

Instructions of Bombardier Alert Service Bulletin A670BA-32-030, Revision D, dated August 6, 2013, defers the repetitive inspections required by paragraph (l) of this AD until the MLG inboard door is re-installed. For airplanes on which the MLG inboard door is re-installed, do the installation of the MLG inboard door in accordance with the Accomplishment Instructions of Bombardier Alert Service Bulletin A670BA-32-030, Revision D, dated August 6, 2013, except as specified in paragraph (o) of this AD; and before the accumulation of 600 flight hours on the MLG inboard door since the actions required by paragraph (k) of this AD were accomplished, do the inspections specified in paragraph (l) of this AD, and repeat the inspections thereafter at the applicable time specified in paragraph (l) of this AD.

**(n) New Terminating Modification**

Within 6,600 flight hours or 36 months, whichever occurs first after the effective date of this AD: Modify the airplane by increasing the clearance between the left and right MLG fairings and the left and right MLG doors; and do all applicable related investigative and corrective actions; in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 670BA-32-040, Revision F, dated February 11, 2016, including Appendix A, Revision A, and Appendix B, Revision B, both dated July 12, 2014, except as provided by paragraph (o) of this AD. Do all applicable related investigative and corrective actions before further flight. If an MLG door has been removed, the modification may be delayed until the MLG door is re-installed in accordance with the Accomplishment Instructions of Bombardier Alert Service Bulletin A670BA-32-030, Revision D, dated August 6, 2013. Accomplishing this modification terminates the requirements of paragraphs (g) through (m) of this AD for that MLG door.

**(o) Exceptions to Bombardier Service Information**

Where Bombardier Alert Service Bulletin A670BA-32-030, Revision D, dated August 6, 2013; and Bombardier Service Bulletin 670BA-32-040, Revision F, dated February 11, 2016, including Appendix A, Revision A, and Appendix B, Revision B, dated July 12, 2014; specify to contact the Bombardier Customer Response Center for an analysis or to get an approved disposition, repair using a method approved by the Manager, New York ACO, ANE-170, FAA; or TCCA; or Bombardier, Inc.'s TCCA DAO.

**(p) Credit for Previous Actions**

(1) This paragraph restates the provisions of paragraph (l) of AD 2010-23-19, with additional service information. This paragraph provides credit for the actions required by paragraph (g) of this AD, if those actions were performed before November 24, 2010 (the effective date of AD 2010-23-19), using Bombardier Alert Service Bulletin A670BA-32-030, dated October 18, 2010; or Bombardier Alert Service Bulletin A670BA-32-030, Revision A, dated October 22, 2010.

(2) This paragraph provides credit for the corresponding actions required by

paragraphs (g)(1), (g)(2), (g)(3)(i), (g)(3)(ii), (h), (j)(1), (k), (l), (m), and (n) of this AD, if those actions were performed before the effective date of this AD using the service information specified in paragraph (p)(2)(i), (p)(2)(ii), or (p)(2)(iii) of this AD.

(i) Bombardier Alert Service Bulletin A670BA-32-030, Revision A, including Appendix A, dated October 22, 2010.

(ii) Bombardier Alert Service Bulletin A670BA-32-030, Revision B, dated November 3, 2011.

(iii) Bombardier Alert Service Bulletin A670BA-32-030, Revision C, dated March 13, 2013.

(3) This paragraph provides credit for the corresponding actions required by paragraph (n) of this AD, if those actions were performed before the effective date of this AD using the service information specified in paragraph (p)(3)(i), (p)(3)(ii), (p)(3)(iii), (p)(3)(iv), or (p)(3)(v) of this AD.

(i) Bombardier Service Bulletin 670BA-32-040, Revision A, dated March 13, 2013.

(ii) Bombardier Service Bulletin 670BA-32-040, Revision B, dated August 6, 2013.

(iii) Bombardier Service Bulletin 670BA-32-040, Revision C, dated November 1, 2013.

(iv) Bombardier Service Bulletin 670BA-32-040, Revision D, dated July 2, 2014.

(v) Bombardier Service Bulletin 670BA-32-040, Revision E, dated November 13, 2014.

**(q) Other FAA AD Provisions**

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs)*: The Manager, New York ACO, ANE-170, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the ACO, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516-228-7300; fax 516-794-5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer*: As of the effective date of this AD, for any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, New York ACO, ANE-170, FAA; or TCCA; or Bombardier, Inc.'s TCCA DAO. If approved by the DAO, the approval must include the DAO-authorized signature.

**(r) Related Information**

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF-2010-36R1, dated July 18, 2013, for related information. This MCAI may be found in the AD docket on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2015-8471.

(2) Service information identified in this AD that is not incorporated by reference is

available at the addresses specified in paragraphs (s)(3) and (s)(4) of this AD.

**(s) Material Incorporated by Reference**

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) Bombardier Alert Service Bulletin A670BA-32-030, Revision D, dated August 6, 2013.

(ii) Bombardier Service Bulletin 670BA-32-040, Revision F, dated February 11, 2016, including the following appendices.

(A) Appendix A, Revision A, dated July 12, 2014.

(B) Appendix B, Revision B, dated July 12, 2014.

(3) For service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514-855-5000; fax 514-855-7401; email [thd.crj@aero.bombardier.com](mailto:thd.crj@aero.bombardier.com); Internet <http://www.bombardier.com>.

(4) You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425-227-1221.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: <http://www.archives.gov/federal-register/cfr/ibr-locations.html>.

Issued in Renton, Washington, on September 14, 2016.

**Michael Kaszycki,**  
*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**15 CFR Part 902**

**50 CFR Part 679**

[Docket No. 160225147-6898-02]

RIN 0648-BF83

**Fisheries of the Exclusive Economic Zone off Alaska; Modifications to Recordkeeping and Reporting Requirements**

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues regulations to modify the recordkeeping and reporting requirements for the groundfish fisheries in the Gulf of Alaska and the Bering Sea/Aleutian Islands management areas. This rule is organized into four actions. Under the first action, NMFS implements a requirement for tender vessel operators to use the applications software “tLandings” to prepare electronic landing reports. This action is necessary to improve timeliness and reliability of landing reports for catcher vessels delivering to tender vessels for use in catch accounting and inseason management. Under the second action, NMFS modifies the definition of a buying station. This action is necessary to clarify the different requirements that apply to tender vessels and land-based buying stations. Under the third action, NMFS removes the requirement for buying stations to complete the buying station report because this report is no longer necessary. Under the fourth action, NMFS revises the definition of a mothership to remove unnecessary formatting without changing the substance of the definition. This final rule is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI FMP), the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA FMP), and other applicable laws.

**DATES:** Effective January 1, 2017.

**ADDRESSES:** Electronic copies of the Regulatory Impact Review (RIR), the Initial Regulatory Flexibility Analysis, and the Categorical Exclusion prepared for this rule may be obtained from <http://www.regulations.gov> or from the NMFS Alaska Region Web site at <http://alaskafisheries.noaa.gov>.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this rule may be submitted 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:** Keeley Kent, 907–586–7228.

**SUPPLEMENTARY INFORMATION:** NMFS published a proposed rule to modify the recordkeeping and reporting requirements for the groundfish fisheries in the Gulf of Alaska and the

Bering Sea and Aleutian Islands management areas on August 1, 2016 (81 FR 50436). The comment period on the proposed rule ended on August 31, 2016. NMFS received one comment.

### Background

This final rule is organized into four actions. The first action implements a requirement for tender vessel operators to use tLandings. The second action modifies the definition of buying station so that tender vessels and land-based buying stations are differentiated under the regulations. The third action removes the requirement for buying stations to complete the buying station report. The fourth action modifies the definition of a mothership to simplify the unnecessary paragraph formatting. The following sections of the preamble describe (1) background on the Interagency Electronic Reporting System and tendering, (2) the need for action, (3) the final rule, (4) the response to comments, and (5) the changes from the proposed rule. The preamble of the proposed rule (81 FR 50436; August 1, 2016) provides a more detailed description of the background and need for this action.

### Interagency Electronic Reporting System

The Interagency Electronic Reporting System (IERS) is a collaborative program for reporting commercial fishery landings administered by NMFS, Alaska Department of Fish and Game (ADF&G), and the International Pacific Halibut Commission. The IERS consists of three main components: eLandings—a web-based application for immediate harvest data upload from internet-capable vessels or processors; seaLandings—a desktop application for vessels at sea without internet capability that transmits reports by satellite phone; and tLandings—a software application for tender vessels that records landings data on a USB flash drive (“thumb drive”) that includes all of the data fields required under IERS. NMFS requires all shoreside or floating processors that hold a Federal processing permit to use eLandings or other NMFS-approved software to submit landing reports for all groundfish species.

### Tendering

A tender vessel is defined under § 679.2 as a vessel that is used to transport unprocessed fish or shellfish received from another vessel to an associated processor. An associated processor is defined under § 679.2 as having a contractual relationship with a buying station to conduct groundfish buying station activities for that processor. The contractual relationship

in the Federal regulations creates joint responsibility for recordkeeping and reporting. For more information on tendering, see Section 1.5 of the RIR.

### Need for This Final Rule

This action is necessary to enable NMFS to identify tender vessel deliveries and to provide reliable, expeditious data for catch accounting and inseason management of fisheries with tender vessel deliveries. In addition, this action is necessary to correct and clarify other regulations in 50 CFR part 679 that are related to recordkeeping and reporting by tender vessels and associated processors.

Prior to this final rule, when a tender vessel received catch from a vessel, the tender vessel operator completed a paper fish ticket. Once the transfer was complete, the vessel operator signed the paper fish ticket acknowledging the transfer of catch and agreeing to the information provided. When the tender vessel delivered the catch to the processor, the tender vessel operator provided the paper fish ticket to the processor. The processor then verified the information and manually entered the fish ticket data into eLandings to create a landing report. Landing reports are required to be submitted to NMFS by noon of the day following the delivery. The processor’s manual entry of fish ticket data, including review and correction of the data, sometimes made it difficult for the processor to meet this submission deadline and delayed the availability of the tender vessel landing data to NMFS.

The lack of electronic data from tenders reduced data reliability and timeliness. Additionally, with the lack of electronic data from tenders, NMFS was unable to differentiate deliveries to tender vessels from deliveries to processors unless the processor voluntarily entered the tender vessel identification number in the eLandings report. NMFS had, in the past, raised concerns about landings data reliability and timeliness in analyses presented to the North Pacific Fishery Management Council and fishery participants. The tLandings requirement reduces data entry errors and the time required to manually enter fish tickets. Requiring tLandings reduces the likelihood of a processor needing to recall a tender vessel if a fish ticket is illegible or incorrectly filled out. Additionally, requiring tLandings eliminates the need for comprehensive manual data entry by processor staff, simplifying and expediting the data transmission to NMFS.

Data timeliness and reliability are paramount to effective inseason

management. Almost real-time access to the data is particularly important for fast-paced fisheries that operate under small total allowable catch limits, constraining prohibited species catch (PSC) limits, or that have inconsistent and unpredictable levels of fishing effort. NMFS requires timely data for the successful management of these fisheries. In addition, NMFS uses timely data for any catch share program that involves transferable allocations of target species. NMFS inseason management and Office of Law Enforcement rely on the data provided through eLandings to monitor compliance with requirements that quota holders not exceed their allocations. Management and enforcement of PSC-limited and catch share fisheries become more difficult when data access is delayed. For more information on the potential implications of the lack of electronic data entry on management, see Sections 1.3 and 1.8 of the RIR.

This rule requires tenders to use tLandings. tLandings is a computer application used on computers on board tender vessels to create electronic landing reports. The tLandings application is loaded onto a thumb drive; the tender vessel operator creates the landing reports and stores them on the thumb drive. The mandatory use of tLandings will provide a streamlined data entry mechanism that ensures efficient, precise data transmission.

#### **This Final Rule**

##### *Action 1: Require Tender Vessel Operators To Use tLandings*

Action 1 of this rule requires tender vessel operators to use tLandings to prepare electronic landing reports. Action 1 is necessary to improve data quality for deliveries made to tender vessels.

Under this rule, the eLandings user (defined as a representative of a processor under § 679.2, *i.e.*, an employee) is required to supply the tender vessel operator with a “configured” tLandings application for computer installation prior to the tender vessel operator taking delivery of fish or shellfish from a fishing vessel. A configured tLandings application is preloaded with a list of the authorized users, a species list, and other useful data for the associated processor and tender vessel operator. The tender vessel operator must record the required information in tLandings for each delivery the tender vessel accepts. Once the tender vessel delivers the catch to the associated processor, the user (as defined at § 679.2) is required to

complete the eLandings landing report by uploading the tLandings data through the Processor Tender Interface component of eLandings. After the completion of the delivery, the processor may sort the catch and update the landing data appropriately.

The processor will continue to be subject to the time limits for data submission specified under § 679.5(e). For shoreside processors and stationary floating processors, users must submit a landing report for each delivery by 1200 hours, Alaska local time, of the day following completion of the delivery (§ 679.5(e)(5)(ii)). These processors have until 1200 hours, Alaska local time, of the third day following completion of the delivery to submit a revised landing report after sorting has occurred. Under this rule, tender vessels delivering to shoreside processors or stationary floating processors are required to abide by these submittal time limits.

Under this rule, the tender vessel operator is responsible for completing the tLandings landing report and submitting it to the processor. This creates a joint responsibility for the tLandings landing report information for the tender vessel operator and the processor. Section 1.9.4 of the RIR provides additional detail on the monitoring and enforcement of the tLandings requirements.

To use tLandings, each tender vessel needs a laptop computer with a numeric key pad, a basic laser printer with ink cartridges and paper, a magstripe reader, and thumb drives that contain the tLandings application. NMFS estimates that using tLandings will increase the annual cost to tender vessels from \$1,000 to \$2,300. Section 1.4 of the RIR describes that most tender vessels are voluntarily using tLandings to report Federal groundfish landings, and many are required to use tLandings to report landings made in fisheries managed by the State of Alaska (State). Therefore, the total additional costs and burden on tender vessel operations are expected to be limited. See Section 1.9.1.1 of the RIR for more information on the estimated cost of equipment.

Operating the tLandings application requires some training and practice for both the tender vessel operators and processor staff. NMFS assumes that the initial and ongoing training costs to use tLandings will likely be shared by NMFS and the processor using tender vessels. NMFS may bear an initial cost for training processors on the use of tLandings, after which it will be the processors’ responsibility to provide training for their tender vessel operators. NMFS estimates that it will require a full day of initial training for

new tLandings users. Section 1.9.1.2 of the RIR describes projected training costs in more detail.

Because processors are already subject to an eLandings reporting requirement, processors likely have staff proficient with the IERS software, so there is not expected to be significant additional training required for the tLandings requirement.

Under this rule, NMFS will add a data field to the tLandings application to track the location of tenders when they take deliveries from vessels. The tender vessel operator is required to report the vessel’s latitude and longitude at the time of each vessel delivery. This data is necessary to improve information on tender vessel activity and vessel delivery patterns when delivering to a tender vessel as opposed to a processor. This data field is not expected to add a reporting burden on tender vessel operators.

Section 1.5.1 of the RIR estimates that 30 tender vessels received Federal groundfish in the BSAI and GOA in 2015. Those tender vessels delivered to eight processors. Many tender vessels that operate in the Federal groundfish fisheries also operate in the State groundfish fisheries. Under State regulations these tender vessels are already subject to a State tLandings requirement and may already be equipped with tLandings from ADF&G. In 2015, 21 of the 30 tender vessels also took delivery of State groundfish. NMFS expects that there will be minimal additional cost for these tender vessels to also use tLandings for Federal groundfish. The tLandings requirement under this rule affects nine tender vessels. The eight processors that received Federal groundfish from tender vessels in 2015 also received State groundfish from tender vessels; therefore, the effect of this rule on processors is estimated to be minimal.

##### *Action 2: Differentiate Tender Vessels From Buying Stations*

Action 2 of this rule revises the definitions of tender vessel and buying station for improved clarity to ensure that the reporting requirements that are applicable to tender vessels and land-based buying stations are clear to the public. Prior to this final rule, under § 679.2, the definition of a buying station includes both tender vessels and land-based buying stations. Under § 679.2, tender vessel is separately defined as a vessel used to transport unprocessed fish or shellfish received from another vessel to an associated processor. While many recordkeeping and reporting requirements that apply to buying stations should include both

tender vessels and land-based buying stations, not all of the reporting requirements that apply to buying stations should apply to both tender vessels and land-based buying stations. Additionally, while a tender vessel may be associated with a shoreside processor, stationary floating processor, or mothership, a land-based buying station is only associated with a shoreside processor. Action 2 does not revise or modify the specific provisions of reporting requirements, but clarifies who is responsible for each requirement.

#### *Action 3: Remove the Buying Station Report Requirement*

Action 3 of this rule removes the requirement in § 679.5(d) for a buying station to submit a Buying Station Report. The most recent year of landing report data in 2015 shows that all 54 active buying stations are associated with shoreside processors that use eLandings. NMFS receives the landing data it needs through eLandings, and so does not need to require that the data be submitted in a Buying Station Report. Removing the requirement to submit a Buying Station Report removes a duplicative reporting requirement and reduces the burden on the regulated public. Buying stations will continue to be required to submit landing reports using eLandings.

To implement Action 3, this rule modifies references in the regulations to clarify whether certain recordkeeping and reporting requirements apply to tender vessels, buying stations, or both. Additionally, this rule removes the qualifier “land-based” from references to buying stations in the regulations because buying station is defined in the regulations as a land-based entity. Finally, NMFS revises the definition of “manager” to effectively include “stationary floating processor” managers.

#### *Action 4: Revise Mothership Definition*

Action 4 of this rule revises the definition of mothership in § 679.2 to simplify the structure of the definition by moving the text of paragraph (1) into the main body of the definition and deleting reserved paragraph (2). This minor technical correction does not substantively change the definition of a mothership.

#### **Comments and Responses**

NMFS received one comment letter from the public that contained one unique substantive comment during the public comment period for the proposed rule to implement these four actions.

NMFS’ response to this comment is presented below.

*Comment:* Will tender vessels that tender IFQ halibut need to use tLandings to submit landing reports?

*Response:* No. Tender vessels are not required to use tLandings for IFQ halibut. This rule does not alter the existing recordkeeping and reporting requirements for the Individual Fishing Quota (IFQ) Program. The final rule is modified as described below to clarify that tender vessels that take deliveries of non-IFQ groundfish will be subject to this rule.

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

This final rule includes changes to the regulatory text published in the proposed rule.

This final rule includes a change to the regulatory text that was made in response to the comment received on the proposed rule to clarify who is required to use tLandings under this rule. The proposed rule did not make clear that the tLandings rule will not apply to tender vessels that take IFQ halibut or sablefish, Community Development Quota (CDQ) halibut, or Crab Rationalization Program (CR) crab. While tenders are not regularly used in any of these fisheries, several minor modifications to the regulatory text in the final rule will make this distinction clear.

The tLandings application is not configured to accommodate reporting of IFQ species or CDQ halibut. In addition, the IFQ species and CDQ halibut are reported to NMFS on different landing reports than are used for non-IFQ groundfish species. IFQ halibut and sablefish and CDQ halibut are reported to NMFS on a Registered Buyer landing report. CR crab are reported on a Registered Crab Receiver IFQ crab landing report. Groundfish, other than IFQ sablefish, are required to be reported on a shoreside processor, stationary floating processor, or Community Quota Entity floating processor landing report. Only tender vessels that take deliveries of non-IFQ groundfish in the BSAI and GOA will be required to use and complete tLandings.

The regulatory language in the proposed rule specified that tLandings would be required for fish or shellfish required to be reported on a shoreside processor, stationary floating processor, or Community Quota Entity (CQE) floating processor landing report (“a landing report under § 679.5(e)(5)”). Therefore, to make the needed clarification in the final rule, NMFS revises the regulatory language at new paragraph § 679.5(e)(14) to refer to “groundfish” rather than “fish or

shellfish” and to cross reference the deadlines specified for the shoreside processor, stationary floating processor or CQE floating processor landing report.

This final rule includes three changes to the regulatory text in the proposed rule specific to Action 2. Action 2 is intended to clarify the recordkeeping and reporting requirements applicable to tender vessels and land-based buying stations. As explained in the section “Action 2: Differentiate Tender Vessels from Buying Stations,” this rule revises the definitions of tender vessels and buying stations so that a tender vessel is a vessel and a buying station is a land-based entity. The difference in these two operation types requires differentiating the individual responsible for recordkeeping and reporting requirements for each entity to maintain consistency with how NMFS identifies the individual responsible for other operation types. For vessels that are mobile as a part of daily operations, NMFS identifies the individual responsible for recordkeeping and reporting requirements as the operator of that vessel. For shoreside and stationary floating processors (non-mobile operations), NMFS identifies the manager as the individual responsible. In this final rule, NMFS revises the regulatory text at § 679.5(a)(2)(i), (b), (c)(6)(i), and (e)(5)(iii) to clarify that the individual responsible for recordkeeping and reporting requirements on a vessel, including a tender vessel, is the operator, while the individual responsible at a buying station is the manager. This differentiation is consistent with the identification of the operator of a catcher vessel, catcher/processor, and mothership as the individual responsible and the manager of a shoreside processor or stationary floating processor as the individual responsible. These three revisions from the proposed to final rule are necessary to provide consistency with the intent of Action 2.

An additional minor revision to the regulatory text in this final rule will change the abbreviation required to be used in the mothership daily catch and production logbook at § 679.5(c)(6)(vi)(A) from “BS” to “TV.” This revision is necessary to maintain consistency with the proposed change from “buying station” to “tender vessel” in that paragraph.

In the proposed rule, NMFS proposed to revise Table 13 to 50 CFR part 679 to remove the notation for a buying station or tender vessel to complete a buying station report. In keeping with the intent of Action 3 of this rule, NMFS will

remove the entire row pertaining to the buying station report rather than only removing the notation.

### Classification

Pursuant to section 304(b)(1)(A) and section 305(d) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with the BSAI FMP, the GOA FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

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. The preamble to the proposed rule (81 FR 50436; August 1, 2016) and the preamble to this final rule serve as the small entity compliance guide for this action. In addition, a user guide for tLandings is available on the NMFS Alaska Region Web site (<https://elandings.atlassian.net/wiki/display/doc/tLandings>).

### Final Regulatory Flexibility Analysis

Section 604 of the Regulatory Flexibility Act (RFA) requires an agency to prepare a final regulatory flexibility analysis (FRFA) after being required by that section or any other law to publish a general notice of proposed rulemaking and when an agency promulgates a final rule under section 553 of Title 5 of the U.S. Code. The following paragraphs constitute the FRFA for this action.

This FRFA incorporates the Initial Regulatory Flexibility Analysis (IRFA), a summary of the significant issues raised by the public comments, NMFS' responses to those comments, and a summary of the analyses completed to support the action. The FRFA describes the impacts on small entities, which are defined in the IRFA for this action and not repeated here. Analytical requirements for the FRFA are described in RFA, section 604(a)(1) through (6). The FRFA must contain:

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 in 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 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 which 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 the 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.

The "universe" of entities to be considered in a FRFA generally includes only those small entities that can reasonably be expected to be directly regulated by the action. If the effects of the rule fall primarily on a distinct segment of the industry, or portion thereof (e.g., user group, gear type, geographic area), that segment will be considered the universe for purposes of this analysis.

In preparing a FRFA, an agency may provide either a quantifiable or numerical description of the effects of a rule (and alternatives to the rule), or more general descriptive statements, if quantification is not practicable or reliable.

### Need for and Objectives of This Final Rule

The lack of electronic data from tenders reduces data reliability and timeliness. Data timeliness and reliability are paramount to effective inseason management. Almost real-time access to the data is particularly important for fast-paced fisheries that operate under small total allowable catch limits, constraining PSC limits, or that have inconsistent and unpredictable levels of fishing effort.

NMFS requires timely data for the successful management of these fisheries. In addition, NMFS uses timely data for any catch share program that involves transferable allocations of target species. NMFS inseason management and Office of Law Enforcement rely on the data provided through eLandings to monitor compliance with requirements that quota holders not exceed their allocations. Management and enforcement of PSC-limited and catch share fisheries become more difficult when data access is delayed.

Additionally, with the lack of electronic data from tenders, NMFS is unable to differentiate deliveries to tender vessels from deliveries to processors unless the processor voluntarily enters the tender vessel identification number in the eLandings report. NMFS has, in the past, raised concerns about landings data reliability and timeliness in analyses presented to the North Pacific Fishery Management Council and fishery participants.

### Summary of Significant Issues Raised During Public Comment

NMFS published the proposed rule on August 1, 2016 (81 FR 50436), with comments invited through August 31, 2016. An IRFA was prepared and summarized in the Classification section of the preamble to the proposed rule. The Chief Counsel for Advocacy of the SBA did not file any comments on the proposed rule. No comments were received that raised significant issues in response to the IRFA specifically; therefore, no changes were made to this rule as a result of comments on the IRFA. However, a comment was received on the entities affected by this rule. For a summary of this comment and the agency's response, refer to the section above titled "Comments and Responses."

### Number and Description of Directly Regulated Small Entities

For Regulatory Flexibility Act 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 SBA has established size criteria for all other major industry sectors in the United States, including fish

processing businesses. A seafood processor is a small business if it is independently owned and operated, not dominant in its field of operation, and employs 750 or fewer persons on a full-time, part-time, temporary, or other basis, at all its affiliated operations worldwide. A wholesale business servicing the fishing industry is a small business if it employs 100 or fewer persons on a full-time, part-time, temporary, or other basis, at all its affiliated operations worldwide.

Action 1 of this rule affects tender vessels and processors that receive deliveries of groundfish from tender vessels. For the purposes of the FRFA, a tender vessel is categorized as a wholesale business servicing the fishing industry. Most tender vessels are independently owned and operated entities that are contracted with processors. The exceptions are tender vessels owned by processors. NMFS does not have data on the number of employees on tender vessels, and therefore conservatively assumes all tender vessels that are independently owned and operated are small entities.

Of the 30 tender vessels affected by this action, five are owned by processors that are large entities. Therefore, through affiliation, these five tender vessels are not small entities under the SBA definition. The additional 25 independently owned tender vessels are small entities under the SBA definition. In 2015, there were 8 processors that received groundfish deliveries from tender vessels. None of these processors directly regulated by this action qualify as small entities for the purposes of the SBA.

Action 2 of this rule does not add new requirements for tender vessels or buying stations; it only clarifies which requirements the entities are subject to. Therefore this action is expected to have a small positive impact. This action affects the 30 tender vessels and 54 buying stations that were active in 2015.

Action 3 of this rule removes a requirement on participants that is not currently used; therefore, it is expected to have no effect on participants.

Action 4 of this rule revises the definition of mothership to make it more straightforward and does not modify the definition in a substantive way; therefore, it has no effect on participants.

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

This rule requires modifications to the current recordkeeping and reporting requirements in the Alaska Interagency Electronic Reporting System collection (OMB Control Number 0648–0515). The

modifications include requiring tender vessel operators to complete the data fields on the tLandings tender workstation application for each delivery the tender vessel accepts from a vessel. Additionally, the tender vessel operator is required to provide the completed tLandings application to the processor on delivery. The processor is then required to upload the information provided by the tender vessel operator in the tLandings application into the eLandings landing report.

This rule removes the Buying Station Report requirement. NMFS receives the landing data it needs through eLandings, and does not need the data submitted in the Buying Station Report. The Buying Station Report is discontinued from any future use. Removing the requirement to submit a Buying Station Report removes a duplicative reporting requirement and reduces the burden on the regulated public. Buying stations will continue to be required to submit landing reports using eLandings.

#### Description of Significant Alternatives to This Rule That Minimize Economic Impacts on Small Entities

Under each action, NMFS considered two alternatives—the no action alternative and the action alternative. NMFS did not identify any other alternatives that meet the objectives of these actions at a lower cost and reduce economic impact on small entities. The no action alternative for Action 1 would have maintained the existing process of tender vessel operators completing paper fish tickets for each delivery and giving the information to the processor to transcribe and upload into eLandings. Maintaining the manual writing and submission of tender delivery data would not have met the objective of providing timely and accurate landing data.

To help reduce the burden of this regulation on small entities and minimize their costs, NMFS will develop the tLandings tender workstation application and provide that at no cost to participants to provide services and products useful to the industry. NMFS will also provide user support and training. Additionally, NMFS will share some of the training costs for processors to learn how to use tLandings.

The action alternatives for Actions 2, 3, and 4 have been determined to have either a small positive effect or no effect on participants, and therefore are not discussed further.

#### Collection-of-Information Requirements

This rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA) and which have been approved by the Office of Management and Budget (OMB) under OMB Control Number 0648–0515. Public reporting burden is estimated to average per response: 15 minutes for IERS application processor registration; 35 minutes for eLandings landing report; 35 minutes for manual landing report; 15 minutes for catcher/processor or mothership eLandings production report; and 35 minutes for tLandings landing report.

Send comments regarding these burden estimates or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**), 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 the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number. 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 3, 2016.

**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:

#### **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.*

##### **§ 902.1 [Amended]**

■ 2. In § 902.1, in the table in paragraph (b), under the entry “50 CFR” remove the entry for “679.5(d).”

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

■ 3. The authority citation for 50 CFR 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 § 679.2, revise the definitions for “Buying station”, “Manager”, “Mothership”, “Tender vessel”, and “User” to read as follows:

**§ 679.2 Definitions.**

*Buying station* means a land-based entity that receives unprocessed groundfish from a vessel for delivery to a shoreside processor and that does not process those fish.

*Manager*, with respect to any shoreside processor, stationary floating processor, or buying station, means the individual responsible for the operation of the processor or buying station.

*Mothership* means a vessel that receives and processes groundfish from other vessels.

*Tender vessel* means a vessel that is used to transport unprocessed fish or shellfish received from another vessel to an associated processor.

*User* means, for purposes of IERS and its components including eLandings and tLandings, an individual representative of a Registered Buyer; a Registered Crab Receiver; a mothership or catcher/processor that is required to have a Federal Fisheries Permit (FFP) under § 679.4; a shoreside processor or SFP and mothership that receives groundfish from vessels issued an FFP under § 679.4; any shoreside processor or SFP that is required to have a Federal processor permit under § 679.4; and his or her designee(s).

■ 5. In § 679.5:

- a. Revise paragraphs (a)(2)(i), (b), and (c)(6)(i);
- b. Remove paragraph (c)(6)(viii)(E);
- c. Remove and reserve paragraph (d);
- d. Revise paragraphs (e)(3)(i), (e)(5)(i)(A)(7), and (e)(5)(iii); and
- e. Add paragraph (e)(14).

The revisions and addition read as follows:

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

- (a) \* \* \*
- (2) \* \* \*

(i) The operator of a catcher vessel, catcher/processor, mothership, or tender vessel (hereafter referred to as the operator) and the manager of a shoreside processor, SFP, or buying station (hereafter referred to as the manager) are each responsible for complying with the applicable R&R requirements in this section and in § 679.28.

(b) *Representative.* The operator of a catcher vessel, mothership, catcher/processor, or tender vessel or manager of a shoreside processor, SFP, or buying station may identify one contact person to complete the logbook and forms and to respond to inquiries from NMFS. Designation of a representative under this paragraph (b) does not relieve the owner, operator, or manager of responsibility for compliance under paragraphs (a)(1) through (6) of this section.

- (c) \* \* \*
- (6) \* \* \*

(i) *Responsibility.* Except as described in paragraph (f)(1)(v) of this section, the operator of a mothership that is required to have an FFP under § 679.4(b), or the manager of a CQE floating processor that receives or processes any groundfish from the GOA or BSAI from vessels issued an FFP under § 679.4(b), is required to use a combination of mothership DCPL and eLandings to record and report daily processor identification information, delivery information, groundfish production data, and groundfish and prohibited species discard or disposition data. The operator or manager must enter into the DCPL any information for groundfish received from catcher vessels, groundfish received from processors for reprocessing or rehandling, and groundfish received from an associated tender vessel.

- (e) \* \* \*
- (3) \* \* \*

(i) *Operation type.* Select the operation type from the dropdown list.

- (5) \* \* \*
- (i) \* \* \*
- (A) \* \* \*

(7) If the delivery is received from a buying station, indicate the name of the buying station. If the delivery is received from a tender vessel, enter the ADF&G vessel registration number.

(iii) *Compliance.* By using eLandings, the User for the shoreside processor or SFP and the operator for the catcher vessel or tender vessel or manager of the buying station providing information to the User for the shoreside processor or

SFP accept the responsibility of and acknowledge compliance with § 679.7(a)(10).

(14) *Tender vessel landing report (“tLandings”).* (i) *tLandings.* tLandings is an applications software for preparing electronic landing reports for commercial fishery landings to tender vessels.

(ii) *Tender vessel operator responsibility.* The operator of a tender vessel taking delivery of groundfish that is required to be reported to NMFS on a landing report under paragraph (e)(5) of this section must use tLandings to enter information about each landing of groundfish and must provide that information to the User defined under § 679.2.

(iii) *User responsibility.* The User must configure and provide the tender vessel operator with the most recent version of the tLandings tender workstation application prior to the tender vessel taking delivery of groundfish.

(iv) *Information entered for each groundfish delivery.* The tender vessel operator must log into the configured tLandings tender workstation application and provide the information required on the computer screen. Additional instructions for tLandings is on the Alaska Region Web site at <http://alaskafisheries.noaa.gov>.

(v) *Submittal time limit.* (A) The tender vessel operator must provide the landing information in tLandings to the User at the commencement of the transfer or offload of groundfish from the tender vessel to the processor.

(B) The User must upload the data recorded in tLandings by the tender vessel to prepare the initial landing report for a catcher vessel delivering to a tender vessel that is required under paragraph (e)(5) of this section within the submittal time limit specified under paragraph (e)(5).

(vi) *Compliance.* By using tLandings, the User and the tender vessel operator providing information to the User accept the responsibility of and acknowledge compliance with § 679.7(a)(10).

■ 6. In § 679.7, revise paragraph (a)(11) to read as follows:

**§ 679.7 Prohibitions.**

- (a) \* \* \*

(11) *Buying station or tender vessel—(i) Tender vessel.* Use a catcher vessel or catcher/processor as a tender vessel before offloading all groundfish or groundfish product harvested or processed by that vessel.

(ii) *Associated processor.* Function as a tender vessel or buying station without an associated processor. ■ 7. Revise table 13 to part 679 to read as follows:

\* \* \* \* \*

TABLE 13 TO PART 679—TRANSFER FORM SUMMARY

If participant type is . . .	And has . . . Fish product on-board	And is involved in this activity	VAR <sup>1</sup>	PTR <sup>2</sup>	Transship <sup>3</sup>	Departure report <sup>4</sup>	Dockside sales receipt <sup>5</sup>	Landing receipt <sup>6</sup>
Catcher vessel greater than 60 ft LOA, mothership, or catcher/processor.	Only non-IFQ groundfish.	Vessel leaving or entering Alaska.	X					
Catcher vessel greater than 60 ft LOA, mothership, or catcher/processor.	Only IFQ sablefish, IFQ halibut, CDQ halibut, or CR crab.	Vessel leaving Alaska.	.....	.....	.....	X		
Catcher vessel greater than 60 ft LOA, mothership, or catcher/processor.	Combination of IFQ sablefish, IFQ halibut, CDQ halibut, or CR crab and non-IFQ groundfish.	Vessel leaving Alaska.	X	.....	.....	X		
Mothership, catcher/processor, shore-side processor, or SFP.	Non-IFQ groundfish.	Shipment of groundfish product.	.....	X				
Mothership, catcher/processor, shore-side processor, or SFP.	Donated PSC ....	Shipment of donated PSC.	.....	X				
Registered Buyer	IFQ sablefish, IFQ halibut, or CDQ halibut.	Transfer of product.	.....	X				
A person holding a valid IFQ permit, IFQ hired master permit, or Registered Buyer permit.	IFQ sablefish, IFQ halibut, or CDQ halibut.	Transfer of product.	.....	.....	.....	.....	XXX	
Registered Buyer	IFQ sablefish, IFQ halibut, or CDQ halibut.	Transfer from landing site to Registered Buyer's processing facility.	.....	.....	.....	.....	.....	XX
Vessel operator	Processed IFQ sablefish, IFQ halibut, CDQ halibut, or CR crab.	Transshipment between vessels.	.....	.....	XXXX			
Registered Crab Receiver.	CR crab .....	Transfer of product.	.....	X				
Registered Crab Receiver.	CR crab .....	Transfer from landing site to RCR's processing facility.	.....	.....	.....	.....	.....	XX

<sup>1</sup> A vessel activity report (VAR) is described at § 679.5(k).  
<sup>2</sup> A product transfer report (PTR) is described at § 679.5(g).  
<sup>3</sup> An IFQ transshipment authorization is described at § 679.5(l)(3).  
<sup>4</sup> An IFQ departure report is described at § 679.5(l)(4).  
<sup>5</sup> An IFQ dockside sales receipt is described at § 679.5(g)(2)(iv).  
<sup>6</sup> A landing receipt is described at § 679.5(e)(8)(vii).  
 X indicates under what circumstances each report is submitted.  
 XX indicates that the document must accompany the transfer of IFQ species from landing site to processor.  
 XXX indicates receipt must be issued to each receiver in a dockside sale.  
 XXXX indicates authorization must be obtained 24 hours in advance.

**§§ 679.2, 679.5, 679.7, and 679.51 and Table 1b to Part 679 [Amended]**

■ 8. At each of the locations shown in the “Location” column, remove the

phrase indicated in the “Remove” column and replace it with the phrase indicated in the “Add” column for the

number of times indicated in the “Frequency” column.

Location	Remove	Add	Frequency
§ 679.2 “Agent” (1)	buying station	buying station, tender vessel	1
§ 679.2 “Agent” (2)	buying station	buying station or tender vessel	1
§ 679.2 “Associated processor”	buying station	buying station or tender vessel	3
§ 679.2 “Shoreside processor”	buying stations	buying stations, tender vessels	1
§ 679.5(a)(2)(ii)	or buying station	buying station, or tender vessel	1
§ 679.5(a)(3)(ii)	catcher vessels and buying stations	catcher vessels, buying stations, and tender vessels	1
§ 679.5(a)(3)(iii)	catcher vessel or buying station	catcher vessel, buying station, or tender vessel	1
§ 679.5(c)(1)(vi)(B)(4)	or buying station	buying station, or tender vessel	1
§ 679.5(c)(3)(ii)(A)(3)	or buying station	buying station, or tender vessel	1
§ 679.5(c)(3)(viii)	buying station	buying station, tender vessel	1
§ 679.5(c)(3)(x)	buying station	buying station, tender vessel	1
§ 679.5(c)(4)(ii)(A)(3)	or buying station	buying station, or tender vessel	1
§ 679.5(c)(4)(viii)	buying station	buying station, tender vessel	1
§ 679.5(c)(4)(x)	buying station	buying station, tender vessel	1
§ 679.5(c)(6)(ii)(A)	buying station	tender vessel	1
§ 679.5(c)(6)(vi) introductory text	buying station	tender vessel	1
§ 679.5(c)(6)(vi)(A)	BS	TV	1
§ 679.5(c)(6)(vi)(A)	buying station	tender vessel	1
§ 679.5(c)(6)(vi)(B)	buying station	tender vessel	1
§ 679.5(c)(6)(vi)(C)	buying station	tender vessel	1
§ 679.5(c)(6)(vi)(F)	buying station	tender vessel	1
§ 679.5(c)(6)(vi)(H)	buying station	tender vessel	2
§ 679.5(c)(6)(vii)	buying station	tender vessel	1
§ 679.5(c)(6)(viii)(A)	buying station	tender vessel	1
§ 679.5(e)(3)(viii)	buying station	buying station, tender vessel	1
§ 679.5(e)(5)(i) introductory text	buying station	buying station or tender vessel	1
§ 679.5(e)(5)(i)(A)(6)	buying station	buying station or tender vessel	1
§ 679.5(e)(5)(i)(C)(7)	buying station	buying station or tender vessel	1
§ 679.5(e)(6)(i) introductory text	buying station	tender vessel	1
§ 679.5(e)(6)(i)(B)(7)	buying station	tender vessel	1
§ 679.5(e)(6)(iii)	buying station	tender vessel	1
§ 679.5(f)(1)(v)	buying station	tender vessel	1
§ 679.5(f)(5)(ii)	buying station	buyer station or tender vessel	1
§ 679.5(p)(1)	buying station	tender vessel	1
§ 679.7(d)(4)(i)(C)	buying station	buying station or tender vessel	1
§ 679.51(e)(3)	or buying station	buying station, or tender vessel	1
Table 1b to Part 679	and buying stations	buying stations, and tender vessels	1

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**DEPARTMENT OF LABOR**

**Occupational Safety and Health Administration**

**29 CFR Part 1984**

[Docket Number: OSHA-2011-0193]

RIN 1218-AC79

**Procedures for the Handling of Retaliation Complaints Under Section 1558 of the Affordable Care Act**

**AGENCY:** Occupational Safety and Health Administration, Labor.

**ACTION:** Final rule.

**SUMMARY:** This document provides the final text of regulations governing employee protection (retaliation or whistleblower) claims under section

1558 of the Affordable Care Act, which added section 18C to the Fair Labor Standards Act to provide protections to employees who may have been subject to retaliation for seeking assistance under certain affordability assistance provisions (for example, health insurance premium tax credits) or for reporting potential violations of the Affordable Care Act’s consumer protections (for example, the prohibition on rescissions). An interim final rule (IFR) governing these provisions and request for comments was published in the **Federal Register** on February 27, 2013. Thirteen comments were received; eleven were responsive to the IFR. This rule responds to those comments and establishes the final procedures and time frames for the handling of retaliation complaints under section 18C, including procedures and time frames for employee complaints to the Occupational Safety and Health

Administration (OSHA), investigations by OSHA, appeals of OSHA determinations to an administrative law judge (ALJ) for a hearing de novo, hearings by ALJs, review of ALJ decisions by the Administrative Review Board (ARB) (acting on behalf of the Secretary of Labor), and judicial review of the Secretary of Labor’s (Secretary’s) final decision. It also sets forth the Secretary’s interpretations of the Affordable Care Act whistleblower provision on certain matters.

**DATES:** This final rule is effective on October 13, 2016.

**FOR FURTHER INFORMATION CONTACT:** Anh-Viet Ly, Directorate of Whistleblower Protection Programs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-4624, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693-2199; email: [OSHA.DWPP@dol.gov](mailto:OSHA.DWPP@dol.gov). This is not a toll-free number.