

language. This means that each rule we publish must:

- (a) Be logically organized;
- (b) Use the active voice to address readers directly;
- (c) Use common, everyday words and clear language rather than jargon;
- (d) Be divided into short sections and sentences; and
- (e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the ADDRESSES section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that you find unclear, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

List of Subjects in 50 CFR Part 10

Exports, Fish, Imports, Law enforcement, Plants, Transportation, Wildlife.

Proposed Regulation Promulgation

For the reasons set forth in the preamble, we propose to amend part 10, subchapter B of chapter 1, title 50 of the Code of Federal Regulations as follows:

PART 10—GENERAL PROVISIONS

- 1. The authority citation for part 10 continues to read as follows:

Authority: 16 U.S.C. 668a–d, 703–712, 742a–j–l, 1361–1384, 1401–1407, 1531–1543, 3371–3378; 18 U.S.C. 42; 19 U.S.C. 1202.

Subpart B—Definitions

- 2. Amend § 10.12 by revising the definition of “Shellfish” to read as follows:

§ 10.12 Definitions.

* * * * *

Shellfish means an aquatic invertebrate animal of the following taxa:

- (1) Mollusca, including but not limited to an oysters, clams, squid, octopus, or cuttlefish; and
- (2) Order Decapoda, including, but not limited to a lobsters, crabs, crayfish, shrimp or other crustaceans; and
- (3) Any part, product, egg or offspring thereof, or the dead body or parts thereof (excluding fossils), of any species included in paragraphs (1)–(2) of this definition, whether or not

included in a manufactured product or in a processed food product.

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Kevin Lilly,
Principal Deputy Assistant Secretary for Fish and Wildlife and Parks, Exercising the Delegated Authority of the Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2026–04460 Filed 3–5–26; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 260302–0059]

RIN 0648–B033

Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; 2026 Pacific Whiting Harvest Specifications, 2026 Tribal Allocation, and 2026 Incidental Set-Aside

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 to establish the 2026 Tribal allocation of Pacific whiting and set-aside of Pacific whiting for research and incidental mortality in non-groundfish fisheries. The proposed measures are intended to help prevent overfishing, achieve optimum yield, ensure that management measures are based on the best scientific information available, and provide for the implementation of Tribal treaty fishing rights.

DATES: Comments on this proposed rule must be received no later than March 23, 2026.

ADDRESSES: A plain language summary of this proposed rule is available at <https://www.regulations.gov/docket/NOAA-NMFS-2025-1466>. You may submit comments on this document, identified by NOAA–NMFS–2025–1466, by the following method:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Visit <https://www.regulations.gov> and type “NOAA–NMFS–2025–1466” in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

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 a part of the public record and will generally be posted for public viewing on <https://www.regulations.gov> without change. All personal identifying information (e.g., name, address), 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).

Background information for this action and analytical documents for the Regulatory Flexibility Act (RFA) are available at the NMFS West Coast Region website Pacific Whiting Treaty Rules and Notices at <https://www.fisheries.noaa.gov/west-coast/laws-policies/pacific-whiting-treaty-rules-and-notices>.

NEPA documents for this and other West Coast groundfish actions are also available at <https://www.fisheries.noaa.gov/west-coast/laws-and-policies/groundfish-actions-nepa-documents>.

Additional background information for the Pacific Hake/Whiting Treaty can be found at <https://www.fisheries.noaa.gov/west-coast/laws-policies/pacific-hake-whiting-treaty>.

FOR FURTHER INFORMATION CONTACT:

Colin Sayre, 206–526–4656, Colin.Sayre@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

Under the authority of the Pacific Coast Groundfish Fishery Management Plan (FMP), section 305(d) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), the Pacific Whiting Act of 2006, and other applicable laws, NMFS proposes to implement a Tribal Pacific whiting allocation based on a percentage of the recommended U.S. total allowable catch (TAC) of Pacific whiting and a set-aside for research and incidental mortality in non-groundfish fisheries. The non-Tribal commercial Pacific whiting fisheries open on May 1 of each year. The Tribal and non-Tribal commercial sector allocations for Pacific whiting, as well as the set-aside for research and incidental mortality in non-groundfish fisheries, would be effective until December 31, 2026.

Pacific Whiting Agreement

The transboundary stock of Pacific whiting is managed through the Agreement Between the Government of

the United States of America and the Government of Canada on Pacific Hake/Whiting of 2003 (Agreement). The Agreement establishes bilateral management bodies to implement the terms of the Agreement, including the Joint Management Committee (JMC), which recommends the annual catch level for Pacific whiting.

In addition to the JMC, the Agreement establishes several other bilateral management bodies to set whiting catch levels: the Joint Technical Committee (JTC), which conducts the Pacific whiting stock assessment; the Scientific Review Group (SRG), which reviews the stock assessment; and the Advisory Panel (AP), which provides stakeholder input to the JMC.

The Agreement establishes a default harvest policy of F=40 percent, which means a fishing mortality rate that would reduce the spawning biomass of Pacific whiting to 40 percent of the estimated unfished level. The Agreement also allocates 73.88 percent of the Pacific whiting TAC to the United States and 26.12 percent of the TAC to Canada. Based on recommendations from the JTC, SRG, and AP, the JMC determines the overall Pacific whiting TAC by March 25 of each year. NMFS, under the delegation of authority from the Secretary of Commerce, in consultation with the Secretary of State, has the authority to accept or reject this recommendation. Under the MSA and consistent with the Pacific Coast Groundfish FMP, NMFS allocates the recommended U.S. TAC between the Tribal sector and non-Tribal commercial sectors.

Tribal Allocation

Four Washington coastal treaty Indian Tribes—the Makah Indian Tribe, the Quileute Indian Tribe, the Quinault Indian Nation, and the Hoh Indian Tribe (collectively, the Treaty Tribes)—can participate in the Tribal Pacific whiting fishery. The regulations at 50 CFR 660.50(d) identify the procedures for implementing the treaty rights that Pacific Coast Treaty Tribes have to harvest groundfish in their usual and accustomed fishing areas in U.S. waters, including the process by which Tribes with treaty fishing rights in the area covered by the FMP request allocations, set-asides, or regulations specific to the Treaty Tribes. 50 CFR 660.50(d) provides that the Secretary will develop Tribal allocations and regulations in consultation with the affected Treaty Tribes and, insofar as possible, with Tribal agreement.

NMFS allocates a portion of the U.S. TAC 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.

Tribal allocations of Pacific whiting have been based on discussions with the Treaty Tribes regarding their intent to fish. The Hoh Tribe has not expressed an interest in participating in the Pacific whiting fishery to date. The Quileute Tribe and the Quinault Indian Nation have expressed interest in beginning to participate in the Pacific whiting fishery at a future date. To date, only the Makah Tribe has prosecuted a Tribal fishery for Pacific whiting and has harvested Pacific whiting since 1996 using midwater trawl gear. Table 1 below provides a recent history of U.S. TACs and annual Tribal allocation in metric tons (mt).

TABLE 1—U.S. TOTAL ALLOWABLE CATCH AND ANNUAL TRIBAL ALLOCATION FOR 2015–2025

	[mt]	
Year	U.S. TAC (mt)	Tribal allocation (mt)
2015	325,072	56,888
2016	367,553	64,322
2017	441,433	77,251
2018	441,433	77,251
2019	441,433	77,251
2020	424,810	74,342
2021	369,400	64,645
2022	402,646	70,463
2023	461,750	80,806
2024	410,034	71,755
2025	295,520	51,716

In 2009, NMFS, the States of Washington and Oregon, and the Treaty Tribes started a process to determine the long-term Tribal allocation for Pacific whiting. However, they have not yet determined a long-term allocation. This rule proposes the 2026 Tribal allocation of Pacific whiting. This allocation does not represent a long-term allocation and is not intended to set precedent for future allocations.

In exchanges between NMFS and the Treaty Tribes during in late 2025, the Makah Tribe indicated their intent to participate in the Tribal Pacific whiting fishery in 2026. The Quinault Indian Nation, the Quileute Indian Tribe and the Hoh Indian Tribe informed NMFS that they will not participate in the 2026 fishery. Only the Makah Indian Tribe indicated its intent to fish and requested 17.5 percent of the U.S. Pacific whiting TAC, which is identical to the Tribal allocation percentage implemented in previous years. NMFS proposes an allocation that accommodates the Tribal

request for 17.5 percent of the 2026 U.S. TAC.

The JMC is anticipated to recommend the coastwide and corresponding United States/Canada TACs no later than March 25, 2026. The U.S. TAC is 73.88 percent of the coastwide TAC. Until this TAC is set, NMFS cannot propose a specific amount for the Tribal allocation. The Pacific whiting fishery begins on May 1, and we expect to publish the final rule to set Pacific whiting specifications for 2026 by early May. Therefore, to allow for public input on the Tribal allocation, NMFS is issuing this proposed rule without the final 2026 TAC. However, to provide a basis for public input, NMFS is describing a range of potential Tribal allocations in this proposed rule by applying the proposed Tribal allocation to a range of potential TACs derived from past harvest levels.

In order to project a range of potential Tribal allocations for 2026, we applied the proposed Tribal allocation of 17.5 percent to the range of U.S. TACs over the last 10 years, 2015 through 2025 (plus or minus 15 percent to capture variability in recommended TAC). The range of U.S. TACs in the past 10 years period was a minimum of 295,520 mt (2025) to a maximum of 461,750 mt (2023). The maximum change in U.S. TAC in the last 5 years was a 28 percent decrease between 2024 and 2025 (461,750 to 295,520 mt), and a 20 percent increase between the years 2016 and 2017 (402,646 to 461,750 mt). Despite this range, in 8 of the last 10 years the TAC varied by less than 15 percent. Applying a 15 percent variability results in a range of potential TACs between 251,192 and 531,012 mt for 2026. Using the proposed Tribal allocation of 17.5 percent, the potential range of the Tribal allocations for 2026 would be between 43,958 and 92,927 mt. NMFS proposes to implement this action pursuant to regulations at 50 CFR 660.50.

Set-Aside for Research and Incidental Mortality in Non-Groundfish Fisheries

The U.S. non-Tribal whiting fishery is managed under the FMP. Each year, the Council recommends a set-aside to accommodate research activities and incidental mortality in non-groundfish fisheries based on estimates of scientific research catch and estimated bycatch mortality in non-groundfish fisheries. Due to the lapse in government funding from October 1 to November 14, 2025, the Council was unable to provide a recommendation on a 2026 set-aside. NMFS would implement a research and incidental mortality set-aside of 750 mt of Pacific whiting for 2026, which is the same amount recommended by the

Council from 2021 to 2025. NMFS proposes to implement this set-aside pursuant to regulations 50 CFR 660.55(j).

In addition to the Tribal allocation and research and incidental catch set-aside, each year NMFS establishes the U.S. TAC and non-Tribal fishery harvest guideline (HG) and distributes it to the non-Tribal sectors according to the commercial allocation structure in the FMP section 6.3.2.2 and regulations at 50 CFR 660.55(i)(2). To determine the 2026 non-Tribal fishery HG, the 2026 Tribal allocation and 2026 set-aside for research and incidental mortality are deducted from the total U.S. TAC. The HG is then allocated among the three non-Tribal sectors of the Pacific whiting fishery: The Catcher/Processor (C/P) Co-op Program, the Mothership (MS) Co-op Program, and the Shorebased Individual Fishing Quota (IFQ) Program. The TAC recommendation and resulting non-Tribal commercial sector allocations are based on the Treaty-based JMC recommendation and are non-discretionary. The HG is not included in this proposed rule because NMFS, under the delegation of authority from the Secretary of Commerce and with concurrence from the Department of State, must approve or disapprove the overall TAC recommended by the JMC at a mid-March meeting. As such, NMFS is issuing this proposed rule before setting the HG and non-Tribal allocations in order to provide for public comment during a compressed rulemaking schedule prior to the fishery's opening on May 1.

Classification

This proposed rule would be implemented under the statutory and regulatory authority of section 305(d) of the MSA, the Pacific Whiting Act of 2006, the regulations governing the groundfish fishery at 50 CFR 660.5 through 660.360, and other applicable laws. NMFS is using section 305(d) of the MSA for the Tribal allocation and set-aside because in a previous action taken pursuant to section 304(b), the FMP and its implementing regulations authorize NMFS to take action pursuant to MSA section 305(d). The NMFS Assistant Administrator has determined that this proposed rule is consistent with sections 305(d) of the MSA, the Pacific Whiting Act of 2006, the regulations governing the groundfish fishery at 50 CFR 660.5 through 660.360, and other applicable laws, subject to further consideration after public comment. Additionally, pursuant to MSA section 305(d), this action is necessary to carry out Tribal allocations, set-asides, and regulations pursuant to

FMP section 6.2.5 and 50 CFR 660.50(d)(1) because with this proposed rule, NMFS would ensure that the fishery is managed in a manner consistent with treaty rights of the four Treaty 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. Wash. 1974)).

NMFS notes that the public comment period for this proposed rule is 15 days. Finalizing the Pacific whiting harvest specifications close to the start of the Pacific whiting fishing season on May 1 provides the industry with more time to plan and execute the fishery and gives them earlier access to the finalized allocations of Pacific whiting. A 15-day comment period best balances the interest in allowing the public adequate time to comment on the proposed measures with the benefits of implementing the set-aside management measures and setting Pacific whiting allocations in a timely manner. Although the non-Tribal allocations are not included in this proposed rule, those allocations are non-discretionary pursuant to the regulations governing the groundfish fishery at 50 CFR 660.55(i)(2). Timely implementation of this action will ensure the Tribal and non-Tribal commercial fishery sectors receive their full Pacific whiting allocations with sufficient time to maximize catch attainment within their respective fisheries during the 2026 whiting season. In making its final determination, NMFS will take into account the complete record, including comments received during the comment period for this proposed rule.

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. Under the MSA at 16 U.S.C. 1852(b)(5), one of the voting members of the Pacific Council must be a representative of an Indian Tribe with federally recognized fishing rights from the area of the Council's jurisdiction. In addition, regulations implementing the FMP establish a procedure by which the Tribes with treaty fishing rights in the area covered by the FMP request allocations or regulations specific to the Tribes, in writing, before the first of the two meetings at which the Council considers groundfish management measures. The regulations at 50 CFR 660.50(d)(2) further 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 Tribal management

measures in this proposed rule have been developed following these procedures.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866. This proposed rule is not an Executive Order 14192 regulatory action because this rule is not significant under Executive Order 12866.

A range of potential total harvest levels for Pacific whiting has been considered in the Final Environmental Impact Statement for Harvest Specifications and Management Measures for 2015–2016 and Biennial Periods thereafter (2015/16 FEIS), and in the Environmental Assessment (EA) and the Regulatory Impact Review included in the analytical document for Amendment 33 to the Pacific Coast Groundfish FMP and 2025–2026 Harvest Specifications and Management Measures. These documents are available from NMFS (see **ADDRESSES** section).

NMFS prepared an FEIS for FMP Amendment 24; a notice of availability was published on January 16, 2015 (80 FR 2414). The 2015/16 FEIS examined the harvest specifications and management measures for 2015–2016 and gave 10-year projections for routinely adjusted harvest specifications and management measures. The 10-year projections were produced to evaluate the impacts of the ongoing implementation of harvest specifications and management measures and to evaluate the impacts of the routine adjustments that are the main component of each biennial cycle. The environmental assessment for the 2025–2026 cycle builds on the 2015/16 FEIS and focuses on the harvest specifications and management measures that were not within the scope of the 10-year projections in the 2015/16 FEIS.

An Initial Regulatory Flexibility Analysis (IRFA) was prepared for this action, as required by section 603 of the RFA. The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action is contained in the **SUPPLEMENTARY INFORMATION** section of the preamble. A summary of the IRFA follows. Copies of the IRFA are available from NMFS (see **ADDRESSES** section).

Under the RFA, the term "small entities" includes small businesses, small organizations, and small governmental jurisdictions. For purposes of complying with the RFA, NMFS has established size criteria for entities involved in the fishing industry

that qualify as small 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 not in excess of \$11 million for all its affiliated operations worldwide (80 FR 81194, December 29, 2015; 50 CFR part 200). In addition, the Small Business Administration has established size criteria for other entities that may be affected by this proposed rule. A wholesale business servicing the fishing industry is a small business if it employs 100 or fewer persons on a full time, part time, temporary, or other basis, at all its affiliated operations worldwide (North American Industry Classification System (NAICS) code 424460; 13 CFR 121.201). A seafood processor is a small business if it is independently owned and operated, not dominant in its field of operation, and employs 750 or fewer persons on a full time, part time, temporary, or other basis, at all its affiliated operations worldwide (NAICS code 311710; 13 CFR 121.201). For purposes of this rulemaking, NMFS is also applying the seafood processor standard to C/Ps because whiting C/Ps earn the majority of the revenue from processed seafood product.

Description of Small Entities, and Estimate of Economic Impacts

This proposed rule affects how Pacific whiting is allocated to the following sectors/programs: Tribal, Shorebased IFQ Program Trawl Fishery, MS Co-op Program Whiting At-sea Trawl Fishery, and C/P Co-op Program Whiting At-sea Trawl Fishery. The amount of Pacific whiting allocated to these sectors is based on the U.S. TAC, which is developed and approved through the process set out in the Agreement and the Whiting Act.

We expect one Tribal entity, the Makah Tribe, to fish for Pacific whiting in 2026. Tribes are not considered small entities for the purposes of RFA. Impacts to Tribes are nevertheless considered in this analysis.

Although there are three non-Tribal sectors directly affected by this rule (the C/P Co-op Program, the Shorebased IFQ Program, and the MS Co-op Program), many companies participate in two sectors and some participate in all three sectors, as well as other non-whiting groundfish fisheries. For example, some companies may own permits in both the C/P and MS sectors, and own vessels capable of operating as either a C/P or an MS. Depending on the operational needs of the parent company in a given year, a C/P vessel may be assigned a

permit to alternatively act as an MS. As part of the permit application processes for the non-Tribal fisheries, NMFS asks permit applicants if they considered themselves a small business based on a review of the Small Business Administration size criteria and asks each permit applicant to provide detailed ownership information. Data on employment worldwide, including affiliates, are not available for these companies, which generally operate in Alaska as well as on the West Coast in non-whiting groundfish fisheries and may have operations in other countries, as well. NMFS requests that limited entry permit holders self-report their size status. There is substantial, but not complete, overlap between permit ownership and vessel ownership, so there may be a small number of additional small entity vessel owners who will be impacted by this rule.

The C/P Co-op Program is composed of 10 C/P endorsed permits owned by 3 companies that have formed a single co-op. This co-op is considered a large entity both because it has participants that are large entities and because it has in total more than 750 employees worldwide including affiliates. For 2025, all 3 owners of the 10 C/P permits reported that they are not small businesses.

As of January 2026, the Shorebased IFQ Program is composed of 158 Quota Share permits/accounts (120 of which were allocated whiting quota pounds) and 39 licensed first receiver sites, of which 7 companies receive whiting. Of these companies that receive whiting, 6 are not considered small entities.

The MS Co-op Program is the limited access program that applies to eligible harvesters and processors in the MS sector of the Pacific whiting at-sea trawl fishery. In 2026, this program consists of 6 MS processor permits and a catcher vessel fleet, currently composed of a single co-op with 33 Mothership/Catcher Vessel endorsed permits (with 3 permits each having 2 catch history assignments). For 2026, 8 permits in the MS Co-op reported that they are not small businesses.

After accounting for cross-fishery participation, multiple Quota Share account holders, and affiliation through ownership, NMFS estimates based on 2026 permit registration and quota share information that there are 100 non-Tribal entities directly affected by these proposed regulations, 86 of which are considered small entities.

This proposed rule, if adopted, will allocate Pacific whiting between Tribal and non-Tribal commercial harvesters (a mixture of small and large businesses). Tribal fisheries consist of a mixture of

fishing activities that are similar to the activities that non-Tribal fisheries undertake. Tribal harvests may be 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 reapportionment process as described in regulations at 50 CFR 660.131(h). If the Tribes do not harvest their entire allocation, there are opportunities during the year to reapportion unharvested Tribal amounts to the non-Tribal commercial fleets. For example, in 2025 NMFS reapportioned 41,716 mt of the original 51,716 mt Tribal allocation. This reapportionment was based on conversations with the Tribes and the best information available at the time, which indicated that this amount would not limit Tribal harvest opportunities for the remainder of the year. The reapportionment process allows unharvested Tribal allocations of Pacific whiting to be fished by the non-Tribal fleets, benefitting both large and small entities. The revised Pacific whiting allocations for 2025 following the reapportionment were: Tribal, 10,000.00 mt; C/P Co-op, 96,821.80 mt; MS Co-op, 68,344.80 mt; and Shorebased IFQ Program, 119,603.40 mt. The prices for Pacific whiting are largely determined by the world market because most of the Pacific whiting harvested in the United States is exported. The U.S. Pacific whiting TAC is highly variable, as are subsequent attainment of sector allocations and ex-vessel revenues.

Complete 2025 landing and revenue data for the commercial whiting sectors were unavailable at the time of publication of the IRFA. For the years 2014 to 2024, the U.S. non-Tribal commercial fishery sectors averaged harvests of approximately 265,192.73 mt, and revenues of \$51.6 million annually. As of December 9, 2025, the 2025 U.S. non-Tribal commercial fishery sectors attained a Pacific whiting catch of approximately 237,595.3 mt out of a harvest guideline of 243,054 mt (97.75 percent attainment), resulting in a total revenue of \$60.78 million. The Tribal fishery landed 1,082.6 mt out of the 2025 Tribal allocation of 51,716 mt. Impacts to Tribal catcher vessels who elect to participate in the Tribal fishery are measured with an estimate of ex-vessel revenue. In lieu of more complete information on Tribal deliveries, total ex-vessel revenue is estimated with the 2025 average ex-vessel price of Pacific whiting, which was \$255.84 per mt. At

that price, the proposed 2025 Tribal allocation (potentially 43,958.60–92,927 mt) would have an ex-vessel value between \$11.24 and \$23.77 million.

Shoreside processors are unlikely to be impacted by allocating U.S. Pacific whiting TAC between Tribal and non-Tribal sectors because they can receive and process landings from both Tribal and non-Tribal catcher vessels.

Data used to inform this analysis come primarily from PacFIN, which includes data provided by the states of Oregon, California, and Washington on commercial whiting fishing trips and landings. Other data sources include the West Coast Economic Data Collection Program, the West Coast Region permit database, and the West Coast Region Individual Fishing Quota Account public database. The number of entities predicted to be impacted is generally based on the level of participation in the previous year (2025) and, as noted above, is in some cases likely to be an overestimate of the true number of entities likely to be impacted if current trends continue. However, it is possible that as environmental or management conditions change in other fisheries this will impact the level of participation in the groundfish fishery beyond what is predicted here.

Significant Alternatives to the Proposed Rule

For the Pacific whiting Tribal allocation, and set-aside for research and incidental mortality NMFS considered two alternatives: the “No Action” alternative and the “Proposed Action” alternative.

NMFS did not consider a broader range of alternatives to the proposed Tribal allocation because the Tribal allocation is a percentage of the U.S. TAC and is based primarily on the requests of the Tribes. These requests reflect the level of participation in the fishery that will allow the Tribes to exercise their treaty right to fish for Pacific whiting which NMFS must legally allow them to harvest. Under the Proposed Action alternative, NMFS would set the Tribal allocation percentage at 17.5 percent, as requested by the Makah Tribe. Using the proposed Tribal allocation of 17.5 percent and the potential range of U.S. TACs for 2025 would yield a Tribal allocation of between 43,958 and 92,927 mt. Consideration of a percentage lower than the Tribal request of 17.5 percent is not appropriate in this instance. NMFS has historically supported the harvest levels requested by the Tribe. Based on the information available to NMFS, the Tribal request is within their Tribal treaty rights. A higher percentage

would arguably also be within the scope of the treaty right. However, a higher percentage would unnecessarily limit the non-Tribal fishery, and the proposed percentage is consistent with the Tribe’s request.

Under the No Action alternative, NMFS would not make an allocation to the Tribal sector. This alternative was considered, but the regulatory framework provides for a Tribal allocation on an annual basis only. Therefore, the No Action alternative would result in no allocation of Pacific whiting to the Tribal sector in 2026, which would be inconsistent with NMFS’ responsibility to manage the fishery consistent with the Tribes’ treaty rights. Given that there is a Tribal request for allocation in 2026, this No Action alternative for allocation to the Tribal sector received no further consideration.

For the set-aside for research and incidental mortality, the No Action alternative would mean that NMFS would not implement the set-aside amount of 750 mt recommended by the Council. Not implementing the set-aside of the U.S. whiting TAC would mean incidental mortality of the fish in research activities and non-groundfish fisheries would not be accommodated. This would be inconsistent with the Council’s recommendation, the FMP, the regulations setting the framework governing the groundfish fishery, and NMFS’ responsibility to manage the fishery and prevent overfishing. Therefore, the No Action alternative for the set-aside received no further consideration.

There are no significant alternatives to the proposed action to accomplish the objectives of applicable statutes and minimize any significant economic impact on small entities.

RFA Determination of No Significant Impact

NMFS considers two criteria in determining the significance of adverse regulatory effects, disproportionality, and profitability.

Disproportionality: This criterion compares the effect of the regulatory action between small and large entities. This action will not disproportionately impact small entities more than large entities. These regulations are related to harvest specifications, the proportion of Tribal and non-Tribal sector allocations are not impacted by the annual recommendation of the Pacific Whiting TAC recommendation. Allocation proportions are fixed within the groundfish FMP framework, and regulations governing the Trawl Catch Share Program.

Profitability: There are no major compliance costs to entities associated with this rule anticipated for the 2026 primary whiting season. This action is not expected to significantly impact the profitability of small or large entities; quota of Pacific whiting is allocated according to the regulations governing the Trawl Catch Share Program; unused Tribal quota is reapportioned to the non-Tribal sectors each year to provide additional economic opportunity; Tribal catch may be delivered to both Tribal and non-Tribal processors.

This proposed rule is similar to previous rulemakings concerning Pacific whiting and concerns the amount of the U.S. TAC that should be allocated to the Tribal fishery and a set-aside for research and bycatch in non-groundfish fisheries for 2026. Following a coastwide TAC recommendation, Pacific whiting allocations to the non-Tribal sectors are expected provide additional economic opportunity to the entities considered in this analysis to prosecute a quota species within a multi-species groundfish catch share program. In addition, the reapportioning process allows unharvested Tribal allocations of Pacific whiting, fished by small entities, to be fished by the non-Tribal fleets, potentially providing economic benefits to both large and small entities. Based on the analysis above, this proposed rule, if finalized, would not adversely affect small entities and would not have a significant economic impact on small entities. Nonetheless, NMFS has prepared an IRFA and is requesting comments on this analysis.

NMFS has prepared the IRFA, as described above, and is requesting comments on this conclusion (see **ADDRESSES** section).

This proposed rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

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

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Indian fisheries.

Dated: March 2, 2026.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 660 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 § 660.50, revise paragraph (f)(17) to read as follows:

§ 660.50 Pacific Coast treaty Indian fisheries.

* * * * *

(f) * * *

(17) *Pacific whiting.* The Tribal allocation for 2026 is 17.5 percent of the U.S. TAC.

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■ 3. Amend table 2a to part 660, subpart C—2026, and Beyond, Specifications of OFL, ABC, ACL, ACT, and Fishery HG, by revising the entry for “Pacific Whiting” and its footnote to read as follows:

TABLE 2a TO PART 660, SUBPART C—2026, AND BEYOND, SPECIFICATIONS OF OFL, ABC, ACL, ACT, AND FISHERY HG (WEIGHTS IN METRIC TONS). CAPITALIZED STOCKS ARE REBUILDING

Stocks	Area	OFL	ABC	ACL ^a	Fishery HG ^b
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
Pacific Whiting ^d	Coastwide	(^d)	(^d)	(^d)	(^d)
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *	* * * * *

^dPacific whiting are assessed annually. The final specifications will be determined consistent with the United States-Canada Pacific Whiting Agreement. The U.S. TAC is 73.88 percent of the coastwide TAC. From the U.S. TAC, 17.5 percent is deducted to accommodate the Tribal fishery, and 750 mt is deducted to accommodate research and bycatch in other fisheries.