsement.

• Establishes the process for the issuance of revised groundfish LLP licenses with a BSAI TLAS yellowfin sole directed fishery endorsement.

• Establishes an administrative adjudicative process to challenge NMFS's determinations on eligibility for a BSAI TLAS yellowfin sole directed fishery endorsement.

Additional detail about the rationale for and effect of the regulatory changes in this rule is provided in the preamble to the proposed rule and in the Analysis for this action.

#### Summary of Regulatory Changes

The following provides a brief summary of the regulatory changes made by this final rule.

##### *Revisions to Prohibitions at § 679.7*

This final rule adds § 679.7(i)(11) to prohibit the delivery of yellowfin sole harvested with trawl gear in the BSAI TLAS directed fishery to a mothership without a copy of a valid LLP license with a BSAI TLAS yellowfin sole directed fishery endorsement except as provided in § 679.4(k)(2).

##### *Revisions to Permits at § 679.4*

This final rule adds § 679.4(k)(14) to include the provisions that are necessary to qualify for, and receive, a BSAI TLAS yellowfin sole directed fishery endorsement. Section 679.4(k)(14) establishes a notification process for holders of groundfish LLP licenses eligible and ineligible for a BSAI TLAS yellowfin sole directed fishery endorsement. This section also establishes an administrative adjudicative process to challenge NMFS's determinations on eligibility for a BSAI TLAS yellowfin sole directed fishery endorsement.

##### *Revisions to Tables to Part 679*

This final rule adds Table 52 to part 679 to list those groundfish LLP licenses that NMFS has determined are eligible, will be credited with qualifying

landings, and will receive a BSAI TLAS yellowfin sole directed fishery endorsement under this final rule.

This final rule also adds Table 53 to part 679 to list those pairs of groundfish LLP licenses that NMFS has determined are eligible, but are not credited with qualifying landings. One groundfish LLP license from each pair in Table 53 will be credited with qualifying landings and will receive a BSAI TLAS yellowfin sole directed fishery endorsement once the vessel owner notifies NMFS in writing which one of the pair is selected to be credited with the qualifying landings and receive the BSAI TLAS yellowfin sole directed fishery endorsement.

### Comments and Responses

NMFS received five comment letters containing nine individual comments from five unique individuals during the comment periods for Amendment 116 and the proposed rule. The five commenters consisted of three individuals and two companies. Four comments did not support this action, three comments supported this action, and two comments addressed topics that were outside the scope of this action.

In responding to these comments, reference to Amendment 116, unless otherwise noted, means Amendment 116 and this final rule implementing Amendment 116.

*Comment 1:* This rule would eliminate most of the AFA and non-AFA CVs from harvesting yellowfin sole in the trawl limited access fishery and allow AFA CPs to continue to harvest as much as they can. That means the elimination of a very good fishing opportunity for most of the small CVs, in favor of further consolidation among the AFA CPs, which violates AFA Section 211. This proposed action is a de-facto exclusive allocation to a small, closed class of participants who have already shown their intention to privately organize and manage the fishery with harvest allocation agreements in 2016 and before. In addition, this proposed action conflicts with NMFS's policy allowing Amendment 80 vessels to participate as motherships in the BSAI TLAS fishery by limiting the opportunities for Amendment 80 vessels to partner with CVs.

*Response:* NMFS disagrees that this final rule violates AFA section 211, creates a de-facto allocation, or conflicts with NMFS policy regarding the ability of Amendment 80 vessels to act as motherships. AFA section 211(a) specifies that: "The North Pacific Council shall recommend for approval

by the Secretary such conservation and management measures as it determines necessary to protect fisheries under its jurisdiction and the participants in those fisheries, including processors, from adverse impacts caused by this Act or fishery cooperatives in the directed pollock fishery." This provision is intended to protect non-AFA vessels from potential negative impacts associated with the directed pollock fishery created by the AFA.

This action is consistent with the provisions of section 211 of the AFA for several reasons. This action does not modify (*i.e.*, increase) the amount of BSAI TLAS yellowfin sole that may be harvested by AFA CPs or CVs. Further, this action does not change (*i.e.*, decrease) the allocation of BSAI yellowfin sole to the Amendment 80 sector or the BSAI TLAS yellowfin sole directed fishery. In developing this action, the Council considered and recommended management measures for the BSAI TLAS yellowfin sole fishery that it determined were necessary to protect both AFA and non-AFA vessels from the negative impacts of a potential race for fish in the BSAI TLAS yellowfin sole directed fishery. The final rule does not provide benefits to AFA vessels related to their rights in the directed pollock fishery, nor does it provide benefits to AFA vessels at the expense of non-AFA vessels. Under this action, AFA CPs and CVs are still subject to the sideboard provisions that limit harvests of AFA CPs and CVs established by the final rule implementing Amendment 80 (72 FR 52668, September 14, 2007) and in regulations at § 679.64(a) and (b), which were created to minimize potential adverse impacts caused by the AFA pursuant to AFA section 211. In the final rule implementing Amendment 80, NMFS noted that the Council considered and recommended "management measures applicable to the AFA sector that it determined necessary to protect other fisheries during the development of the [Amendment 80] Program" (see 72 FR 5267).

This final rule is not expected to significantly alter the amount of yellowfin sole that is harvested by AFA CPs. Since 2015, the proportion of harvest by AFA CPs has decreased, not increased, relative to the proportion of harvest by CVs. Section 2.7.1.1 of the Analysis states that, from 2008 through 2014, AFA CPs harvested approximately 85 percent of the total catch in the BSAI TLAS yellowfin sole directed fishery. In 2015, 2016, and 2017 (the last year of complete data), AFA CPs have harvested 55 percent, 51 percent, and 42 percent

of the total catch in the BSAI TLAS yellowfin sole directed fishery, respectively (see Section 2.7.1.1). This final rule limits the number of CVs that may deliver catch in the BSAI TLAS yellowfin sole directed fishery to motherships to approximately the number of CVs that have participated in recent years. This final rule is not expected to result in an increase in catch by AFA CPs.

This final rule does not create a closed class of participants in the fishery. This final rule does not limit the number or specific AFA or non-AFA CPs that can participate in the BSAI TLAS yellowfin sole directed fishery, although AFA CPs are constrained by sideboard limits established under Amendment 80. This final rule does not establish a closed class of AFA or non-AFA CVs, because it does not preclude CVs from delivering catch in the BSAI TLAS yellowfin sole directed fishery to shoreside processors; this action limits only the number of CVs that deliver to motherships. Although the Analysis notes that currently CVs are not delivering harvests in the BSAI TLAS yellowfin sole directed fishery to shoreside processors, should such markets develop, this final rule would not limit the ability of existing or new CVs from harvesting and delivering BSAI TLAS yellowfin sole to shoreside processors.

This final rule does not establish or require any private agreements among fishery participants in order to participate in the BSAI TLAS yellowfin sole directed fishery. This final rule was developed in response to the Council's and NMFS's concerns over the developing "race for fish," which has already shortened the fishing season and raised management, conservation, and safety issues detailed in the preamble to the proposed rule (83 FR 26237, June 6, 2018). Because these concerns stem directly from the recent, dramatic increase in participation in this fishery by CVs delivering to motherships, the Council and NMFS determined that the appropriate response is to limit additional participation to provide stability to the fishery and predictability for participants and managers. This limitation allows for continued participation by the majority of CVs that have historically fished BSAI TLAS yellowfin sole and delivered to motherships. Only two CVs that have shown interest in participating in the fishery, notably after the Council signaled its intent to limit participation by CVs in the BSAI TLAS yellowfin sole fishery, are precluded from future participation under this rule.

This final rule is consistent with the establishment of the BSAI TLAS under Amendment 80, defined in regulations at § 679.2 as all other BSAI trawl fishery participants not in the Amendment 80 or CDQ sectors, and specifically includes AFA CPs, AFA CVs, and non-AFA CVs. The final rule implementing Amendment 80 makes clear that the BSAI TLAS fisheries were created specifically to preserve the opportunity for such vessels to fish in the non-pollock trawl fisheries in the BSAI. This action does not favor AFA or non-AFA CVs. NMFS has determined that of the ten groundfish LLP licenses with CV designations eligible for a BSAI TLAS yellowfin sole directed fishery endorsement, three are endorsed as AFA groundfish LLP licenses, while the remaining seven have no AFA or Amendment 80 endorsement.

This final rule implementing Amendment 116 is also consistent with the determination under Amendment 80 that Amendment 80 vessels could be used as motherships to receive harvest from CVs fishing in the BSAI TLAS fisheries. The final rule implementing Amendment 80 noted that it allowed the continued participation of one Amendment 80 vessel that had historically been used as a mothership and acknowledged potential future growth in the use of Amendment 80 vessels as motherships in the BSAI TLAS. Under this rule Amendment 80 vessels can still act as motherships and receive deliveries of BSAI TLAS yellowfin sole from CVs with a BSAI TLAS yellowfin sole directed fishery endorsement. However, NMFS and the Council believe that further growth of CVs delivering to motherships must be limited at this time to maintain a balance between the ability of participants to fully harvest the TAC and the management, conservation, and safety concerns that result from accelerated harvest caused by continued increase in participation.

*Comment 2:* As originally intended by NMFS, the partnerships between CVs and Amendment 80 mothership operations are lucrative for CVs, their crews, and the State of Alaska. Partnerships between Amendment 80 vessels and CVs allow CVs the opportunity to harvest yellowfin sole and earn revenue during times they would not otherwise be fishing. This puts Alaskan vessels and crew to work during times that they would otherwise be sitting idle and collecting unemployment. The BSAI TLAS yellowfin sole fishery provides CVs significant, predictable income that CV owners can invest into Alaska and for new halibut reduction technology.

Restricting the CV fleet to eight vessels under this proposed rule will divert this revenue to the largest fishing companies, the AFA CP owners, who already receive massive revenue from their protected pollock monopoly.

*Response:* Capping the number of CVs delivering TLAS yellowfin sole to motherships will not significantly reduce CV participation in the fishery from historic levels. Under this rule, it is anticipated that eight groundfish LLPs will qualify for a BSAI TLAS yellowfin sole directed fishery endorsement. CV participation in the fishery has never exceeded nine vessels in any one year. As noted in the response to Comment 1, the AFA CP sector is still subject to BSAI TLAS yellowfin sole sideboard limits as required at § 679.64(a) and (b). Also noted in the response to Comment 1, the harvest has shifted from CPs harvesting the majority of the BSAI TLAS yellowfin sole to CVs harvesting a slight majority of the BSAI TLAS yellowfin sole TAC in recent years. The Analysis (Section 2.7.1.1) states that from 2008 through 2014 AFA CPs harvested approximately 85 percent of the total catch in the BSAI TLAS yellowfin sole directed fishery. In 2015, 2016, and 2017 (the last year of complete data), AFA CPs have harvested 55 percent, 51 percent, and 42 percent of the total catch in the BSAI TLAS yellowfin sole directed fishery, respectively (see Section 2.7.1.1). This final rule limits the number of CVs that may deliver catch in the BSAI TLAS yellowfin sole directed fishery to motherships to approximately the number of CVs that have participated in recent years, and is not expected to result in an increase in catch by AFA CPs. Therefore, this rule is not expected to divert revenue from the CV sector to the CP sector.

*Comment 3:* The proposed rule described the Council's concern regarding "the likelihood of decreasing benefits from the yellowfin sole TLAS fishery for long-time, historic, and recent participants given the increasing number of participants in the fishery and shorter fishing seasons." The proposed action should not proceed based on "dependency" because (a) there is no legal "dependency" by the AFA CPs on the BSAI TLAS yellowfin sole directed fishery, and (b) mere "dependency" of a favored set of companies is not a legally sufficient reason under the Magnuson-Stevens Act to exclude their competitors from a fishery.

*Response:* This action does not protect any particular group of vessels based on dependency on this fishery. As explained in the response to Comment

1, this action is consistent with the final rule implementing Amendment 80, which established criteria for participation in the BSAI TLAS fisheries. In developing this final rule to implement Amendment 116, the Council and NMFS based eligibility qualifications on historic participation, which is described in the rule as at least one legal trip target landing of BSAI TLAS yellowfin sole directed catch to a mothership in any one year during the qualifying period (2008 through 2015). The Council and NMFS did not consider dependency on this fishery by participants and did not equate the fishery's benefits to long-time, historic, and recent participants with dependency on the fishery by those participants. To the extent that historic participation was taken into account in the development of this rule, it was the historic participation of CVs, rather than the historic participation of CPs. Further, in considering historic participation, the Council chose the more inclusive alternative that required participation in the fishery in any one year during the qualifying period, rather than any two years. For the eight CVs designated on a groundfish LLP license eligible to participate in the BSAI TLAS yellowfin sole directed fishery endorsement under this final rule, participation in the fishery ranged from one to seven years. Of those eight vessels, five participated in the fishery for only one of the eight qualifying years.

*Comment 4:* These regulations should not proceed in the guise of a halibut bycatch (PSC) management program. The Analysis states that under the status quo management, halibut PSC usage in the fishery will likely continue at similar levels. There are no data to support the creation of a closed class of participants on the basis of halibut bycatch concerns in the status quo fishery. Halibut bycatch has been reduced with CVs competing for lower halibut PSC in the TLAS. The entrance of new CVs into the fishery has created a new tool promoting bycatch reduction through competition between harvesters for the lowest halibut bycatch rates. The proposed regulations may actually reverse the bycatch reduction gains achieved by the competition between CPs and CVs.

*Response:* NMFS acknowledges that the halibut PSC in the BSAI TLAS yellowfin sole directed fishery varies from year-to-year for a variety of reasons. With the exception of 2013, halibut PSC rates are generally low and within the PSC limits set through the annual specifications process. However, the preamble to the proposed rule states

that this action is necessary to mitigate the risk that a “race for fish” could develop, which could increase halibut PSC rates. The Analysis (Section 2.7.1.2) notes that overall, under status quo, halibut PSC usage in the BSAI TLAS yellowfin sole directed fishery will likely continue at similar levels if participation is stable. However, the Council noted the increase in the number of participating CVs that deliver to motherships in recent years and anticipated that such participation would continue to increase without action to curtail the increase. The recent increased participation, combined with recent lower BSAI TLAS yellowfin sole allocations, has resulted in a fully utilized fishery with increasingly shorter fishing seasons. Shorter fishing seasons can enhance the incentives for vessels to harvest quickly in order to gain a greater share of the TAC before it is fully harvested and the fishery is closed. These circumstances create a substantial disincentive for harvesters to take actions to reduce bycatch use and waste, particularly if those actions could reduce groundfish catch rates. This increases the potential for higher halibut PSC rates. Accordingly, the Analysis (Section 2.7.1.2 and 3.2.2.1) notes that by limiting the level of participation by CVs, this action has the potential to mitigate future increases in halibut PSC in this fishery by relieving the harvest pressure and providing more flexibility in fishing operations, which allows vessels to better avoid halibut PSC. In this way, this action may help maintain current low levels or even decrease halibut PSC in the fishery.

Further, NMFS believes that limiting the number of CVs delivering to motherships provides more stability and predictability in the fishery over the long term. This can facilitate better communication among participants and provide a better opportunity to implement a voluntary best practices agreement. Section 2.7.1.2 of the Analysis describes this best practices agreement as “target rates of halibut mortality, reporting real-time halibut mortality and location of the mortality, and established procedures for sharing halibut mortality information via Sea-State [a private third-party data manager]. In some years, the agreement has also included informal apportionment of remaining halibut mortality among participating vessels that fish late in the year.” This action does not preclude competition between CPs and CVs to reduce halibut PSC rates from continuing to help maintain the consistently low rates of halibut bycatch

in the BSAI TLAS yellowfin sole directed fishery.

*Comment 5:* The proposed rule states that this action does not create a Limited Access Privilege (LAP) program. We believe the proposed action is a LAP program. The AFA-CP companies have previously operated in the TLAS subject to a voluntary cooperative agreement that these companies have refused to produce to NMFS or other participants. We believe that this cooperative agreement included allocation of harvest among its members. Thus, this action likely will have the effect of allocating species to the participants who may revert to their previously agreed and undisclosed allocation agreement.

*Response:* As noted in the proposed rule, Section 3 of the Magnuson-Stevens Act (16 U.S.C. 1802) defines a LAP as a Federal permit issued as part of a limited access system under section 303A to harvest a quantity of fish expressed by a unit or units representing a portion of the TAC of the fishery that may be received or held for exclusive use by a person and includes an individual fishing quota but does not include community development quotas. This final rule limits the number of groundfish LLP licenses, and therefore the number of CVs, that could be used to harvest BSAI TLAS yellowfin sole and deliver that harvest to a mothership, but it does not assign a portion of the BSAI TLAS yellowfin sole TAC for exclusive use by a person. An individual owner of a groundfish LLP license that receives an endorsement would not be allocated a specific amount of BSAI TLAS yellowfin sole for the owner’s exclusive use. All vessels eligible to participate in the offshore BSAI TLAS yellowfin sole directed fishery, including CPs as well as CVs designated on groundfish LLP licenses with the BSAI TLAS yellowfin sole directed fishery endorsement, will continue to compete with each other in harvesting the BSAI TLAS yellowfin sole TAC rather than act together as one entity. Additionally, although CVs have not historically delivered their catch of yellowfin sole to shore-based processing plants, this proposed action does not preclude CVs from conducting directed fishing for BSAI TLAS yellowfin sole and delivering that harvest to shore-based processing plants. This proposed action does not limit the amount of BSAI TLAS yellowfin sole that can be harvested by a CV designated on a groundfish LLP license with a BSAI TLAS yellowfin sole directed fishery endorsement; rather, it limits the number of CVs that are eligible to participate in the directed fishery and

deliver their harvest to a mothership. This action does not limit CPs participating in the BSAI TLAS yellowfin sole fishery or assign a portion of the TAC for exclusive use by individual CPs or any specific group of CPs. Voluntary cooperative agreements are not equivalent to a LAP program created by NMFS. Moreover, NMFS maintains the ability to reallocate BSAI TLAS yellowfin sole TAC to the Amendment 80 sector, if NMFS determines that it will go unharvested.

*Comment 6:* We support this action, because it tightens eligibility of CVs and will decelerate the race for fish to avoid the “Tragedy of the Commons,” whereby the common resource is depleted as the number of vessels harvesting fish increases, and over time the survival of the fish species itself is threatened. The recent influx of CV effort has resulted in shortened seasons and affects participants historically dependent on the fishery. The additional CV effort also reduces incentives and opportunities for participants to adopt measures to reduce halibut bycatch and associated mortality.

*Response:* NMFS acknowledges the comment in support of Amendment 116.

*Comment 7:* We support this action, because it will (1) allow for a reasonable level of CV participation in the offshore sector without limiting potential markets for sales of catch by qualifying vessels, (2) maintain competition for catches and landings of those catches, (3) reduce the race for fish, (4) protect historically dependent participants, and (5) allow for reasonable measures to reduce halibut bycatch mortality. The commenter also noted that the onshore sector is not constrained by this rule and that there is no restriction on the number of CVs that could deliver shoreside, which would allow for new entrants.

*Response:* NMFS acknowledges the comment in support of Amendment 116.

*Comment 8:* The correction to the proposed rule (83 FR 28604; June 20, 2018) is appropriate, as is NMFS’s interpretation of the Council’s motion overall. Further, NMFS’s interpretation of the Council’s motion to treat stationary floating processors as motherships is consistent with the analysis of alternatives and the purpose and need statement of the Council, which explicitly mentioned a concern with CV deliveries to floating processors.

*Response:* NMFS acknowledges the comment in support of the correction to the proposed rule. The definition of a

“mothership” in 679.2 includes vessels that are operating as “stationary floating processors” as that term is defined in 679.2. In addition, Section 2.7.1.1 of the Analysis notes that two stationary floating processors participated in the fishery as motherships in 2008. Although those stationary floating processors did not participate in the fishery after 2008, data from landings to those vessels were included in the analysis of impacts of the alternatives.

*Comment 9:* NMFS received two comments addressing issues outside the scope of this action. One commenter did not support this action because of the effects of fishing on natural resources, including marine mammals, and suggested that NMFS cut the yellowfin sole quota by 50 percent. One commenter did not support this action and suggested that NMFS further limit industrial-level commercial fishing in favor of small, traditional fishing boats to reduce the impact of overfishing on natural resources and revitalize local fishing economy and tourism.

*Response:* These comments address management issues that are beyond the scope of Amendment 116 and this regulatory action. This final rule does not change the process of allocating quota or establishing TACs or sideboard limits under the AFA or Amendment 80 Programs, nor will this final rule change specific management measures that govern the harvest of BSAI TLAS yellowfin sole, such as fishing location, timing, effort, or authorized gear types. This final rule limits access to the BSAI TLAS yellowfin sole fishery by CVs that deliver to motherships by requiring that those CVs be designated on a groundfish LLP license with a BSAI TLAS yellowfin sole CV endorsement and establishes eligibility criteria for such an endorsement.

#### **OMB Revisions to PRA References in 15 CFR 902.1(b)**

Section 3507(c)(B)(i) of the Paperwork Reduction Act (PRA) requires that agencies inventory and display a current control number assigned by the Director of the Office of Management and Budget (OMB), for each agency’s information collection. Section 902.1(b) identifies the location of NOAA regulations for which OMB approval numbers have been issued. Because this final rule adds a new collection-of-information for recordkeeping and reporting requirements, 15 CFR 902.1(b) is revised to reference correctly the section resulting from this final rule.

#### **Changes From the Proposed Rule**

This final rule contains no substantive changes from the proposed rule, as

corrected by the correction notice published on June 20, 2018 (83 FR 28604). The final rule includes minor changes to the proposed rule text to correct citations and remove redundant language. These changes include: (1) Removed “as defined at 679.2” throughout the final rule; (2) Corrected incorrect references to other sections of the rule; and (3) Removed the word “proposed” when referring to new Tables 52 and 53.

#### **Classification**

The Administrator, Alaska Region, NMFS, has determined that Amendment 116 to the BSAI FMP and this final rule are necessary for the conservation and management of the groundfish fishery and are consistent with the Magnuson-Stevens Act and other applicable laws.

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

#### *Small Entity Compliance Guide*

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a final regulatory flexibility analysis, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as “small entity compliance guides.” The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a letter to groundfish LLP license holders that also serves as small entity compliance guide (the guide) was prepared. Copies of the guide, *i.e.*, groundfish LLP license holder letter, will be sent to all holders of groundfish LLP license for the Bering Sea trawl fisheries. The guide and this final rule will be available upon request from the Alaska Regional Office (see **ADDRESSES**). This action does not require any additional compliance from small entities that is not described in the preambles. Copies of the proposed rule, the correction notice, and this final rule are available from the NMFS website at <http://alaskafisheries.noaa.gov>.

#### *Final Regulatory Flexibility Analysis (FRFA)*

This FRFA incorporates the initial regulatory flexibility analysis (IRFA), a summary of the significant issues raised by the public comments in response to the IRFA, NMFS’s responses to those comments, and a summary of the analyses completed to support this action.

Section 604 of the Regulatory Flexibility Act (RFA) requires that, when an agency promulgates a final rule under section 553 of Title 5 of the U.S. Code, after being required by that section or any other law to publish a general notice of proposed rulemaking, the agency shall prepare a FRFA. Section 604 describes the required contents of a FRFA: (1) A statement of the need for and objectives of the rule; (2) a statement of the significant issues raised by the public comments in response to the IRFA, a statement of the assessment of the agency of such issues, and a statement of any changes made to the proposed rule as a result of such comments; (3) the response of the agency to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA) in response to the proposed rule, and a detailed statement of any change made to the proposed rule in the final rule as a result of the comments; (4) a description of and an estimate of the number of small entities to which the rule will apply or an explanation of why no such estimate is available; (5) a description of the projected reporting, recordkeeping, and other compliance requirements of the rule, including an estimate of the classes of small entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; and (6) a description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in this final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.

A description of this final rule and the need for and objectives of this rule are contained in the preamble to this final rule and the preambles to the proposed rule (83 FR 26237, June 6, 2018) and the correction notice (83 FR 28604, June 20, 2018), and are not repeated here.

Public and Chief Counsel for Advocacy Comments on the IRFA

NMFS published the proposed rule on June 6, 2018 (83 FR 26237), and a correction notice to the proposed rule on June 20, 2018 (83 FR 28604). An IRFA was prepared and summarized in the Classification section of the preamble to the proposed rule. The comment period for the proposed rule closed on July 6, 2018. The comment period for the notice of availability for

Amendment 116 closed on July 17, 2018. NMFS received five letters of public comment on the proposed rule and Amendment 116. The Chief Counsel for Advocacy of the SBA did not file any comments on the proposed rule.

NMFS received no comments specifically on the IRFA. However, one of the comments supported this action, because it provides operational relief to the owners and operators of trawl CVs.

#### Number and Description of Small Entities Regulated by This Final Action

This final rule directly regulates (1) holders of groundfish LLP licenses that authorize a vessel designated on the LLP license to harvest groundfish using trawl gear in the Bering Sea, and (2) vessel owners that must choose one of two LLP licenses on which the vessel was designated during the qualifying period. Based on the best available and most recent complete data from 2008 through 2017, 163 groundfish LLP license holders and five vessel owners will be directly regulated by this action.

For RFA purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$11 million for all its affiliated operations worldwide.

The RFA requires consideration of affiliations between entities for the purpose of assessing whether an entity is classified as small. The AFA pollock and Amendment 80 cooperatives are types of affiliation between entities. All of the AFA and Amendment 80 cooperatives have gross annual revenues that are substantially greater than \$11 million. Therefore, NMFS considers members in these cooperatives “affiliated” large (non-small) entities for RFA purposes.

Of the 163 groundfish LLP license holders directly regulated by this action, 128 were members of an AFA cooperative and 26 were members of an Amendment 80 cooperative in 2017. Therefore, NMFS considers those 154 groundfish LLP license holders to be “affiliated” large (non-small) entities for RFA purposes. All of the groundfish LLP licenses with designated vessels that participated in the BSAI TLAS yellowfin sole directed fishery and delivered catch to a mothership from 2008 through 2017 were affiliated with

either an AFA or an Amendment 80 cooperative in 2017. NMFS therefore considers these LLP license holders to be “affiliated” large (non-small) entities for RFA purposes.

The remaining nine groundfish LLP license holders are not affiliated with AFA or Amendment 80 cooperatives and are assumed to be small entities directly regulated by this action for purposes of the RFA. All five vessel owners who are considered regulated entities under this final rule were affiliated with either an AFA pollock or an Amendment 80 cooperative in 2017. Therefore, NMFS considers them “affiliated” large (non-small) entities for RFA purposes. This FRFA assumes that each vessel owner and each groundfish LLP license holder is a unique entity; therefore, the total number of directly regulated entities may be an overestimate because some vessel owners and groundfish LLP license holders are likely affiliated through common ownership. These potential affiliations are not known with the best available data and cannot be predicted.

#### Recordkeeping, Reporting, and Other Compliance Requirements

This final rule does not add additional reporting or recordkeeping requirements for the vessels that choose to submit an appeal. An appeal process exists for LLP license endorsement issuance. No small entity is subject to reporting requirements that are in addition to or different from the requirements that apply to all directly regulated entities. No unique professional skills are needed for the LLP license or vessel owners or operators to comply with the reporting and recordkeeping requirements associated with this final rule. This final rule does not implement or increase any fees that NMFS collects from directly regulated entities. The Analysis identifies no operational costs of the endorsement (see **ADDRESSES**).

#### Description of Significant Alternatives Considered to the Final Action That Minimize Adverse Impacts on Small Entities

None of the nine regulated small entities identified by NMFS have previously delivered TLAS YFS to a mothership. This rule will not affect existing delivery patterns of those vessels, and possible future impacts to these vessels could not be quantified. However, none of the alternatives considered by the Council that would have avoided regulating these small entities would have accomplished the stated objectives of the rule. Each of those alternatives would have allowed

increased catcher vessel participation under certain conditions and thereby failed to mitigate the risk of a race for fish. The Council and NMFS selected the alternative in this rule because it best achieves their stated policy objectives.

#### Collection-of-Information Requirements

This final rule contains collection-of-information requirements subject to the PRA, which have been approved by OMB under Control Number 0648–0766. The public reporting burden for the collection-of-information requirements in this final rule is estimated to average 2 hours per response for a one-time Election to Assign Qualifying Landings to an LLP license and 4 hours per response to submit an appeal, which includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments on these or any other aspects of the collection of information to NMFS Alaska Region at the **ADDRESSES** above, and by email to [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov) or fax to (202) 395–5806.

Notwithstanding any other provision of law, no person is required to respond to, and no person shall be subject to 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. All currently approved NOAA collections of information may be viewed at [http://www.cio.noaa.gov/services\\_programs/prasubs.html](http://www.cio.noaa.gov/services_programs/prasubs.html).

#### List of Subjects

##### 15 CFR Part 902

Reporting and recordkeeping requirements.

##### 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: October 1, 2018.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

For the reasons set out in the preamble, NMFS amends 15 CFR part 902 and 50 CFR part 679 as follows:

**Title 15—Commerce and Foreign Trade**

**PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS**

■ 1. The authority citation for part 902 continues to read as follows:

*Authority:* 44 U.S.C. 3501 *et seq.*

■ 2. In § 902.1, in the table in paragraph (b), under the entry “50 CFR”, revise the entry for “679.4” to read as follows:

**§ 902.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.**

CFR part or section where the information collection requirement is located	Current OMB control number (all numbers begin with 0648—)
50 CFR:	
679.4 .....	–0206, –0272, –0334, –0393, –0513, –0545, –0565, –0665, and –0766

**Title 50—Wildlife and Fisheries**

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

■ 3. 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; Pub. L. 111–281.

■ 4. In § 679.4, add paragraph (k)(14) to read as follows:

**§ 679.4 Permits.**

(k) \* \* \*  
 (14) *Yellowfin sole trawl limited access sector (TLAS) directed fishery endorsement in the BSAI—(i) General.* In addition to other requirements of this part, and unless specifically exempted in paragraph (k)(2) of this section, a vessel must be designated on a groundfish LLP license that has a BSAI TLAS yellowfin sole directed fishery endorsement in order to conduct directed fishing for yellowfin sole with trawl gear in the BSAI Trawl Limited Access Sector fishery and deliver the catch to a mothership. A vessel designated on a groundfish LLP license with trawl and catcher/processor vessel

designations and a BSAI TLAS yellowfin sole directed fishery endorsement may operate as a catcher vessel and deliver its catch of yellowfin sole harvested in the directed BSAI TLAS fishery to a mothership, or operate as a catcher/processor and catch and process its own catch in this fishery.

(ii) *Eligibility requirements for a BSAI TLAS yellowfin sole directed fishery endorsement.* (A) A groundfish LLP license is eligible to receive a BSAI TLAS yellowfin sole directed fishery endorsement if the groundfish LLP license:

(1) Had a vessel designated on it, in any year from 2008 through 2015, that made at least one legal trip target landing of yellowfin sole in the BSAI TLAS directed fishery to a mothership in any one year from 2008 through 2015, inclusive, where a trip target is the groundfish species for which the retained amount of that groundfish species is greater than the retained amount of any other groundfish species for that trip;

(2) Has a Bering Sea area endorsement and a trawl gear designation; and

(3) Is credited by NMFS with a legal trip target landing specified in paragraph (k)(14)(ii)(A)(1) of this section.

(B) If a vessel specified in paragraph (k)(14)(ii)(A)(1) of this section was designated on more than one groundfish LLP license from 2008 through 2015 and made at least one legal trip target landing in a BSAI TLAS directed fishery from 2008 through 2015, the vessel owner must specify to NMFS only one of those groundfish LLP licenses to receive credit with the legal trip target landing(s) specified in paragraph (k)(14)(ii)(A)(1) of this section.

(iii) *Explanations for BSAI TLAS yellowfin sole directed fishery endorsement.* (A) NMFS will determine whether a groundfish LLP license is eligible to receive a BSAI TLAS yellowfin sole directed fishery endorsement under paragraph (k)(14)(ii) of this section based only on information contained in the official record described in paragraph (k)(14)(v) of this section.

(B) NMFS will credit a groundfish LLP license with a legal trip target landing specified in paragraph (k)(14)(ii)(A)(1) of this section if that groundfish LLP license was the only groundfish LLP license on which the vessel was designated from 2008 through 2015. If a vessel that made at least one legal trip target landing specified in paragraph (k)(14)(ii)(A)(1) of this section was designated on more than one groundfish LLP license from

2008 through 2015 and made at least one legal trip target landing in a BSAI TLAS directed fishery from 2008 through 2015, the vessel owner must notify NMFS which one of those groundfish LLP licenses NMFS is to credit with the legal trip target landing(s) specified in paragraph (k)(14)(ii)(A)(1) of this section.

(C) Trip target landings will be determined based on round weight equivalents.

(iv) *Exemptions to BSAI TLAS yellowfin sole endorsements.* Any vessel exempted from the License Limitation Program at paragraph (k)(2) of this section is exempted from the requirement to have a BSAI TLAS yellowfin sole endorsement to deliver catch of BSAI TLAS yellowfin sole to a mothership for processing.

(v) *BSAI TLAS yellowfin sole participation official record.* (A) The official record will contain all information used by the Regional Administrator that is necessary to administer the requirements described in paragraph (k)(14) of this section.

(B) The official record is presumed to be correct. A groundfish LLP license holder has the burden to prove otherwise.

(C) Only legal landings as defined in § 679.2 and documented on State of Alaska fish tickets or NMFS weekly production reports will be used to determine legal trip target landings under paragraph (k)(14)(ii)(A)(1) of this section.

(vi) *Process for issuing BSAI TLAS yellowfin sole endorsements.* (A) NMFS will issue to the holder of each groundfish LLP license endorsed to use trawl gear in the Bering Sea and designated in Column A of Table 52 to this part a notice of eligibility to receive a BSAI TLAS yellowfin sole directed fishery endorsement and a revised groundfish LLP license with a BSAI TLAS yellowfin sole directed fishery endorsement.

(B) NMFS will issue to the holder of each groundfish LLP license endorsed to use trawl gear in the Bering Sea and designated in Column A of Table 53 to this part a notice of eligibility to be credited with a legal trip target landing specified in (k)(14)(ii)(A)(1) of this section.

(1) NMFS will also issue to the owner of the vessel designated on the groundfish LLP licenses in Column A of Table 53 a notice of eligibility for the two listed groundfish LLP licenses to be credited with a legal trip target landing specified in (k)(14)(ii)(A)(1) of this section. The notice to the vessel owner will provide instructions for the vessel owner to select the one groundfish LLP



license that NMFS is to credit with the legal trip target landing specified in (k)(14)(ii)(A)(1) of this section.

(2) The holder of a groundfish LLP license in Column A of Table 53 will receive a revised groundfish LLP license with a BSAI TLAS yellowfin sole directed fishery endorsement if:

(i) The owner of the vessel designated on the groundfish LLP license requests in writing that NMFS credit that groundfish LLP license with the legal trip target landing specified in paragraph (k)(14)(ii)(A)(1) of this section;

(ii) The vessel owner, or the authorized agent, signs the request;

(iii) The written request is submitted to NMFS using one of the following methods: Mail at Regional Administrator, c/o Restricted Access Management Program, NMFS, P.O. Box 21668, Juneau, AK 99802-1668; fax at 907-586-7352; or hand delivery or carrier at NMFS, Room 713, 709 West 9th Street, Juneau, AK 99801;

and

(iv) NMFS receives the written request and credits the groundfish LLP license with the legal trip target landing specified in paragraph (k)(14)(ii)(A)(1) of this section.

(3) The holder of a groundfish LLP license in Column A of Table 53 that is not selected by the vessel owner will receive a notice, using the address on record at the time the notification is sent, informing the holder that the groundfish LLP license was not selected by the vessel owner, will not be credited with a legal trip target landing, and will not receive a BSAI TLAS yellowfin sole endorsement. The notice will inform the holder of the groundfish LLP license of the timing and process through which the holder can provide additional

information or evidence to amend or challenge the information in the official record of this section as specified in paragraphs (k)(14)(vi)(D) and (E) of this section.

(C) NMFS will issue to the holder of a groundfish LLP license with a Bering Sea trawl designation and that is not listed in either Table 52 or 53 a notice informing that holder that the groundfish LLP license is not eligible to be credited with a legal trip target landing or receive a BSAI TLAS yellowfin sole directed fishery endorsement based on the official record, using the address on record at the time the notification is sent. The notice will inform the holder of the groundfish LLP license of the timing and process through which the holder can provide additional information or evidence to amend or challenge the information in the official record of this section, as specified in paragraphs (k)(14)(vi)(D) and (E) of this section.

(D) The Regional Administrator will specify by letter a 30-day evidentiary period during which an applicant may provide additional information or evidence to amend or challenge the information in the official record. A person will be limited to one 30-day evidentiary period. Additional information or evidence received after the 30-day evidentiary period specified in the letter has expired will not be considered for purposes of the initial administrative determination (IAD).

(E) The Regional Administrator will prepare and send an IAD to the applicant following the expiration of the 30-day evidentiary period, if the Regional Administrator determines that the information or evidence provided by the person fails to support the person's

claims and is insufficient to rebut the presumption that the official record is correct, or if the additional information, evidence, or revised application is not provided within the time period specified in the letter that notifies the applicant of his or her 30-day evidentiary period. The IAD will indicate the deficiencies with the information or evidence submitted. The IAD will also indicate which claims cannot be approved based on the available information or evidence. A person who receives an IAD may appeal pursuant to 15 CFR part 906. NMFS will issue a non-transferable interim license that is effective until final agency action on the IAD to an applicant who avails himself or herself of the opportunity to appeal an IAD and who has a credible claim to eligibility for a BSAI TLAS yellowfin sole endorsement.

\* \* \* \* \*

■ 5. In § 679.7, add paragraph (i)(11) to read as follows:

**§ 679.7 Prohibitions.**

\* \* \* \* \*

(i) \* \* \*

(11) *Prohibitions specific to the BSAI Trawl Limited Access Sector yellowfin sole directed fishery.* Deliver yellowfin sole harvested with trawl gear in the BSAI Trawl Limited Access Sector yellowfin sole directed fishery to a mothership without a legible copy of a valid groundfish LLP license with a BSAI Trawl Limited Access Sector yellowfin sole directed fishery endorsement, except as provided in § 679.4(k)(2).

\* \* \* \* \*

■ 6. Add Table 52 to part 679 to read as follows:

TABLE 52 TO PART 679—GROUNDFISH LLP LICENSES ELIGIBLE FOR A BSAI TRAWL LIMITED ACCESS SECTOR YELLOWFIN SOLE DIRECTED FISHERY ENDORSEMENT

[X indicates that Column A applies]

Column A	Column B
The Holder of Groundfish License Number . . .	Is eligible under 50 CFR 679.4(k)(14)(ii) to be assigned an Endorsement for the BSAI Trawl Limited Access Sector Yellowfin Sole Fishery.
LLG 3944 .....	X.
LLG 2913 .....	X.
LLG 1667 .....	X.
LLG 3714 .....	X.
LLG 1820 .....	X.
LLG 3741 .....	X.

■ 7. Add Table 53 to part 679 to read as follows:

TABLE 53 TO PART 679—GROUND FISH LLP LICENSES THAT REQUIRE QUALIFIED LANDINGS ASSIGNMENT TO BE ELIGIBLE FOR A BSAI TRAWL LIMITED ACCESS SECTOR YELLOWFIN SOLE DIRECTED FISHERY ENDORSEMENT

[X indicates that Column A applies]

Column A	Column B
A single vessel was designated on the following pairs of groundfish LLP licenses during the qualifying period identified in 50 CFR 679.4(k)(14)(ii)(A)(1) . . .	The owner of the vessel designated on the pair of LLP licenses in Column A must notify NMFS which LLP license from each pair in Column A is to be credited with qualifying landing(s) under 50 CFR 679.4(k)(14)(vi)(B)(2).
LLG 3838 and LLG 2702 .....	X.
LLG 3902 and LLG 3826 .....	X.

[FR Doc. 2018-21632 Filed 10-3-18; 8:45 am]  
BILLING CODE 3510-22-P

**DEPARTMENT OF STATE**

**22 CFR Parts 121 and 123**

[Public Notice 10349]

RIN 1400-AE52

**Regulatory Reform Revisions to the International Traffic in Arms Regulations**

**AGENCY:** Department of State.

**ACTION:** Interim final rule; request for comments.

**SUMMARY:** In response to public comments, the Department of State removes certain notification requirements from the International Traffic in Arms Regulations and revises several entries on the United States Munitions List to remove items that do not warrant continued inclusion. Specifically, this rule adds notes to USML Category IV and V, revises control text in USML Categories VIII, XI and XV, and revises a section of the regulations.

**DATES:**

*Effective date:* This rule is effective on October 4, 2018.

*Comments due date:* Interested parties may submit comments by November 19, 2018.

**ADDRESSES:** Interested parties may submit comments by one of the following methods:

- *Email:* [DDTCPublicComments@state.gov](mailto:DDTCPublicComments@state.gov) with the subject line, "Regulatory Reform Revisions"
- *Internet:* At [www.regulations.gov](http://www.regulations.gov), search for this notice using Docket DOS-2018-0020.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Robert Monjay, Office of Defense Trade Controls Policy, Department of State, telephone (202) 663-2817; email [monjayr@state.gov](mailto:monjayr@state.gov). ATTN: Regulatory Reform Revisions.

**SUPPLEMENTARY INFORMATION:**

**Responses to Regulatory Reform Comments and Other Feedback**

On January 30, 2017, the President issued Executive Order 13771, Reducing Regulation and Controlling Regulatory Costs. On February 24, 2017, the President issued Executive Order 13777, Enforcing the Regulatory Reform Agenda.

On July 14, 2017, the Department published a Request for Comments in the *Federal Register* (82 FR 32493) to get feedback from the public on how it could achieve meaningful burden reduction while continuing to achieve the Department's statutory obligations. The Department sought comments on the Department regulations, guidance documents, and collections of information that members of the public believe should be removed or modified to alleviate unnecessary burdens. The Department also requested economic data to support any proposed changes.

In response to the July 14, 2017 request for comments, the Department received several comments related to the International Traffic in Arms Regulations (ITAR). The Department has concluded its review of two of the comments and has accepted one of the changes suggested. The Department received several additional comments, which we are beginning to review. Any response to these additional comments, none of which are relevant to this rulemaking, will be done via a separate rule. These comments and the Department's responses are set forth below. The Department has also received feedback from the public, the regulated industry, and other government and private sector experts, through a variety of formal and informal channels, that several entries on the United States Munitions List (USML) are controlling items that are, or soon will be, in normal commercial use. The Department has determined that it can revise certain entries in a manner consistent with the objectives set forth in Executive Order 13777 to remove the controls on these items, while maintaining control on those items that

warrant continued control on the USML.

One commenter requested that the Department eliminate the requirement to return licenses for tech data, in § 123.22(b)(3)(i) and (c)(2) (all citations are to 22 CFR). Exporters are required to return licenses for the export of technical data to the Department after the initial export of all of the approved technical data. Exporters are also required to return all licenses that are exported against, but not electronically decremented. The Department has reviewed the comments and the use of the returned licenses and has determined that it can garner the necessary information via other means. The Department accepts these changes and will remove the relevant language in § 123.22(b)(3)(i) and (c)(2).

Two commenters requested that the Department eliminate the Initial Export Notification in § 123.22(b)(3)(ii). The Department does not accept these changes. Section 123.22(b)(3)(ii) requires that prior to the initial export of any technical data or defense services under an Agreement, the Agreement holder inform DDTC that exports are beginning. These notifications are for exports of defense articles and defense services that are generally not reported to the U.S. government through the Automated Export System and as such, these notifications are often the only way that the Department knows that the export has occurred.

Two commenters requested that the Department eliminate the notification of termination in § 124.6. The Department does not accept these changes. Section 124.6 requires that an Agreement holder inform DDTC of the impending termination of the agreement not less than 30 days prior to the expiration date of such agreement. The Department uses this notification as part of its compliance assessment practices. However, the Department is undertaking a modernization of its IT systems for export licensing and will review whether an IT solution can be put in place to allow the elimination of this notification requirement.