

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 660

[Docket No. 130114034–3034–01]

RIN 0648–BC93

**Magnuson-Stevens Act Provisions; Fisheries off West Coast States; Pacific Coast Groundfish Fishery; 2013 Tribal Fishery for Pacific Whiting**

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS issues this proposed rule for the 2013 Pacific whiting fishery under the authority of the Pacific Coast Groundfish Fishery Management Plan (FMP), the Magnuson Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), and the Pacific Whiting Act of 2006. This proposed rule would establish a formula, specifically  $[17.5 \text{ percent} * (\text{U.S. Total Allowable Catch})]$  plus 16,000 metric tons (mt), for determining the Pacific whiting tribal allocation for 2013 for Pacific Coast Indian tribes that have a Treaty right to harvest groundfish.

**DATES:** Comments on this proposed rule must be received no later than April 4, 2013.

**ADDRESSES:** You may submit comments on this document, identified by NOAA–NMFS–2013–0013 by any of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal eRulemaking Portal. Go to [www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0013](http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0013); click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

- **Mail:** William W. Stelle, Jr., Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115–0070, Attn: Kevin C. Duffy.

- **Fax:** 206–526–6736, Attn: Kevin C. Duffy.

**Instructions:** Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://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 will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

**FOR FURTHER INFORMATION CONTACT:**

Kevin C. Duffy (Northwest Region, NMFS), phone: 206–526–4743, fax: 206–526–6736 and email: [kevin.duffy@noaa.gov](mailto:kevin.duffy@noaa.gov).

**SUPPLEMENTARY INFORMATION:****Electronic Access**

This proposed rule is accessible via the Internet at the Office of the Federal Register Web site at <https://www.federalregister.gov>. Background information and documents are available at the NMFS Northwest Region Web site at <http://www.nwr.noaa.gov/Groundfish/Groundfish-Fishery-Management/Whiting-Management> and at the Pacific Fishery Management Council’s Web site at <http://www.pcouncil.org/>.

**Background**

The regulations at 50 CFR 660.50(d) establish the process by which the tribes with treaty fishing rights in the area covered by the FMP request new allocations or regulations specific to the tribes, in writing, during the biennial harvest specifications and management measures process. The regulations state that “the Secretary will develop tribal allocations and regulations under this paragraph in consultation with the affected tribe(s) and, insofar as possible, with tribal consensus.” The procedures NOAA employs in implementing tribal treaty rights under the FMP, in place since May 31, 1996, were designed to provide a framework process by which NOAA Fisheries can accommodate tribal treaty rights by setting aside appropriate amounts of fish in conjunction with the Pacific Fishery Management Council (Council) process for determining harvest specifications and management measures. The Council’s groundfish fisheries require a high degree of coordination among the tribal, state, and federal co-managers in order to rebuild overfished species and prevent overfishing, while allowing fishermen opportunities to sustainably harvest over 90 species of groundfish managed under the FMP.

Since 1996, NMFS has been allocating a portion of the U.S. total allowable catch (TAC) (called Optimum Yield (OY) or Annual Catch Limit (ACL) prior

to 2012) of Pacific whiting to the tribal fishery, following the process established in 50 CFR 660.50(d). The tribal allocation is subtracted from the U.S. Pacific whiting TAC before allocation to the non-tribal sectors.

To date, only the Makah Tribe has prosecuted a tribal fishery for Pacific whiting. The Makah Tribe has annually harvested a whiting allocation every year since 1996 using midwater trawl gear. Since 1999, the tribal allocation has been made in consideration of their participation in the fishery. In 2008 the Quileute Tribe and Quinault Indian Nation expressed an interest in commencing participation in the whiting fishery. Tribal allocations for 2009–2012 were based on discussions with all three tribes regarding their intent for those fishing years. The table below provides a history of U.S. OYs/ACLs and the annual tribal allocation in metric tons (mt).

Year	U.S. OY	Tribal allocation
2000 .....	232,000 mt .....	32,500 mt.
2001 .....	190,400 mt .....	27,500 mt.
2002 .....	129,600 mt .....	22,680 mt.
2003 .....	148,200 mt .....	25,000 mt.
2004 .....	250,000 mt .....	32,500 mt.
2005 .....	269,069 mt .....	35,000 mt.
2006 .....	269,069 mt .....	32,500 mt.
2007 .....	242,591 mt .....	35,000 mt.
2008 .....	269,545 mt .....	35,000 mt.
2009 .....	135,939 mt .....	50,000 mt.
2010 .....	193,935 mt .....	49,939 mt.
2011 .....	290,903 mt .....	66,908 mt.
2012 .....	186,037 mt TAC <sup>1</sup>	48,556 mt.

<sup>1</sup> Beginning in 2012, the United States started using the term Total Allowable Catch, based on the Agreement between the Government of the United States of America and the Government of Canada on Pacific Hake/Whiting.

In exchanges between NMFS and the tribes during December 2012, and again in January, 2013, the Makah and Quileute tribes indicated their intent to participate in the tribal whiting fishery in 2013. The Quinault Indian Nation indicated that they are not planning to participate in 2013, but reserved the right to participate if circumstances changed. The Hoh tribe has not expressed an interest in participating to date.

Since 2008, NMFS and the co-managers, including the States of Washington and Oregon, as well as the Treaty tribes, have been involved in a process designed to determine the long-term tribal allocation for Pacific whiting. At the September 2008 Council meeting, NOAA, the states and the Quinault, Quileute, and Makah tribes met and agreed on a process in which NOAA would provide to the tribes and states of Washington and Oregon a

summary of the current scientific information regarding whiting, receive comment on the information and possible analyses that might be undertaken, and then prepare analyses of the information to be used by the co-managers (affected tribes, affected states, and NMFS) in developing a tribal allocation for use in 2010 and beyond. The goal was agreement among the co-managers on a long-term tribal allocation for incorporation into the Council's planning process for the 2010 season. An additional purpose was to provide the tribes the time and information to develop an inter-tribal allocation or other necessary management agreement. In 2009, NMFS shared a preliminary report summarizing scientific information available on the migration and distribution of Pacific whiting on the west coast. The co-managers met in 2009 and discussed this preliminary information.

In 2010, NMFS finalized the report summarizing scientific information available on the migration and distribution of Pacific whiting on the West Coast. In addition, NMFS responded in writing to requests from the tribes for clarification on the paper and requests for additional information. NMFS also met with each of the tribes in the fall of 2010 to discuss the report and to discuss a process for negotiation of the long-term tribal allocation of Pacific whiting.

In 2011, NMFS again met individually with the Makah, Quileute, and Quinault tribes to discuss these matters. Due to the detailed nature of the evaluation of the scientific information, and the need to negotiate a long-term tribal allocation following completion of the evaluation, the process continued in 2012 and will not be completed prior to the 2013 Pacific whiting fishery; thus the tribal allocation of whiting for 2013 will not reflect a negotiated long-term tribal allocation. Instead, it is an interim allocation not intended to set precedent for future allocations.

#### **Tribal Allocation for 2013**

It is necessary to propose a range for the tribal allocation, rather than a specific allocation amount, because the specific allocation depends on the amount of the coastwide TAC (United States plus Canada) and corresponding U.S. TAC for 2013 (73.88% of the coastwide TAC). The Joint Management Committee (JMC), which was established pursuant to the Agreement between the Government of the United States of America and the Government of Canada on Pacific Hake/Whiting (the Agreement), is anticipated to

recommend the coastwide and corresponding U.S./Canada TACs no later than March 25, 2013.

In order for the public to have an understanding of the potential tribal whiting allocation in 2013, NMFS is using the range of U.S. TACs over the last ten years, 2003 through 2012, to project a range of potential tribal allocations for 2013. This range of TACs is 148,200 mt (2003) to 290,903 mt (2011).

As described above, the Makah tribe and Quileute Indian Nation have stated their intent to participate in the Pacific whiting fishery in 2013. The Makah tribe has requested 17.5% of the U.S. TAC, and the Quileute Indian Nation has requested 16,000 mt.

Accommodating both requests results in a formula  $[17.5 \text{ percent} * (\text{U.S. TAC})] + 16,000 \text{ mt}$  for application to the range of TACs. Application of this formula to the range of U.S. TACs over the last ten years results in a tribal allocation of between 41,935 and 66,906 mt for 2013. At the lower end of the range of U.S. TACs, this tribal allocation would represent 28 percent of the U.S. TAC, and at the higher end of the range, this tribal allocation would represent 23 percent of the U.S. TAC. NMFS believes that the current scientific information regarding the distribution and abundance of the coastal Pacific whiting stock suggests that these percentages are within the range of the tribal treaty right to Pacific whiting.

As described earlier, NOAA Fisheries proposes this rule as an interim allocation for the 2013 tribal Pacific whiting fishery. As with past allocations, this proposed rule is not intended to establish any precedent for future whiting seasons or for the long-term tribal allocation of whiting.

The rule would be implemented under authority of Section 305(d) of the Magnuson-Stevens Act, which gives the Secretary responsibility to "carry out any fishery management plan or amendment approved or prepared by him, in accordance with the provisions of this Act." With this proposed rule, NMFS, acting on behalf of the Secretary, would ensure that the FMP is implemented in a manner consistent with treaty rights of four Northwest tribes to fish in their "usual and accustomed grounds and stations" in common with non-tribal citizens. *United States v. Washington*, 384 F. Supp. 313 (W.D. 1974).

#### **Classification**

NMFS has preliminarily determined that the management measures for the 2013 Pacific whiting tribal fishery are consistent with the national standards

of the Magnuson-Stevens Act and other applicable laws. In making the final determination, NMFS will take into account the data, views, and comments received during the comment period.

The Office of Management and Budget has determined that this proposed rule is not significant for purposes of Executive Order 12866.

An IRFA was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A summary of the analysis follows. A copy of this analysis is available from NMFS and is published on the NMFS Web site under Groundfish Management (see **ADDRESSES**).

Under the RFA, the term "small entities" includes small businesses, small organizations, and small governmental jurisdictions. The Small Business Administration has established size criteria for all different industry sectors in the U.S., including fish harvesting and fish processing businesses. A business involved in fish harvesting is a small business if it is independently owned and operated and not dominant in its field of operation (including its affiliates) and if it has combined annual receipts less than \$4.0 million for all its affiliated operations worldwide. A seafood processor is a small business if it is independently owned and operated, not dominant in its field of operation, and employs 500 or fewer persons at all its affiliated operations worldwide. A business involved in both the harvesting and processing of seafood products is a small business if it meets the \$4.0 million criterion for fish harvesting operations. A wholesale business servicing the fishing industry is a small business if it employs 100 or fewer persons at all its affiliated operations worldwide. For marinas and charter/party boats, a small business is a business with annual receipts less than \$7.0 million. For nonprofit organizations, the RFA defines a small organization as any nonprofit enterprise that is independently owned and operated and is not dominant in its field. The RFA defines small governmental jurisdictions as governments of cities, counties, towns, townships, villages, school districts, or special districts with populations of less than 50,000.

For the years 2007 to 2011, the total whiting fishery (tribal and non-tribal) has averaged harvests of 199,000 mt annually, worth \$37 million in terms of ex-vessel revenues. As the U.S. OY/ACL has been highly variable during this time, so have harvests. During this

period, harvests have ranged from 122,000 mt (2009) to 248,000 mt (2008). In 2011, the harvest was approximately 231,000 mt. Ex-vessel revenues have also varied. Annual ex-vessel revenues have ranged from \$16 million (2009) to \$58 million (2008). Ex-vessel revenues in 2011 were about \$53 million.

The prices for whiting are largely determined by the world market for groundfish, because most of the whiting harvested is exported. Average ex-vessel price for trawl harvested whiting in 2011 was \$230 per mt. For 2012, average ex-vessel prices increased to \$309 per mt, leading to \$49 million in ex-vessel revenues based on total harvests of about 160,000 mt. Note that the use of ex-vessel values does not take into account the wholesale or export value of the fishery or the costs of harvesting and processing whiting into a finished product. NMFS does not have sufficient information to make a complete assessment of these values.

The Pacific whiting fishery harvests almost exclusively Pacific whiting. While bycatch of other species occurs, the fishery is constrained by bycatch limits on key overfished species. This is a high-volume fishery with low ex-vessel prices per pound. This fishery also has seasonal aspects based on the distribution of whiting off the west coast.

Since 1996, there has been a tribal allocation of the U.S. whiting TAC. There are four tribes associated with the whiting fishery: Hoh, Makah, Quileute, and Quinault.

This rule would establish the formula for determining 2013 interim tribal allocation. The alternatives are “No-Action” vs. the “Proposed Action.” The proposed allocation, based on discussions with the tribes, is for NMFS to allocate between 28 percent and 23 percent of the U.S. total allowable catch for 2013. NMFS did not consider a broader range of alternatives to the proposed allocation. The tribal allocation is based primarily on the requests of the tribes. These requests reflect the level of participation in the fishery that will allow them to exercise their treaty right to fish for whiting. Consideration of amounts lower than the tribal requests is not appropriate in this instance. As a matter of policy, NMFS has historically supported the harvest levels requested by the tribes. Based on the information available to NMFS, the tribal request is within their tribal treaty rights, and the participating tribe has on occasion shown an ability to harvest the amount of whiting requested. A higher allocation would, arguably, also be within the scope of the treaty right. However, a higher

allocation would unnecessarily limit the non-tribal fishery. A no-action alternative was considered, but the regulatory framework provides for a tribal allocation on an annual basis only. Therefore, no action would result in no allocation of Pacific whiting to the tribal sector in 2013, which would be inconsistent with NMFS’ responsibility to manage the fishery consistent with the tribes’ treaty rights. Given that there are tribal requests for allocations in 2013, this alternative received no further consideration.

This proposed rule would affect how whiting is allocated to the following sectors/programs: Tribal, Shorebased Individual Fishing Quota (IFQ) Program—Trawl Fishery, Mothership Coop (MS) Program—Whiting At-sea Trawl Fishery, and Catcher-Processor (C/P) Coop Program—Whiting At-sea Trawl Fishery. The amount of whiting allocated to these sectors is based on the U.S. TAC. From the U.S. TAC, small amounts of whiting that account for research catch and for bycatch in other fisheries are deducted. The amount of the tribal allocation is also deducted directly from the TAC. After accounting for these deductions, the remainder is the commercial harvest guideline. This guideline is then allocated among the other three sectors as follows: 34 percent for the C/P Coop Program; 24 percent for the MS Coop Program; and 42 percent for the Shorebased IFQ Program.

The shorebased IFQ fishery is managed with individual fishing quotas for most groundfish species, including whiting. Annually quota pounds (QP) are allocated from the shorebased sector allocation based on the individual quota shares (QS) of each QS owner. (QP is expressed as a weight and QS is expressed as a percent of the shorebased allocation for a given species or species group.) QP may be transferred from a QS account to a vessel account or from one vessel account to another vessel account. Vessel accounts are used to track how QP is harvested (landings and discards) by limited entry trawl vessels of all IFQ species/species groups. Shorebased IFQ catch must be landed at authorized first receiver sites.

The IFQ whiting quota shares (QS) were allocated to a mixture of limited entry permit holders and shorebased processors. One non-profit organization received quota share based on the ownership of multiple limited entry permits. The MS coop sector can consist of one or more coops and a non-coop subsector. For a MS coop to participate in the Pacific whiting fishery, it must be composed of MS catcher-vessel (MS/CV) endorsed limited entry permit owners.

Each permitted MS coop is authorized to harvest a quantity of Pacific whiting based on the sum of the catch history assignments for each member’s MS/CV-endorsed permit identified in the NMFS-accepted coop agreement for a given calendar year. Each MS/CV endorsed permit has an allocation of Pacific whiting catch based on its catch history in the fishery. The catch history assignment (CHA) is expressed as a percentage of Pacific whiting of the total MS sector allocation. Currently the MS sector is composed of only a single coop. (Shorebased IFQ QS and MS sector CHA are not scheduled to begin trading until 2014, pending resolution of the *Pacific Dawn v Bryson* litigation where the rules used to allocate whiting QS and CHA are being challenged.)

The C/P coop program is a limited access program that applies to vessels in the C/P sector of the Pacific whiting at-sea trawl fishery and is a single voluntary coop. Unlike the MS coop regulations, where multiple coops can be formed around the catch history assignments of each coop’s member’s endorsed permit, the single C/P coop receives the total Pacific whiting allocation for the catcher/processor sector. Only C/P endorsed limited entry permits can participate in this coop. Currently, the shorebased IFQ Program is composed of 138 QS permits/accounts, 142 vessel accounts, and 50 first receivers. The mothership coop fishery is currently composed of a single coop, with six mothership processor permits, and 36 MS/CV endorsed permits, with one permit having two catch history assignments endorsed to it. The C/P coop is composed of 10 catcher-processor permits owned by three companies. There are four tribes that can participate in the tribal whiting fishery. The current tribal fleet is composed of 5 trawlers that either deliver to a shoreside plant or to a contracted mothership.

Participants in the whiting fishery include fish harvesting companies, fish processing companies, companies involved in both harvesting and processing of seafood products such as catcher-processors, organizations, and governmental jurisdictions.

These regulations directly affect IFQ Quota share holders who determine which vessel accounts receive QP, holders of mothership catcher-vessel-endorsed permits who determine how many co-ops will participate in the fishery and how much fish each co-op is to receive, and the catcher-processor co-op which is made up of three companies that own the catcher-processor permits. As part of the permit application processes for the non-tribal

fisheries, based on a review of the SBA size criteria, applicants are asked if they considered themselves a “small” business, and they are asked to provide detailed ownership information. Although there are three non-tribal sectors, many companies participate in two or more of these sectors. All mothership catcher-vessel participants participate in the shorebased IFQ sector, while two of the three catcher-processor companies also participate in both the shorebased IFQ sector and in the MS sector. Many companies own several QS accounts. After accounting for cross participation, multiple QS account holders, and for affiliation through ownership, there are 100 non-tribal entities directly affected by these proposed regulations, 82 of which are considered to be “small” businesses. These regulations also directly affect tribal whiting fisheries. Based on groundfish ex-vessel revenues and on tribal enrollments (the population size of each tribe), the four tribes and their fleets are considered “small” entities.

This rule will allocate fish between tribal harvesters (harvest vessels are small entities, tribes are small jurisdictions) and non-tribal harvesters (a mixture of small and large businesses). Tribal fisheries undertake a mixture of fishing activities that are similar to the activities that non-tribal fisheries undertake. Tribal harvests are delivered to both shoreside plants and motherships for processing. These processing facilities also process fish harvested by non-tribal fisheries. The effect of the tribal allocation on non-tribal fisheries will depend on the level of tribal harvests relative to their allocation and the reapportioning process. If the tribes do not harvest their entire allocation, there are opportunities during the year to reapportion unharvested tribal amounts to the non-tribal fleets. For example, last year, NMFS did such a reapportionment. On October 4, 2012, NMFS announced: “The best available information on October 2, 2012 indicates that at least 28,000 mt of the tribal allocation of 48,556 mt for the 2012 tribal Pacific whiting fishery will not be used by December 31, 2012. Recent conversations with tribal fishery managers indicate that reapportioning 28,000 mt, leaving a tribal allocation of 20,556 mt, will not limit tribal harvest opportunities for the remainder of year. Tribal harvests to date amount to less than 1,000 mt. In addition, the Quileute Tribe has not entered the fishery to date. Even if the Quileute Tribe enters the fishery, the remaining tribal allocation following reapportionment will allow

for their participation.” This reapportioning process allows unharvested tribal allocations of whiting to be fished by the non-tribal fleets, benefitting both large and small entities. See **ADDRESSES**.

NMFS believes this proposed rule would not adversely affect small entities. Nonetheless, NMFS has prepared this IRFA and is requesting comments on this conclusion.

There are no reporting, recordkeeping or other compliance requirements in the proposed rule.

No Federal rules have been identified that duplicate, overlap, or conflict with this action.

NMFS issued Biological Opinions under the ESA on August 10, 1990, November 26, 1991, August 28, 1992, September 27, 1993, May 14, 1996, and December 15, 1999 pertaining to the effects of the Pacific Coast groundfish FMP fisheries on Chinook salmon (Puget Sound, Snake River spring/summer, Snake River fall, upper Columbia River spring, lower Columbia River, upper Willamette River, Sacramento River winter, Central Valley spring, California coastal), coho salmon (Central California coastal, southern Oregon/northern California coastal), chum salmon (Hood Canal summer, Columbia River), sockeye salmon (Snake River, Ozette Lake), and steelhead (upper, middle and lower Columbia River, Snake River Basin, upper Willamette River, central California coast, California Central Valley, south/central California, northern California, southern California). These biological opinions have concluded that implementation of the FMP for the Pacific Coast groundfish fishery was not expected to jeopardize the continued existence of any endangered or threatened species under the jurisdiction of NMFS, or result in the destruction or adverse modification of critical habitat.

NMFS issued a Supplemental Biological Opinion on March 11, 2006 concluding that neither the higher observed bycatch of Chinook in the 2005 whiting fishery nor new data regarding salmon bycatch in the groundfish bottom trawl fishery required a reconsideration of its prior “no jeopardy” conclusion. NMFS also reaffirmed its prior determination that implementation of the Groundfish PCGFMP is not likely to jeopardize the continued existence of any of the affected ESUs. Lower Columbia River coho (70 FR 37160, June 28, 2005) and Oregon Coastal coho (73 FR 7816, February 11, 2008) were recently relisted as threatened under the ESA. The 1999 biological opinion concluded

that the bycatch of salmonids in the Pacific whiting fishery were almost entirely Chinook salmon, with little or no bycatch of coho, chum, sockeye, and steelhead.

On December 7, 2012, NMFS completed a biological opinion concluding that the groundfish fishery is not likely to jeopardize non-salmonid marine species including listed eulachon, green sturgeon, humpback whales, Steller sea lions, and leatherback sea turtles. The opinion also concludes that the fishery is not likely to adversely modify critical habitat for green sturgeon and leatherback sea turtles. An analysis included in the same document as the opinion concludes that the fishery is not likely to adversely affect green sea turtles, olive ridley sea turtles, loggerhead sea turtles, sei whales, North Pacific right whales, blue whales, fin whales, sperm whales, Southern Resident killer whales, Guadalupe fur seals, or the critical habitat for Steller sea lions.

As Steller sea lions and humpback whales are also protected under the Marine Mammal Protection Act (MMPA), incidental take of these species from the groundfish fishery must be addressed under MMPA section 101(a)(5)(E). On February 27, 2012, NMFS published notice that the incidental taking of Steller sea lions in the West Coast groundfish fisheries is addressed in NMFS’ December 29, 2010 Negligible Impact Determination (NID) and this fishery has been added to the list of fisheries authorized to take Steller sea lions (77 FR 11493). NMFS is currently developing MMPA authorization for the incidental take of humpback whales in the fishery.

On November 21, 2012, the U.S. Fish and Wildlife Service (FWS) issued a biological opinion concluding that the groundfish fishery will not jeopardize the continued existence of the short-tailed albatross. The FWS also concurred that the fishery is not likely to adversely affect the marbled murrelet, California least tern, southern sea otter, bull trout, nor bull trout critical habitat.

Pursuant to Executive Order 13175, this proposed rule was developed after meaningful consultation and collaboration with tribal officials from the area covered by the FMP. Consistent with the Magnuson-Stevens Act at 16 U.S.C. 1852(b)(5), one of the voting members of the Pacific Council is a representative of an Indian tribe with federally recognized fishing rights from the area of the Council’s jurisdiction. In addition, NMFS has coordinated specifically with the tribes interested in the whiting fishery regarding the issues addressed by this rule.

**List of Subjects in 50 CFR Part 660**

Fisheries, Fishing, Indian fisheries.

Dated: February 27, 2013.

**Alan D. Risenhoover,***Director, Office of Sustainable Fisheries,  
performing the functions and duties of the  
Deputy Assistant Administrator for  
Regulatory Programs, National Marine  
Fisheries Service.*

For the reasons set out in the  
preamble, 50 CFR part 660 is proposed  
to be 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.* and 16  
U.S.C. 773 *et seq.*

■ 2. In § 660.50, paragraph (f)(4) is  
revised to read as follows:

**§ 660.50 Pacific Coast treaty Indian  
fisheries.**

\* \* \* \* \*

(f) \* \* \*

(4) *Pacific whiting.* The tribal  
allocation for 2013 will be 17.5 percent  
of the U.S. TAC plus 16,000 mt.

\* \* \* \* \*

[FR Doc. 2013-04922 Filed 3-4-13; 8:45 am]

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