

that time, we will also make the determinations and certifications required by the various laws and executive orders governing the rulemaking process and include them in the final rule.

#### List of Subjects in 30 CFR Part 943

Intergovernmental relations, Surface mining, Underground mining.

Dated: August 16, 2012.

**Ervin J. Barchenger,**

*Regional Director, Mid-Continent Region.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

RIN 0648-XC165

#### Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Trawl Rationalization Program; Notice of Non-Whiting At-Sea Processing Prohibition Exemption

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

**ACTION:** Notice of availability of exemptions to the non-whiting at-sea processing prohibition.

**SUMMARY:** NMFS announces the receipt of applications for, and the issuance of, exemptions to the prohibition of at-sea processing for non-whiting groundfish caught in the Shorebased Individual Fishing Quota (IFQ) Program, a prohibition implemented as part of the trawl rationalization program.

#### FOR FURTHER INFORMATION CONTACT:

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#### SUPPLEMENTARY INFORMATION:

##### Electronic Access

This proposed rule is accessible via the Internet at the Office of the Federal Register's Web site at <http://www.gpoaccess.gov/fr/index.html>. Background information and documents are available at the Pacific Fishery Management Council's Web site at <http://www.pcouncil.org/>.

##### Background

In January 2011, NMFS implemented a trawl rationalization program, a catch share program, for the Pacific coast groundfish fishery's trawl fleet. The trawl rationalization program consists of an IFQ program for the shorebased trawl fleet (including whiting and non-whiting fisheries); and cooperative (coop) programs for the at-sea mothership and catcher/processor trawl fleets (whiting only).

The Shorebased IFQ Program includes a prohibition on processing non-whiting groundfish at sea, as specified in the Code of Federal Regulations (CFR) at 50 CFR 660.112(b)(1)(xii) and implemented through a final rule published in the **Federal Register** on December 15, 2010 (75 FR 78344). The prohibition was implemented to ensure that shoreside processing plants would continue to have access to groundfish landed in the Shorebased IFQ Program. The preamble to the proposed rule dated August 31, 2010 (75 FR 53380) further described the prohibition on processing at sea in the Shorebased IFQ Program.

Over 2011, the Pacific Fishery Management Council (Council) responded to public testimony and decided it had not intended to

negatively impact any at-sea non-whiting processing operations that existed prior to announcement of the prohibition on processing at sea in the Shorebased IFQ Program. Therefore, the Council recommended and NMFS implemented an exemption from the prohibition on processing non-whiting groundfish at sea in the Shorebased IFQ Program through a final rule published on December 1, 2011 (76 FR 774725). For more background on the exemption, see the preamble to the proposed rule published on September 2, 2011 (76 FR 54888).

With the December 1, 2011 final rule (also called the trawl rationalization program improvement and enhancement (PIE) rule), NMFS implemented regulations providing a one-time opportunity for vessels to apply for an exemption from the prohibition on processing non-whiting groundfish at-sea in the Shorebased IFQ Program. Between January and March of 2012, NMFS completed the application and review process for an exemption from the prohibition, as provided for in Federal regulations at § 660.25(b)(6)(ii). Effective March 16, 2012, two vessels qualified for the exemption: F/V LAST STRAW and F/V MISS LEONA. The non-whiting at-sea processing exemption is associated with those specific vessels, not with the vessel owner's limited entry permit, and may not be transferred to any other vessel, vessel owner, or permit owner for any reason.

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

Dated: November 1, 2012.

**Lindsay Fullenkamp,**

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

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