

Sections 601–604. In its final rule, the agency must either include a final regulatory flexibility analysis, section 604(a), or certify that the proposed rule would not have a “significant impact on a substantial number of small entities,” section 605(b). The “impact” must be a direct impact on small entities “whose conduct is circumscribed or mandated” by the proposed rule. *White Eagle Coop. v. Conner*, 553 F.3d 467, 480 (7th Cir. 2009).

In the *NPRM*, the Board certified that the proposed rule would not have a significant economic impact on a substantial number of small entities within the meaning of the RFA.<sup>9</sup> The Board explained that the proposed change to its regulations was intended to improve the quality of the service data reported by Class I carriers and would not mandate or circumscribe the conduct of small entities. The final rule adopted here is limited to Class I carriers, so the same basis for the Board’s certification of the proposed rule in the *NPRM* applies to the final rule. Therefore, the Board certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the RFA. A copy of this decision will be served upon the Chief Counsel for Advocacy, Office of Advocacy, U.S. Small Business Administration, Washington, DC 20416.

#### *Paperwork Reduction Act*

In this proceeding, the Board is modifying an existing collection of information that is currently approved by the Office of Management at Budget (OMB) through June 30, 2020, under the collection of the United States Rail Service Issues-Performance Data Reporting (OMB Control No. 2140–0033). In the *NPRM*, the Board sought comments pursuant to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501–3521, and OMB regulations, 5 CFR 1320.8(d)(3), regarding: (1) Whether the collection of information, as modified in

<sup>9</sup> For the purpose of RFA analysis for rail carriers subject to the Board’s jurisdiction, the Board defines a “small business” as only including those rail carriers classified as Class III rail carriers under 49 CFR 1201.1–1. See *Small Entity Size Standards Under the Regulatory Flexibility Act*, EP 719 (STB served June 30, 2016) (with Board Member Begeman dissenting). Class III carriers have annual operating revenues of less than \$250 million in 1991 dollars, or \$39,194,876 or less when adjusted for inflation using 2018 data. Class II carriers have annual operating revenues of less than \$250 million in 1991 dollars, or \$489,935,956 when adjusted for inflation using 2018 data. The Board calculates the revenue deflator factor annually and publishes the railroad revenue thresholds in decisions and on its website. 49 CFR 1201.1–1; *Indexing the Annual Operating Revenues of R.Rs.*, EP 748 (STB served June 14, 2019).

the proposed rule and further described in the *NPRM*,<sup>10</sup> is necessary for the proper performance of the functions of the Board, including whether the collection has practical utility; (2) the accuracy of the Board’s burden estimates; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology, when appropriate. No comments were received pertaining to the collection of this information under the PRA.

This modification to an existing collection will be submitted to OMB for review as required under the PRA, 44 U.S.C. 3507(d), and 5 CFR 1320.11.

#### *Congressional Review Act*

Pursuant to the Congressional Review Act, 5 U.S.C. 801–808, the Office of Information and Regulatory Affairs has designated this rule as a non-major rule, as defined by 5 U.S.C. 804(2).

#### *It is ordered:*

1. The Board adopts the final rule as set forth below. Notice of the final rule will be published in the **Federal Register**.

2. A copy of this decision will be served upon the Chief Counsel for Advocacy, Office of Advocacy, U.S. Small Business Administration, Washington, DC 20416.

3. This decision is effective on July 20, 2020.

#### **List of Subjects in 49 CFR Part 1250**

Administrative practice and procedure, Railroads, Reporting and recordkeeping requirements.

Decided: May 14, 2020.

By the Board, Board Members Begeman, Fuchs, and Oberman.

**Kenyatta Clay,**

*Clearance Clerk.*

For the reasons set forth in the preamble, the Surface Transportation Board amends part 1250 of title 49, chapter X, of the Code of Federal Regulations as follows:

#### **PART 1250—RAILROAD PERFORMANCE DATA REPORTING**

■ 1. The authority citation for part 1250 continues to read as follows:

**Authority:** 49 U.S.C. 1321 and 11145.

<sup>10</sup> As discussed above, the Board made a minor change to the final rule, clarifying the term “chemical or allied products.” The change, however, does not impact the Board’s analysis of the collection.

■ 2. Amend § 1250.2 by revising the first sentence of paragraph (a)(6) to read as follows:

#### **§ 1250.2 Railroad performance data elements.**

(a) \* \* \*

(6) The weekly average of loaded and empty cars, operating in normal movement and billed to an origin or destination, which have not moved in 48 hours or more, sorted by service type (intermodal, grain, coal, crude oil, automotive, ethanol, fertilizer (the following Standard Transportation Commodity Codes (STCCs): 2812534, 2818142, 2818146, 2818170, 2818426, 2819173, 2819454, 2819815, 2871235, 2871236, 2871238, 2871244, 2871313, 2871315, and 2871451), chemicals or allied products (all STCC 28 not otherwise reported under ethanol or fertilizer), and all other). \* \* \*

\* \* \* \* \*

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#### **DEPARTMENT OF COMMERCE**

#### **National Oceanic and Atmospheric Administration**

#### **50 CFR Part 679**

[Docket No. 200227–0066; RTID 0648–XY105]

#### **Fisheries of the Exclusive Economic Zone Off Alaska; Yellowfin Sole for Vessels Participating in the BSAI Trawl Limited Access Sector Fishery in the Bering Sea and Aleutian Islands Management Area**

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is prohibiting directed fishing for yellowfin sole in the Bering Sea and Aleutian Islands management area (BSAI) for vessels participating in the BSAI trawl limited access sector fishery. This action is necessary to prevent exceeding the 2020 allocation of yellowfin sole total allowable catch for vessels participating in the BSAI trawl limited access sector fishery in the BSAI.

**DATES:** This temporary rule is effective on May 18, 2020. This rule is applicable 1200 hrs, Alaska local time (A.l.t.), May 15, 2020, through 2400 hrs, A.l.t., December 31, 2020.

**FOR FURTHER INFORMATION CONTACT:** Steve Whitney, 907–586–7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2020 allocation of yellowfin sole total allowable catch for vessels participating in the BSAI trawl limited access sector fishery in the BSAI is 17,172 metric tons (mt) as established by the final 2020 and 2021 harvest specifications for groundfish in the BSAI (85 FR 13553, March 9, 2020). In accordance with § 679.20(d)(1)(iii), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2020 yellowfin sole total allowable catch allocated as a

directed fishing allowance for vessels participating in the BSAI trawl limited access sector fishery in the BSAI will soon be reached. Consequently, NMFS is prohibiting directed fishing for yellowfin sole for vessels participating in the BSAI trawl limited access sector fishery in the BSAI.

While this closure is effective, the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

#### **Classification**

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries

data in a timely fashion and would delay the closure of directed fishing for yellowfin sole by vessels fishing in the BSAI trawl limited access sector fishery in the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of May 14, 2020.

The acting AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: May 18, 2020.

**Hélène M. N. Scalliest,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2020-11015 Filed 5-18-20; 4:15 pm]

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