

# **Regulatory Impact Review and Initial Regulatory Flexibility Act Review for Logbook Requirement for Trawl Vessels under the Pacific Coast Groundfish Fishery Management Plan**

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**Abstract:** This analysis evaluates creating a federal requirement for vessels using trawl gear in the Pacific Coast Groundfish fishery to complete and submit logbooks. Historically, the states of Washington, Oregon, and California administered these logbooks. However, the California Fish and Game Commission repealed its trawl logbook reporting requirement, effective July 1, 2019. The National Marine Fisheries Service (NMFS) must create a federal requirement to maintain the logbook reporting requirement for trawl vessels in California.

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# 1 Regulatory Impact Review

This Regulatory Impact Review (RIR)<sup>1</sup> examines the benefits and costs of a regulatory amendment to require vessels fishing under a federal limited entry permit with a trawl endorsement to complete and submit a logbook.

The preparation of an RIR is required under Presidential Executive Order (E.O.) 12866 (58 FR 51735, October 4, 1993). The requirements for all regulatory actions specified in E.O. 12866 are summarized in the following Statement from the E.O.:

*In deciding whether and how to regulate, agencies should assess all costs and benefits of available regulatory alternatives, including the alternative of not regulating. Costs and Benefits shall be understood to include both quantifiable measures (to the fullest extent that these can be usefully estimated) and qualitative measures of costs and benefits that are difficult to quantify, but nonetheless essential to consider. Further, in choosing among alternative regulatory approaches agencies should select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity), unless a statute requires another regulatory approach.*

E.O. 12866 requires that the Office of Management and Budget review proposed regulatory programs that are considered to be “significant.” A “significant regulatory action” is one that is likely to:

- Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, local or tribal governments or communities;
- Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in this Executive Order.

## 1.1 Statutory Authority

Under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1801, *et seq.*), the United States has exclusive fishery management authority over all marine fishery resources found within the exclusive economic zone (EEZ). The management of these marine resources is vested in the Secretary of Commerce (Secretary) and in the regional fishery management councils. In the West Coast Region, the Council has the responsibility for preparing fishery management plans (FMPs) and FMP amendments for the marine fisheries that require conservation and management, and for submitting its recommendations to the Secretary. Upon approval by the Secretary, NMFS is charged with carrying out the Federal mandates of the Department of Commerce with regard to marine and anadromous fish.

The groundfish fishery in the EEZ off the West Coast is managed under the Pacific Coast Groundfish FMP. The action under consideration would amend Federal regulations at 50 CFR 660. Actions taken to

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<sup>1</sup> The proposed action is categorically excluded from the need to prepare an Environmental Assessment.

amend FMPs or implement other regulations governing these fisheries must meet the requirements of Federal law and regulations.

## **1.2 Purpose and Need**

The purpose of this action is to create a federal logbook requirement in order to ensure that all vessels in the coastwide groundfish trawl fleet collect and submit the necessary fishery activity information to facilitate management and enforcement of this fishery. Previously, the states of Washington, Oregon, and California administered these logbooks. However, the California Fish and Game Commission repealed its trawl logbook reporting requirement, effective July 1, 2019. The National Marine Fisheries Service (NMFS) must create a federal requirement to maintain the logbook reporting requirement for trawl vessels in California.

## **1.3 History of this Action**

Currently, the states of Washington, Oregon, and California administer a trawl logbook. 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 coast-wide basis. While each state administers separate logbooks, 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 Pacific Fishery Information Network (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 logbooks and distributes them to Washington and Oregon so that the states can distribute them to vessels, or distributes them directly to the vessels in California.

California has required vessels fishing with trawl gear to submit haul-specific data since the early 1900s. Each state has required trawl vessels to submit the tri-state logbook since the 1980s. 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 a logbook, effective July 1, 2019. There is no existing requirement for vessels to complete and submit a federal logbook. Instead, the federal requirement is for vessels to follow their respective state logbook requirements. Therefore, without this rule, trawl vessels off of California would no longer be required to complete and submit the trawl logbook.

The trawl logbook 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. Each trawl log represents a single fishing trip. The logbooks are due monthly to each state, and the data is matched to a landing receipt (fish ticket) summary data submitted by seafood processors. This 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 logbook 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.

## **1.4 Description of Alternatives**

NMFS considered two alternatives, a no action alternative and an action alternative, both described below.

### **1.4.1 Alternative 1, No Action**

Under the no action alternative, when California's regulation change goes into effect on July 1, 2019, groundfish trawl vessels fishing off of California will no longer be required to collect information on fishery activity and submit it. Some vessels also participate under a federal electronic monitoring exempted fishing permit (EFP), which separately requires completion and submission of the trawl logbook. However, vessels may move in and out of the EFP, therefore without the state regulation, there would be no requirement for vessels to collect and submit this information when not fishing under the EFP. Under the no action alternative, groundfish trawl vessels off of Oregon and Washington would still be required to follow their state logbook requirements. However, if either of these states decided to repeal their state requirement, vessels in that state would similarly not be subject to a logbook requirement.

### **1.4.2 Alternative 2**

Under Alternative 2, NMFS would create a federal requirement for trawl vessels operating under limited entry trawl permit to complete and submit a trawl logbook, if there is not a similar state requirement by their respective state. This requirement would apply to all trawl vessels off the West Coast, but because Washington and Oregon currently have a state requirement for logbooks and have not indicated any plans of doing away with those requirements, those vessels would only be subject to their respective state's rules. Should Washington or Oregon choose to rescind their logbook requirement in the future, those vessels would then be subject to this regulation. This regulation would require vessels to complete and submit the trawl logbook form currently in use by the states (the tri-state form), therefore the information being reported and the frequency of that reporting would stay the same. The form is included as Figure 1 below.

### **1.4.3 Alternatives Considered but not Analyzed Further**

NMFS considered developing a new logbook form as part of a logbook requirement, however, determined that this would create inconsistencies in data reporting across the three states and would also complicate implementation and the ability of California fishermen to quickly figure out the new requirements.

Vessel Name \_\_\_\_\_ Departure: Date \_\_\_\_\_ Time \_\_\_\_\_ Port \_\_\_\_\_  
 Federal Document No \_\_\_\_\_ Return: Date \_\_\_\_\_ Time \_\_\_\_\_ Port \_\_\_\_\_  
Month Day Year      Local - 24-hour

Crew Size (including Captain) \_\_\_\_\_ Trip # \_\_\_\_\_  
 EFP trip (check if yes)  EM (check if yes)  Observed trip (check if yes)  Buyer(s) \_\_\_\_\_

Tow #	DATE mo/day	TIME Local 24-hour clock	LATITUDE		LONGITUDE		Average depth of catch (fathoms)	NET TYPE	Target Strategy	Estimated pounds retained each tow – enter 3 or 4-letter code from species code list										
			Degrees	Minutes	Degrees	Minutes														
1	set			•		•														
	up			•		•														
2	set			•		•														
	up			•		•														
3	set			•		•														
	up			•		•														
4	set			•		•														
	up			•		•														
5	set			•		•														
	up			•		•														
6	set			•		•														
	up			•		•														
7	set			•		•														
	up			•		•														
8	set			•		•														
	up			•		•														
9	set			•		•														
	up			•		•														

REMARKS:

Signed: \_\_\_\_\_

FISH TICKET NUMBER


TO BE COMPLETED BY AGENCY

VESSEL
PORT

Figure 1 Trawl Logbook Form

## 1.5 Methodology for analysis of impacts

The evaluation of impacts in this analysis is designed to meet the requirement of E.O. 12866, which dictates that an RIR evaluate the costs and benefits of the alternatives, to include both quantifiable and qualitative considerations. Additionally, the analysis should provide information for decisionmakers “to maximize net benefits (including potential economic, environment, public health and safety, and other advantages; distributive impacts; and equity), unless a statute requires another regulatory approach.” The costs and benefits of this action with respect to these attributes are described in the sections that follow, comparing the No Action Alternative 1 with the action alternative. The analyst then provides a qualitative assessment of the net benefit to the Nation of each alternative, compared to no action.

## 1.6 Description of Fisheries

The West Coast groundfish fisheries are managed under the Pacific Coast Groundfish Fishery Management Plan (PCGFMP). The West Coast groundfish catcher vessel trawl fisheries encompass vessels fishing for a variety of targets off of Washington, Oregon, and California on vessels registered to a limited entry permit with a trawl gear endorsement. These vessels are under the Trawl Rationalization Program, which includes the Shorebased Individual Fishing Quota (IFQ) Program and in one of the at-sea whiting sectors (the mothership sector). The Shorebased IFQ Program encompasses both the shoreside whiting fishery and the non-whiting fishery, and as part of this program, participants were issued quota shares (QS) that result in annual quota pound allocations of different species of which the vessel may harvest. Within the Shorebased IFQ Program, there are provisions for vessels to use fixed gear to catch their QS. This action does not apply to any vessels that only fish with fixed gear that participate under the Trawl Rationalization Program.

A recent action to modify the gear requirements for trawl vessels (Gear Changes for the Pacific Coast Groundfish Fishery’s Trawl Catch Share Program, December 2018) provides a comprehensive overview of the make-up of the West Coast trawl fleet. That information is incorporated by reference and can be found here: [https://www.westcoast.fisheries.noaa.gov/publications/nepa/groundfish/misc\\_ea/gf-gear-final-ea-11-2018.pdf](https://www.westcoast.fisheries.noaa.gov/publications/nepa/groundfish/misc_ea/gf-gear-final-ea-11-2018.pdf). Additionally, the 5-year review of the Trawl Rationalization Program (PFMC 2017) provides a full overview of the Program, the fisheries under the Program, and trends in vessel participation, among other economic metrics; that analysis is also incorporated by reference and can be found here: [https://www.pcouncil.org/wp-content/uploads/2018/12/Trawl\\_CSR\\_2017\\_MainDoc\\_Final.pdf](https://www.pcouncil.org/wp-content/uploads/2018/12/Trawl_CSR_2017_MainDoc_Final.pdf).

This action would affect trawl catcher vessels in states where there is not a comparable state requirement for a logbook. In 2019, the only state that has taken action to repeal their logbook requirement is California. Neither Oregon nor Washington has indicated that they plan on repealing their requirement, therefore for the time being, this action primarily affects vessels from California. If in the future, though, Oregon or Washington were to repeal their requirement, those vessels would then at that point be subject to this requirement.

Table 1-1 shows the vessel count for vessels registered to a limited entry permit with a trawl gear endorsement that landed groundfish from 2014 to 2017. Coastwide, Oregon has the greatest number of groundfish trawl catcher vessels, but there are many participants in California as well.

In 2018, there were approximately 21 vessels operating under a limited entry permit with a trawl endorsement that were active in the groundfish trawl fisheries off of California. These vessels would be subject to this proposed action to create a federal trawl logbook requirement.

**Table 1-1** Groundfish Trawl Vessel Participation by State 2014-2017.

	<b>California</b>	<b>Oregon</b>	<b>Washington</b>	<b>Total</b>
2014	25	58	12	95
2015	20	55	11	86
2016	19	56	14	89
2017	21	58	14	93
2018	21	58	18	97

## **1.7 Analysis of Impacts: Alternative 1, No Action**

Under the no action alternative, there would be gaps in the collection of trawl effort data for some 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, fine scale data on protected species catch, for data validation of fish tickets, and for enforcement purposes. Specifically, 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, these types 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 and sampling by area, which is used in stock assessments and other catch and bycatch reporting. Without a logbook requirement for vessels that land in a state without a similar state logbook requirement, the PSMFC would have limited information to corroborate landings reports, or for observers to be able to match biological samples and catch or discard records to a specific area. Additionally, it would reduce information that the NMFS Office of Law Enforcement has investigate fisheries violations.

This alternative would have a reduced recordkeeping and reporting burden on trawl vessels operating off of California as compared to Alternative 2 because vessels would not need to complete and submit the trawl logbook. Under a notice published in the **Federal Register** (84 FR 7890; March 5, 2019), NMFS estimated this time burden to be 8 hours per logbook, which would translate to an average of 64 hours a year. Additionally, vessels would not be subject to any additional costs such as for copies of logbook forms for their records.

## **1.8 Analysis of Impacts: Alternative 2**

This alternative creates a federal requirement for trawl vessels operating under a limited entry trawl permit to complete and submit a trawl logbook, if there is not a similar state requirement by their respective state. This requirement would apply to all trawl vessels off the West Coast, but because Washington and Oregon have a state requirement for logbooks, those vessels would only be subject to their respective state's rules. Should Washington or Oregon choose to rescind their logbook requirement in the future, those vessels would then be subject to this regulation. Because Washington and Oregon continue to have state requirements for the logbook, and have not indicated any intent to change the requirement, this action would only affect trawl vessels off of California at this time. This alternative would ensure the continued collection and submission of vital trawl fishery activity information. The importance of this information is covered in Section 1.3.

This rule would affect a maximum of 21 vessels. While in 2018, there were 21 trawl vessels operating in California, 9 of those were also participating under the electronic monitoring exempted fishing permit

(EFP), which separately requires completion and submission of the trawl logbook. However, vessels may move in and out of the EFP, therefore 21 vessels is the maximum pool of affected vessels. Overall, there are approximately 97 trawl vessels operating in the fishery, therefore this action would affect about 22 percent off the trawl fleet off of the West Coast.

This alternative would have an increased recordkeeping and reporting burden on trawl vessels operating off of California as compared to Alternative 1 because vessels would need to complete and submit the trawl logbook. Under a notice published in the **Federal Register** (84 FR 7890; March 5, 2019), NMFS estimated this time burden to be 8 hours per logbook, which would translate to an average of 64 hours a year. Because the logbook form is provided by PSMFC, vessels would only be responsible for the costs of copies of the logbook form for their records, which is estimated to be less than \$100 a year for each vessel.

This alternative is structured to minimize the impact on trawl vessels off of California while continuing to collect the information by maintaining the identical logbook that vessels have been using for the past several years and by maintaining the same reporting timeframe (logbooks are due monthly by the 10th of the month after which fishing was completed). The only difference that California fishermen would notice is that the submission location may change. NMFS and the PSMFC would provide pre-addressed and stamped envelopes with the logbooks, as California did, therefore there would be no change in cost or time burden for fishermen with this new requirement. The logbooks for trawl vessels in California would continue to be distributed by the PSMFC.

The logbook forms are paper forms provided to vessels free of charge. There is no new vessel equipment required for vessels to complete a logbook, and since all vessels have been subject to identical state requirements for many years, it's expected that they are all familiar with how to fill them out. The agency will likely provide postage to mail in the logbooks at least initially, but in future years, the cost of postage to mail in the logbooks on a monthly basis would be a cost incurred by the vessels.

This alternative would continue a longstanding requirement for this fleet, and maintain the way in which the information is collected, and how often it must be submitted. Therefore, NMFS expects that this alternative would cause minimal disruption or new burdens on the fleet.

## **1.9 Summation of the Alternatives with Respect to Net Benefit to the Nation**

The net benefit to the nation of this proposed action would be better and more accurate fisheries data and therefore better management of this nation's fisheries. The information collected through the logbook give managers spatially explicit information on catch and are used by fishery observers to provide spatial links to data on discards and bycatch. All of this information allows for more careful and considered fisheries management in order to maximum catch and minimize bycatch.

## 2 Magnuson-Stevens Act and FMP Considerations

### 2.1 Magnuson-Stevens Act National Standards

Below are the 10 National Standards as contained in the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), and a brief discussion of how each alternative is consistent with the National Standards, where applicable. In recommending a preferred alternative, the Council must consider how to balance the national standards.

**National Standard 1** — Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery for the United States fishing industry.

The PCGFMP prescribes how biennial management measures are determined in order to prevent overfishing while achieving annual catch limits, which are a proxy for optimum yield in the groundfish fisheries. This action would not change the way in which these management measures are determined. However, if this action was not adopted, the lack of trawl logbook data could affect the quality and breadth of information available for stock assessments that determine overfishing levels and optimum yield.

**National Standard 2** — Conservation and management measures shall be based upon the best scientific information available.

All management actions for the Pacific Coast groundfish fishery are based upon the best scientific information available. This action would ensure the continued collection of fishery activity data which forms the basis of the best scientific information available.

**National Standard 3** — To the extent practicable, an individual stock of fish shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination.

The PCGFMP instructs the Council and NMFS to manage similar stocks within stock complexes. This proposed action would not change the use of stock complexes for management.

**National Standard 4** — Conservation and management measures shall not discriminate between residents of different states. If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be: (A) fair and equitable to all such fishermen, (B) reasonably calculated to promote conservation, and (C) carried out in such a manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.

This proposed action would create a federal trawl logbook requirement that would apply to groundfish trawl vessels in all three West Coast states, however, vessels in states that have logbook requirements would be exempt from the federal requirement. Because Washington and Oregon have state requirements, only California vessels would be subject to the new requirement. If this action was not adopted, trawl vessels off California would be subject to lower costs and reduced recordkeeping and reporting burdens than those off of Oregon and Washington.

**National Standard 5** — Conservation and management measures shall, where practicable, consider efficiency in the utilization of fishery resources, except that no such measure shall have economic allocation as its sole purpose.

This proposed action would utilize existing processes and structure to implement this new logbook action, which will create efficiencies in the way fishery information is collected.

**National Standard 6** — Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches.

This proposed action would collect consistent information across the trawl fisheries coastwide. While there are some variations between the fisheries in these states, consistent information collection allows for better management of this coastwide fishery.

**National Standard 7** — Conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication.

This proposed action minimizes costs and avoids unnecessary duplication by allowing vessels in states where there is a logbook requirement an exemption.

**National Standard 8** — Conservation and management measures shall, consistent with the conservation requirements of this Act (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities by utilizing economic and social data that meet the requirements of National Standard 2, in order to (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts on such communities.

This proposed action continues an information collection that has been in place since the 1980s, therefore it is not expected to have a significant impact on fishermen or their communities. However, in the absence of sufficient data and information on the prosecution of the fishery, management measures must be more conservative. Therefore, if this action were not adopted, more conservative management and enforcement, could cause adverse economic impacts on communities.

**National Standard 9** — Conservation and management measures shall, to the extent practicable, (A) minimize bycatch, and (B) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch.

This proposed action would allow the collection of fishery activity information that informs management measures to minimize bycatch.

**National Standard 10** — Conservation and management measures shall, to the extent practicable, promote the safety of human life at sea.

This proposed action would not change existing measures that promote the safety of human life at sea.

### **3 Preparers and Persons Consulted**

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