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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 190214113-9522-01]

RIN 0648-BI74

**Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast
Groundfish Fishery; Trawl Logbook**

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

ACTION: Interim final rule, request for comments.

SUMMARY: This interim final rule creates a Federal requirement for vessels using trawl gear in the Pacific Coast Groundfish fishery to complete and submit the trawl logbook form.

Historically, the states of Washington, Oregon, and California each administered state logbook form requirements. However, the California Fish and Game Commission repealed its trawl logbook reporting requirement, effective July 1, 2019. In order to not lose data reporting coverage from vessels in California, NMFS is implementing a Federal requirement for catcher vessels using trawl gear in the Pacific Coast Groundfish fishery Shorebased Individual Fishing Quota (IFQ) Program to complete and submit logbook forms in the absence of similar state regulations. This rule is necessary to continue collection of data vital to coastwide management of the groundfish trawl fishery.

DATES: Effective *[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]*.

Comments must be received by *[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]*.

ADDRESSES: Submit your comments, identified by NOAA-NMFS-2019-0031, by either of the following methods:

- *Federal e-Rulemaking Portal:* Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2019-0031*, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Barry A. Thom, Regional Administrator, West Coast Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115-0070.

Instructions: NMFS may not consider comments if they are sent by any other method, to any other address or individual, or received after the comment period ends. All comments received are a part of the public record and NMFS will post for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.*, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender is publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Electronic copies of the Regulatory Impact Review (RIR) and the Categorical Exclusion prepared for this rule may be obtained from *http://www.regulations.gov* or from the West Coast Region Web site at *http://westcoast.fisheries.noaa.gov*.

FOR FURTHER INFORMATION CONTACT: Keeley Kent, phone: 206-526-4655, or e-mail: *keeley.kent@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Background

Currently, the states of Washington, Oregon, and California require the reporting of trawl fishery data in the trawl logbook form. The states use a single, identical logbook form the Pacific Fishery Management Council (Council) developed to collect information necessary to effectively manage the groundfish fishery on a coastwide basis. While each state has its own requirement for vessels to complete the trawl logbook form, each state transmits the logbooks or logbook data to the Pacific States Marine Fisheries Commission (PSMFC). PSMFC compiles the data from the logbooks into the PacFIN Coastwide Trawl Logbook Database, and distributes the data to users such as the Council, NMFS, and the Groundfish Management Team (GMT). In addition to managing the logbook data, the PSMFC prints the logbook forms and distributes them to Washington and Oregon so that the states can distribute them to vessels, and distributes them directly to the vessels in California.

Washington, Oregon, and California have long required trawl vessels to submit information on their fishing activity. Since the late 1980's, all three states have collected similar data in order to facilitate coastwide monitoring of the groundfish trawl fishery. As a result of this longstanding requirement for the collection of trawl effort data, NMFS and the Council have an extensive dataset on how trawling activity has changed over time. This data has been especially useful in actions to assess the effects of area management, such as the rockfish conservation areas, and to otherwise supplement stock assessments, especially for stocks that are managed by area.

On December 12, 2018, the California Fish and Wildlife Commission (Commission) voted to repeal its requirement for commercial trawl vessels to complete and submit the logbook form, effective July 1, 2019. There is no existing Federal requirement for vessels to complete and

submit the trawl logbook form. Instead, the Federal requirement is for vessels to follow their respective state logbook requirements (50 CFR 660.13(b)). Therefore, without this rule, trawl vessels off of California would no longer be required to complete and submit the trawl logbook form.

Contents and Use of the Trawl Logbook

The trawl logbook form developed by the Council collects fisherman-reported haul-level effort data including tow time, tow location, depth of catch, net type, target strategy, and estimated pounds of fish retained per tow. Most data is collected while the vessel is fishing, with only buyer information collected upon landing. Each trawl log represents a single fishing trip. The logbook forms are due monthly to each state, and the data is matched to a landing receipt (fish ticket) summary data submitted by seafood processors. This matching step acts as a data corroboration process for landings, and allows the PSMFC to identify and correct any errors in the data. NMFS, the Council, the GMT, the Northwest Fishery Science Center, and the PSMFC use the data obtained from the logbooks in analyses of catch locations and bycatch hotspots, spot verification of fish tickets, analyses on gear usage by area, stock assessments, and a variety of other applications. Additionally, Federal groundfish regulations require vessels to make the logbooks available to fishery observers under the West Coast Groundfish Observer Program (WCGOP). The observers collect biological samples and pair these samples with logbook data describing vessel position, target, depth, and retained catch. These data are not always accessible from other sources such as equipment on the ship. Finally, the logbook data are also used by the NMFS Office of Law Enforcement and the U.S. Coast Guard in investigations.

Federal Trawl Logbook Requirement

This rule creates a Federal requirement for trawl catcher vessels operating under a limited entry trawl permit operating in the Shorebased IFQ Program to complete and submit the trawl logbook form in the absence of a similar state requirement in the state in which the vessel operates. This requirement applies to all trawl catcher vessels off the West Coast, but because Washington and Oregon have a state requirement for trawl logbook forms, vessels operating in those states will only be subject to their respective state's rules. Should Washington or Oregon choose to rescind their logbook requirement in the future, vessels operating in those states would then be subject to this regulation. However, Washington and Oregon continue to have state requirements for the logbook form and have not indicated any intent to change the requirement, therefore this rule will only affect trawl vessels operating off of California at this time.

In 2018, there were 21 trawl vessels operating in California, 8 of which were also participating under the electronic monitoring exempted fishing permit (EFP), which separately requires completion and submission of the trawl logbook form. However, vessels may move in and out of the EFP, therefore 21 vessels is the maximum pool of affected vessels. Overall, there were approximately 97 trawl vessels operating in the fishery coastwide in 2018, therefore this action will affect about 22 percent off the trawl fleet off of the West Coast.

This rule is structured to minimize the impact on trawl vessels off of California by maintaining the identical logbook form that vessels have been using for the past several years and by maintaining the same reporting timeframe (logbooks due monthly by the 10th of the month after which fishing was completed). The logbook forms for trawl vessels operating off California will continue to be distributed by the PSMFC, as they currently are. The only difference that California fishermen will notice is that the address where the logbooks must be submitted will change. Under this rule, vessels will be required to send logbook forms to the

PSFMC, on behalf of NMFS, at: Pacific States Marine Fisheries Commission, 619 2nd Street, Eureka, CA 95501. NMFS and the PSMFC plan to provide pre-addressed and stamped envelopes with the logbook forms for return of the logbooks, as California did, for the first year of the new requirement, with further costs to be evaluated at a later date.

This rule will continue a longstanding requirement for the trawl fleet, and maintain the way in which the information is collected and how often it must be submitted. Therefore, NMFS expects that there will be minimal public disruption by this rule.

Changes to Existing Regulations

At its June 2019 meeting, the Council requested that NMFS promulgate regulations to implement a Federal requirement to maintain the existing logbook information collection program pursuant to Section 402(a)(1) of the Magnuson-Stevens Act. NMFS determined that the need for a Federal requirement to ensure the continuation of this information collection program is justified, and therefore is publishing this rule.

This rule adds paragraphs § 660.12(b)(3) and § 660.13(a)(1) and (2) to require trawl vessels operating under a limited entry trawl permit to complete and submit the trawl logbook form in the absence of a similar state requirement in the state in which the vessel operates.

Classification

The Assistant Administrator for Fisheries, NOAA, has determined that this rule is consistent with the National Standards, other provisions of the Magnuson-Stevens Act, and other applicable laws.

Due to the abbreviated timeline within which the repeal of California's regulation will be effective (July 1, 2019), and the negative effects of a logbook coverage gap for all entities that depend on the information obtained through the logbook, pursuant to 5 U.S.C. 553(b)(B), there is

good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest. If the implementation of this requirement were to be delayed, there would be gaps in the collection of trawl effort data for vessels off of California. This gap would have a significant detrimental impact on the dataset and its utility for management purposes as a continuous time series for stock assessments, as fine scale data on protected species catch, for data validation of fish tickets, and for enforcement purposes. Of specific concern, the Council is increasingly moving towards using targeted bycatch hotspot closures as a means to manage take of protected or prohibited species. Without catch data by area collected in the trawl logbook form, this type of targeted closures are difficult to enact.

Additionally, observers in the West Coast Groundfish Observer Program regularly use the information in the logbook during a trip to apportion biological data by area, and this biological data is used in stock assessments and other catch and bycatch reporting. If NMFS went through notice and comment rulemaking, the resulting three-month delay would mean a significant portion of the 2019 trawl fishing season would lack complete data from trawl activities off of California. There would be no way to corroborate landings reports during this time, or for observers to be able to match biological samples and catch or discard records to a specific area, or for NMFS Office of Law Enforcement to have information to investigate fisheries violations. For these reasons, NMFS finds good cause to waive prior notice and an opportunity for public comment on this action. For the same reasons, NMFS also finds good cause, pursuant to 5 U.S.C. 553(d)(3), to waive the 30-day delay in the date of effectiveness, so that this interim final rule may become effective upon publication in the **Federal Register**. Because this requirement will mirror the requirement these vessels have been subject to under

California law since the 1980s, NMFS does not expect that this interim final rule will cause any concern or disruption to participants in the fishery.

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

There are no relevant Federal rules that may duplicate, overlap, or conflict with this action.

Although we are waiving prior notice and opportunity for public comment, we are requesting comments on this interim final rule until *[INSERT DATE 30 DAYS FROM PUBLICATION IN THE FEDERAL REGISTER]*. Please see **ADDRESSES** for more information on the ways to submit comments.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

Collection of Information Requirements

This action contains a new information collection requirement subject to the Paperwork Reduction Act (PRA), which has been submitted for approval by the Office of Management and Budget (OMB) under OMB Control Number 0648-XXXX.

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*, 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.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: July 1, 2019.

Alan D. Risenhoover,

Acting Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

PART 660--FISHERIES OFF WEST COAST STATES

1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 773 *et seq.*, and 16 U.S.C. 7001 *et seq.*

2. In § 660.12, add paragraph (b)(3) to read as follows:

§ 660.12 General groundfish prohibitions.

* * * * *

(b) * * *

(3) Falsify or fail to prepare and/or file, retain or make available records of fishing activities as specified in § 660.13(a)(1).

* * * * *

3. In § 660.13, add paragraphs (a)(1) and (2) to read as follows:

§ 660.13 Recordkeeping and reporting.

(a) * * *

(1) *Trawl logbook*. In the absence of a state trawl logbook requirement based on the port of landing, the authorized representative of the commercial trawl fishing vessel registered to a limited entry permit with a trawl gear endorsement participating in the Shorebased IFQ Program groundfish trawl fisheries must keep and submit a complete and accurate record of fishing activities in the trawl logbook form. The following requirements apply:

(i) The authorized representative of the vessel must keep the trawl logbook form on board the vessel while engaged in, or returning from, all Shorebased IFQ Program trips using groundfish trawl gear, and must immediately surrender the logbook form upon demand to NMFS or other authorized officers.

(ii) The authorized representative of the vessel must complete the trawl logbook form on all Shorebased IFQ Program trips using groundfish trawl gear, with all available information, except for information not yet ascertainable, prior to entering port. The logbook form must be completed as soon as the information becomes available. The information on the logbook form will include at a minimum: vessel name, vessel trip start and end dates, crew size, tow start, tow completion, location of tow, average depth of catch, net type, target strategy, and estimated retained pounds by species.

(iii) The authorized representative of the vessel must deliver the NMFS copy of the trawl logbook form by mail or in person to NMFS or its agent. The authorized representative of the vessel must transmit the logbook form on or before the 10th day of each month following the month to which the records pertain.

(iv) The authorized representative of the vessel responsible for submitting the trawl logbook forms must maintain a copy of all submitted logbooks for up to three years after the fishing activity ended.

(2) [Reserved]

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