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Privacy Act

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Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. NHTSA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule does not meet the criteria in 5 U.S.C. 804(2) to be considered a major rule.

List of Subjects in 49 CFR Part 40

Administrative practice and procedure, Alcohol abuse, Alcohol testing, Drug abuse, Drug testing, Laboratories, Reporting and recordkeeping requirements, Safety, Transportation.

For the reasons stated in the preamble, DOT amends 49 CFR part 40 as follows:

PART 40—PROCEDURES FOR TRANSPORTATION WORKPLACE DRUG AND ALCOHOL TESTING PROGRAMS

■ 1. The authority for 49 CFR part 40 continues to read as follows:

Authority: 49 U.S.C. 102, 301, 322, 5331, 20140, 31306, 45101 and 60102 *et seq.*

■ 2. In § 40.65, add paragraph (d) to read as follows:

§ 40.65 What does the collector check for when the employee presents a urine specimen?

* * * * *

(d) *Direct observations.* If a new urine collection using direct observation procedures or an oral fluid collection is required under § 40.65(b)(5) or (c)(1),

you must check if the employer has a standing order on which specimen collection to perform. If there is no standing order, you must contact the DER on whether to continue with a directly observed urine collection or an oral fluid collection.

■ 3. In § 40.67

■ a. Revise paragraph g; and,

■ b. In paragraph (h), remove the word “gender” and add in its place “sex.”

The revision reads as follows:

§ 40.67 When and how is a directly observed urine collection conducted?

* * * * *

(g) As the collector, you must ensure that the observer is the same sex (*i.e.*, male or female) as the employee.

(1) You must never permit a person of the opposite sex to act as the observer.

(2) The observer can be a different person from the collector and need not be a qualified collector.

(3) If oral fluid testing is not yet available (see paragraph (g)(5) of this section) and a same sex observer is not present at the collection site, the collector must contact the DER. The DER will either arrange for a same sex observer to be present at the time of the collection or send the employee to a collection site acceptable to the employer for a directly observed urine collection as required in this section.

(4) Once oral fluid testing is available (see paragraph (g)(5) of this section), and a same sex observer cannot be found for a directly observed urine collection:

(i) If the employer has a standing order to allow oral fluid testing in such situations, the collector will follow that order.

(ii) If there is no standing order from the employer, the collector must contact the DER, and the DER will direct the collector to either conduct an oral fluid test if the collection site is able to do so or send the employee to a collection site acceptable to the employer for the oral fluid test.

(5) For an employer to use oral fluid testing, there must be at least two HHS-certified oral fluid drug testing laboratories. For employers subject to FAA regulations at 14 CFR 120.123(a), the two certified laboratories must be located in the United States. In addition, both a qualified oral fluid collector and a conforming oral fluid collection device are available at a collection site.

(6) Once HHS gives notification of a second HHS-certified oral fluid drug testing laboratory, there will be an 18-month grace period to allow employers to continue to conduct directly observed urine collections (see paragraph 3 of this section) until the employer is set up to conduct oral fluid testing (see

paragraphs 4 and 5). If during the 18-month grace period the employer has decided to use oral fluid drug testing and the employer is ready to conduct oral fluid drug testing, the employer must do so. ODAPC will publish a **Federal Register** notice to let employers and collectors know when the 18-month period begins and ends.

* * * * *

§ 40.69 [Amended]

■ 4. In § 40.69:

■ a. In paragraph (c), remove the word “gender” and add in its place “sex (*i.e.*, male or female),”; and

■ b. In paragraph (d), remove the term “same-gender” and add in its the term “same-sex.”

§ 40.145 [Amended]

■ 5. In § 40.145 in paragraph (h)(1)(ii), remove the word “gender” and add in its place “sex (*i.e.*, male or female).”

Issued in Washington, DC.

Sean P. Duffy,

Secretary of Transportation.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 260504–0123]

RIN 0648–BO33

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: Final rule.

SUMMARY: This final rule announces the 2026 U.S. total allowable catch (TAC) of Pacific whiting and implements the domestic 2026 harvest specifications for Pacific whiting fisheries off the coasts of Washington, Oregon, and California (collectively, the West Coast), including the 2026 Tribal allocation for the Pacific whiting fishery, the non-Tribal fishery Harvest Guideline and sector allocations, and a set-aside for research activities and incidental mortality in non-groundfish fisheries. These 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: Effective May 11, 2026.

ADDRESSES: This final rule is accessible via the internet at the Office of the Federal Register website at: <https://www.federalregister.gov>.

Background information for this action and analytical documents, including a copy of the Final Regulatory Flexibility Act (FRFA) 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-notice>.

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, phone: 206–526–4656, and email: Colin.Sayre@noaa.gov.

SUPPLEMENTARY INFORMATION: This final rule announces the 2026 U.S. TAC for Pacific whiting (also called hake), determined under the Agreement Between the Government of the United States of America and the Government of Canada on Pacific Hake/Whiting of 2003 (Agreement). This final rule also establishes the 2026 Tribal allocation based on a percentage of the recommended 2026 U.S. TAC of Pacific whiting, a set-aside for research and incidental mortality in non-groundfish fisheries, and the 2026 Harvest Guideline (HG) and sector allocations for the non-Tribal commercial Pacific whiting fishery. NMFS implements these actions under the authority of the Pacific Coast Groundfish Fishery Management Plan (FMP), section 305(d) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the Pacific Whiting Act of 2006 (Whiting Act), and other applicable laws.

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 set-asides, are effective until December 31, 2026.

Pacific Whiting Agreement

The transboundary stock of Pacific whiting is managed through the Agreement. The Agreement establishes bilateral management bodies to implement the terms of the Agreement. The bilateral bodies include: the Joint Management Committee (JMC), which recommends the annual catch limit for Pacific whiting; 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. NMFS issued a proposed rule on March 6, 2026 (91 FR 11022) that further describes the Agreement, the distribution of the Pacific whiting coastwide TAC between the United States (73.88 percent) and Canada (26.12 percent), the bilateral bodies to implement the terms of the Agreement, including the JMC, and the process used to determine the coastwide TAC under the Agreement.

2026 TAC Recommendation and Approval

The JMC reviewed the advice of the JTC, the SRG, and the AP, and met from February 24–26, 2026, in Seattle, Washington. The JMC agreed on a recommended adjusted coastwide TAC of 380,000 metric tons (mt) of Pacific whiting, which resulted in an adjusted U.S. TAC of 280,744 mt for 2026. The JMC then transmitted the TAC recommendation to the United States and Canadian Governments.

The Agreement directs the JMC to base the catch limit recommendation on the F–40 default harvest rate, unless scientific evidence demonstrates that a different harvest rate is necessary to sustain the offshore Pacific whiting resource. The F–40 default harvest rate is a fishing mortality rate that would reduce the spawning biomass of Pacific whiting to 40 percent of the estimated un-fished level. After consideration of the 2026 stock assessment and other relevant scientific information, the JMC did not use the F–40 default harvest rate. Instead, a more conservative approach was agreed upon.

There were four key reasons for choosing a TAC below the default harvest rate: (1) due to data processing delays resulting from the 2025 government shutdown, the most recent acoustic-trawl survey and fishery age-composition data were not available in time to be incorporated into the assessment model, and as a result the 2026 whiting stock assessment needed to utilize a simplified “catch-only” model, creating additional statistical

uncertainty; (2) the biomass estimate from the 2025 acoustic survey is the lowest in the time series, with the prior survey biomass estimate from 2023 being the third lowest; (3) the whiting stock continues to contract further south, but it is unclear whether this shift is because the population is stable in size but shifting south overall, or if the population is shrinking and condensing into a more central location; and (4) the continued lack of whiting available in Canadian waters and northern U.S. waters has led to exceptionally low catch attainment in Canada (3 percent in 2024 and 4 percent in 2025) and by the U.S. Tribal fisheries (6 percent in 2024 and 5 percent in 2025), which is evidence of a possible contraction of the population to a smaller, southern area of the U.S. waters.

The JMC concluded that these factors warranted setting the 2026 coastwide TAC below the 2025 coastwide adjusted TAC of 400,000 metric tons (mt), and lower than the level that would result from application of the F–40 default harvest rate. The JMC decided that an adjusted 2026 TAC of 380,000 mt recognized the increased scientific uncertainty on stock status, while also allowing the potential for economic benefits for coastal communities. This conservative approach is consistent with Article III.1. of the Agreement.

The Agreement allows an adjusted TAC when either country’s catch exceeds or is less than its TAC in the prior year. If the catch is in excess of the country’s TAC, the amount of the overage is deducted from that country’s TAC in the following year. If catch falls short of the country’s TAC, a portion of the shortfall is carried over and added to the country’s TAC for the following year. Under the Agreement, carryover adjustments cannot exceed 15 percent of a party country’s unadjusted TAC for the year in which the shortfall occurred. In 2025, neither country fully attained their respective TACs. The percentage of the U.S. TAC attained for 2025 is detailed in the Final Regulatory Flexibility Analysis (FRFA) (see the **ADDRESSES** section), which is summarized in the Classification section below.

For the 2026 Pacific whiting fishery, the JMC recommended an unadjusted coastwide TAC of 330,654 mt. Based on Article III.2. of the Agreement, the Canadian share of the unadjusted coastwide TAC is 26.12 percent (86,367 mt) and the U.S. share is 73.88 percent (244,287 mt). Consistent with Article II.5.(b) of the Agreement, an adjustment (carryover from 2025) of 12,889 mt (15 percent of the 2025 unadjusted

Canadian TAC of 85,928 mt) is added to the Canadian share, for an adjusted Canadian TAC of 99,256 mt. In the same manner, an adjustment of 36,457 mt (15 percent of the 2025 unadjusted US TAC of 243,045 mt) is added to the United States share, for an adjusted United States TAC of 280,744 mt. This results in a coastwide adjusted TAC of 380,000 mt for 2026.

This recommendation is consistent with the best available scientific information and provisions of the Agreement. The recommendation was transmitted via letter to the United States and Canadian Governments on March 24, 2026. The U.S. Department of State concurred with the TAC recommendation for U.S. fisheries on April 1, 2026. NMFS, under delegation of authority from the Secretary of Commerce (Secretary), approved the TAC recommendation for U.S. fisheries on April 13, 2026.

This final rule announces the adjusted coastwide TAC of 380,000 mt and an adjusted U.S. TAC of 280,744 mt.

Tribal Allocations

This final rule establishes the Tribal allocation of Pacific whiting for 2026. 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)—have treaty rights to 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.

In its proposed rule issued on March 6, 2026 (91 FR 11022), NMFS described the Tribal allocation as 17.5 percent of the U.S. TAC, and projected a range of potential Tribal allocations for 2026 based on a range of U.S. TACs over the last 10 years (plus or minus 15 percent to capture variability in stock abundance).

The proposed rule used a range of U.S. TACs because the 2026 U.S. TAC was not approved before the proposed rule publication date. As described in the proposed rule, the resulting range of potential Tribal allocations was 43,958 mt and 92,927 mt. Applying the approach described in the proposed rule, NMFS is establishing the 2026 Tribal allocation of 49,130.20 mt in this final rule, which is 17.5 percent of the adjusted U.S. TAC of 280,744 mt.

As with prior Tribal allocations of Pacific whiting, this final rule is not intended to establish a precedent for future Pacific whiting seasons, or for the determination of the total amount of Pacific whiting to which the Tribes are entitled under their treaty rights. In 2009, NMFS, the states of Washington and Oregon, and the coastal Treaty Tribes started a process to determine the long-term Tribal allocation for Pacific whiting; however, no long-term allocation has been determined. The long-term Tribal treaty amount will be based on further development of scientific information and additional coordination and discussion with and among the coastal Treaty Tribes and the states of Washington and Oregon.

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

The U.S. non-Tribal whiting fishery is managed under the FMP. Under this final rule, NMFS will implement a 750 mt research and incidental mortality set-aside of Pacific whiting for 2026, which is the same amount set from 2021 to 2025. In November 2024, the Council last provided a recommendation for a continued 750 mt set-aside and considered the historical average annual catch of whiting resulting from research activity and incidental catch in non-groundfish pink-shrimp trawl fisheries. The annual average catch was 365 mt for research and 228 mt for incidental catch in the pink shrimp fishery, for an average annual total of 593 mt for 2011 through 2023. Research and incidental catch in this time period ranged from a low total of 22 mt in 2022, and a high total of 883 mt in 2021. The Council determined a set-aside of 750 mt is sufficient to accommodate mortality of Pacific whiting resulting from research and incidental catch in non-groundfish fisheries.

Under this final rule, NMFS will implement a 750 mt set-aside pursuant to section 305(d) of the MSA and regulations at 50 CFR 660.55(j). The regulations at 50 CFR 660.55(j) were implemented under a prior action taken under Section 304(b) of the MSA and authorize NMFS to take this action.

Non-Tribal Harvest Guideline and Allocations

This final rule establishes the fishery HG (*i.e.*, the non-Tribal allocation) and non-Tribal commercial sector allocations for Pacific whiting for 2026. As explained in the proposed rule, NMFS did not include the non-Tribal HG and sector allocations in the proposed rule due to the timing of the TAC recommendation and approval process under the Agreement and the Whiting Act. The non-Tribal HG and sector allocations could not be determined for the proposed rule because they are based on the U.S. TAC. NMFS, under delegation of authority from the Secretary of Commerce, and with the concurrence of the U.S. Department of State, approved the U.S. TAC for Pacific whiting on April 13, 2026, which was after the publication of the proposed rule. The U.S. Agreement committees and interested parties were notified via direct email when the TAC was approved, and interim sector allocations were issued to the fishery, which opens on May 1.

Each year NMFS establishes the non-Tribal fishery HG for Pacific whiting 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 of 49,130.20 mt, and the 750 mt set-aside for research and incidental mortality are deducted from the total adjusted U.S. TAC of 280,744 mt, resulting in a fishery HG of 230,863.80 mt.

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 C/P Co-op Program is allocated 34 percent (78,493.69 mt for 2026), the MS Co-op Program is allocated 24 percent (55,407.31 mt for 2026), and the Shorebased IFQ Program is allocated 42 percent (96,962.80 mt for 2026). These commercial sector allocations are summarized in table 1 below. The non-Tribal Pacific whiting fishery south of 42° N lat. may not take more than 4,848.14 mt (5 percent of the Shorebased IFQ Program allocation) prior to May 1, the start of the primary Pacific whiting season north of 42° N lat.

TABLE 1—2026 U.S. PACIFIC WHITING ALLOCATIONS IN METRIC TONS

Sector	2026 Pacific whiting allocation (mt)
Tribal	49,130.20
Catcher/Processor (C/P) Co-op Program	78,493.69
Mothership (MS) Co-op Program	55,407.31
Shorebased IFQ Program	96,962.80

Comments and Responses

NMFS issued a proposed rule on March 6, 2026 (91 FR 11022). The comment period on the proposed rule closed March 23, 2026. NMFS received 12 comments from three individuals during the comment period. NMFS received one comment from a college student as part of a class assignment expressing support for preventing overfishing, and one anonymous comment expressing personal beliefs opposing the consumption of seafood.

NMFS received ten comments, on various topics, from one member of the public, as set forth below.

Comment 1: The proposed rule would benefit from correcting several numerical elements. The rule states that the U.S. TAC decreased by 28 percent between 2024 and 2025 (461,750 mt to 295,520 mt), but the actual decrease is about 36 percent (166,230/461,750).

Response: The 2023 U.S. TAC was 461,750 mt, the 2024 U.S. TAC was 410,034 mt, and the 2025 U.S. TAC was 295,520 mt. The change in TAC from 2024 to 2025 was 410,034 to 295,520 mt which is a change of 28 percent from 2024 to 2025. The 2023 TAC was the highest in the last 10 years, and the 2025 TAC is the lowest in 10 years. There is a 36 percent decrease between these two TACs. But the difference between the two most recent year TACs (2024 and 2025) is 28 percent. These TAC values are included in Table 1 (U.S. Total Allowable Catch and Annual Tribal Allocation for 2015–2025 (mt)) of the proposed rule. However, NMFs noted two technical errors in a sentence of the economic analysis where a TAC of 461,750 mt was incorrectly used for the years 2024 and 2017, and should be corrected to read as follows: “The maximum change in U.S. TAC in the last 5 years was a 28 percent decrease between 2024 and 2025 (410,034 to 295,520 mt), and a 20 percent increase between the years 2016 and 2017 (402,646 to 441,433 mt).”

Comment 2: The justification for applying a ±15 percent variability range to project the 2026 TAC is unclear,

given that the rule itself acknowledges historical variability—such as the recent 36 percent drop—well above 15 percent. A clearer explanation or adjustment of the variability range would strengthen the projection. Additionally, given the increasing climate-driven variability in Pacific whiting recruitment and biomass, it would also be useful for NMFS to explain whether environmental factors were considered when evaluating the TAC volatility and the ±15 percent projection range.

Response: At the time of submission of the proposed rule for publication, the U.S. TAC was not known so NMFS used the U.S. TACs over the last 10 years plus or minus 15 percent change as a plausible range for potential TACs. In the last 10 years, the U.S. TAC has changed by an average of plus or minus 14.2 percent between each year. The 2026 U.S. TAC of 280,744 mt is within the 251,192 to 531,012 mt range used in the proposed rule. Therefore, the range of U.S. TACs over the last 10 years plus or minus 15 percent represents a reasonable range of likely TACs for the purpose of the rulemaking. The U.S. TAC is the decision of the Agreement’s JMC & AP and is made through rigorous review of best available scientific information, including consideration of environmental factors provided by the Agreement’s JTC and SRG, namely the Annual Status of the Stock of Pacific Whiting, the annual SRG report, as well as other relevant commercial catch data, and acoustic survey results. NMFS agrees that the U.S. TAC has varied over the last 10 years and NMFS may consider using a different range (e.g., plus or minus 25 percent) to project a range of potential Tribal allocations in future rulemakings.

Comment 3: The proposed rule maintains a 750 mt set-aside for research and incidental mortality. Although U.S. incidental mortality remains relatively constant regardless of total biomass and harvest levels, the TAC has experienced significant downward volatility (36 percent in the most recent cycle). As a result, a fixed set-aside represents an increasing proportional burden on the commercial fishery. NMFS should clarify why a fixed tonnage is preferred over a percentage-based approach, or provide data showing that, under 50 CFR 660.55(i), NMFS may adjust set-asides as needed. Referencing this authority would clarify whether a fixed or Proportional approach is more appropriate. Additionally, given the increasing climate-driven variability in Pacific whiting recruitment and biomass, it would also be useful for NMFS to explain whether

environmental factors were considered when evaluating the fixed 750 mt incidental set-aside.

Response: Set asides for research and incidental catch of groundfish, including whiting, are intended to account for projected scientific research catch and estimates of fishing mortality in non-groundfish fisheries (50 CFR 660.55(b)). These set asides are not intended to be set proportional to the TAC or annual catch limit but rather are developed to accommodate the amount of anticipated catch of whiting by research activities or in other fisheries (e.g., the directed pink shrimp trawl fisheries) during the fishing year. Additionally, the set-aside is not set using an explicit exploration of environmental factors specific to set-asides, but any influence of environmental factors on incidental catch of whiting in other fisheries would be included in determining an appropriate set-aside value. Since 2021, the Council has recommended and NMFS has implemented a fixed 750 mt set-aside. The Council’s Groundfish Management Team, and Groundfish Advisory Panel recommended a 750 mt set aside, which was supported by the Scientific, and Statistical Committee because it is consistent with on-going scientific research activity mortality of whiting and with estimates of whiting mortality in non-groundfish fisheries based on historical catch and projected fishing activities. The Council provided its most recent recommendation of 750 mt in November 2024 for the 2025 fishing year. They considered the historical average annual catch of whiting resulting from research activity and incidental catch in non-groundfish pink-shrimp trawl fisheries. The annual average catch was 365 mt for research and 228 mt incidental catch in the pink shrimp fishery, for a total of 593 mt for 2011 through 2023. Research and incidental catch in this time period ranged from a low total of 22 mt in 2022, and a high total of 883 mt in 2021. (Council Briefing Book Agenda Item I.6, Attachment 1, November 2024.). Therefore, NMFS maintains that the recommendation of a fixed amount of 750 mt (rather than a percentage) is the most appropriate approach for determining the annual research and incidental set-aside without burdening the commercial whiting sectors.

Comment 4: The proposed rule notes that the Makah Tribe harvested about 1,082.6 mt of its 51,716 mt allocation in 2025, or roughly 2 percent. While NMFS did perform a reapportionment of unharvested Tribal whiting to non-tribal sectors in late 2025, additional explanation for why the 17.5 percent

allocation remains appropriate for 2026—despite significant historical under-harvest and non-participation by the other three Tribes—would strengthen the rationale for maintaining the same percentage.

Response: Four Washington coastal treaty Indian Tribes, the Makah Indian Tribe, the Quileute Indian Tribe, the Quinault Indian Nation, and the Hoh Indian Tribe have treaty rights to harvest groundfish in their usual and accustomed (U&A) fishing areas. In 1994, the United States formally recognized that these four Washington coastal treaty Indian tribes have treaty rights to fish for groundfish, including Pacific whiting, in the Pacific Ocean, and concluded that, in general terms, the quantification of those rights is 50 percent of the harvestable surplus of groundfish that pass through the tribes U&A fishing areas. These treaty rights are implemented by the Secretary following the procedures outlined in 50 CFR 660.50. The interim tribal allocation of 17.5 percent is not an allocation based on performance or based on catch history. The purpose of the tribal allocation is to facilitate the Tribes exercising their treaty right to harvest fish in their usual and accustomed fishing areas in U.S. waters. Reducing the Tribal allocation based on previous years' harvest would be inconsistent with the treaty rights of the four Treaty Tribes to fish in their "usual and accustomed grounds and stations" in common with non-Tribal citizens (*U.S. v. Washington*, 384 F. Supp. 313 (W.D. Wash. 1974)).

Additionally, the 17.5 percent allocation represents a collective allocation of fish for the four Washington coastal treaty Indian Tribes with U&As occurring within the geographic range of the Pacific whiting resource. NMFS supports the ability of all four Tribes to exercise their treaty fishing rights, regardless of whether they choose to do so in a specific calendar year.

Comment 5: Under 50 CFR 660.131(h), NMFS may reapportion unharvested Tribal allocation in-season based on the best available information, including Tribal harvest projections and expected non-Tribal needs. Referencing this process would clarify how NMFS evaluates whether and when reapportionment is warranted. Earlier reapportionment—prior to the September and November timeframes observed in 2025—would allow non-Tribal sectors to utilize the resource more efficiently before winter weather and salmon bycatch constraints become prohibitive.

Response: Timing of reapportionment is coordinated based on communication with Tribes engaged in fishing, requests from non-Tribal commercial sectors, and the regulatory requirement in 50 CFR 660.131(h), including that reapportionment be considered on or about September 15th of each year. Non-Tribal commercial sectors typically contact NMFS in August of each year to communicate their operational needs for the remaining fishing season, which include consideration of salmon bycatch, and quota constraints. NMFS and any participating Tribes discuss the Tribe's fishing plans for the remainder of the year, taking into consideration seasonal migration of fish into Tribal U&As, and the capacity of the Tribal fishery to harvest their remaining allocation. NMFS may reapportion a portion of the Tribal allocation that it determines will not be used by the end of the fishing. Once Tribal allocations are reapportioned to the non-Tribal sectors, the quota cannot be returned to the Tribal fishery, as such, careful consideration of the decision is made. NMFS is aware that the timing and communication of the Tribal reapportionment process is important to the planning and operations of the non-Tribal sectors and is committed to continued dialogue with both Tribal and non-Tribal stakeholders throughout the 2026 season and beyond to allow for efficient consideration of reapportionment.

Comment 6: The proposed rule concludes that the No Action alternative is inconsistent with treaty obligations and therefore receives no further consideration. Providing a more complete description of the expected environmental and socioeconomic effects of the No Action alternative would better align with NEPA requirements and improve the completeness of the environmental analysis.

Response: Expected environment and socioeconomic effects of the groundfish fishery, including the Pacific whiting fishery, are detailed in the Environmental Assessment for 2025–2026 Biennial Harvest Specifications and the 2015–16 Environmental Impact Statement for the West Coast groundfish fishery. The "No Action" discussion in the proposed rule is relative to the requirements of the Regulatory Flexibility Act, which requires agencies to consider whether any significant alternatives to the proposed rule would accomplish the stated objectives of applicable statutes, and which minimize any significant economic impact of the proposed rule on small entities. Under sections 305(d) of the MSA, and

groundfish regulations in 50 CFR 660 Subpart C, NMFS implements a Tribal allocation as a deduction off-the-top from the U.S. TAC. Once the U.S. approves the TAC recommendation, per the Pacific Whiting Act of 2006, NMFS must implement the approved TAC recommendation. Under the 'No Action' alternative NMFS would not issue a Tribal allocation, would implement the approved U.S. TAC, and allocate the U.S. Harvest Guideline to the non-Tribal commercial sectors without the off-the-top deduction to accommodate the Tribal allocation. As discussed in the proposed rule, the no action alternative would be inconsistent with Tribal treaty rights and applicable statutes and regulations.

Comment 7: Several references appear to use "2025" where "2026" is intended, particularly in the IRFA discussion of the ex-vessel value of the Tribal allocation.

Response: NMFS has noted two typos, in the economic analysis section of the proposed rule where the year "2025" was inadvertently used when "2026" was intended. These references should instead say "2026" rather than "2025" and should read as follows: "At that price, the proposed 2026 Tribal allocation (potentially 43,958.60–92,927 mt) would have an ex-vessel value between \$11.24 and \$23.77 million." and "Using the proposed Tribal allocation of 17.5 percent and the potential range of U.S. TACs for 2026 would yield a Tribal allocation of between 43,958 and 92,927 mt." These sentences pertain to the projection of potential Tribal allocations and are not updated for the final rule as the U.S. TAC has now been recommended by the JMC and resulting Tribal allocation for 2026 is known.

Comment 8: It would also be helpful to clarify whether the 17.5 percent allocation is intended to represent all four eligible Tribes or solely the Makah Tribe, given that only the Makah Tribe intends to participate in 2026. This clarification would explain how the allocation percentage is applied relative to the 1996 framework.

Response: The Tribal allocation is for all four Washington coastal treaty Indian Tribes with treaty rights to harvest groundfish, including Pacific whiting, in their U&A fishing areas. Consistent with 50 CFR 660.50(d), Tribal treaty rights for groundfish will be implemented either through an allocation or set-aside of fish that will be managed by the Tribes. Beyond providing an allocation of the whiting TAC every year, NMFS does not further direct the harvest of the Tribal whiting allocation. NMFS supports the ability of

all four Tribes to exercise their treaty fishing rights, regardless of whether they choose to do so in a specific calendar year.

Comment 9: The proposed rule explains that a 15-day comment period balances the need for public input with the need for timely implementation. Offering additional detail—such as whether this shortened period has been used in prior whiting rulemakings or whether alternative timelines were considered—would demonstrate that NMFS evaluated the tradeoffs carefully.

Response: In most prior annual whiting harvest specifications, NMFS has provided a public comment period of 15 days due to the timing of the Whiting Agreement process and the start of the commercial fishery. The Whiting Agreement process is constrained on the front end by data processing timelines for the fishery stock assessment and on the back end by the meetings of the AP, and JMC that occur in late winter. This public comment timeframe has been used to ensure the rulemaking can be implemented and the full U.S. TAC is allocated in a timely manner as close as possible to the May 1 start of the commercial whiting fishery. Additionally, due to the public nature of the TAC setting process through the JMC & AP meeting, substantial public input is solicited and provided as part of those public meetings. It would be counter to the public interest to further delay the rulemaking process as it impacts the full implementation of commercial sector allocations.

Comment 10: The rule notes that the process to establish a long-term Tribal allocation began in 2009 but has not yet been completed. Clarifying whether NMFS intends to revisit or finalize that process would reduce uncertainty for both Tribal and non-Tribal sectors. The rule would benefit from a clearer description of how NMFS determines the timing of in-season reapportionment. Understanding what information NMFS relies on, how often Tribal harvest updates are requested, and whether bycatch constraints in non-Tribal sectors are considered would improve transparency and help all sectors plan more effectively during the fishing year.

Response: NMFS acknowledges the implementation of the Tribal allocation percentage on an annual basis may create uncertainty, but it facilitates the Tribes exercising their treaty right to harvest fish in their usual and accustomed fishing areas in U.S. waters. NMFS will continue to take the necessary steps to ensure that this opportunity is available to those Tribes.

The long-term Tribal treaty amount will be based on further development of scientific information and additional coordination and discussion with and among the coastal treaty Tribes and the states of Washington and Oregon. With respect to reapportionment, please see the response to comment 5, which describes the reapportionment process.

Changes From the Proposed Rule

No substantive changes from the proposed action were made to the final action based on the relevant comments received.

Classification

This final rule is implemented under the statutory and regulatory authority of sections 305(d) of the Magnuson-Stevens Act, the Whiting Act, the regulations governing the groundfish fishery at 50 CFR 660.5 through 660.360, and other applicable laws. NMFS will implement this action pursuant to section 305(b) of the MSA and regulations 50 CFR 660.50. The regulations at 50 CFR 660.50 were implemented under a prior action taken under Section 304(b) of the MSA and authorize NMFS to take this action.

The NMFS Assistant Administrator has determined that this final rule is consistent with section 305(d) of the Magnuson-Stevens Act, the Whiting Act, the regulations governing the groundfish fishery at 50 CFR 660.5 through 660.360, and other applicable laws. Additionally, pursuant to Magnuson-Stevens Act 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). This rule will 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)).

Pursuant to Executive Order 13175, this action was developed after meaningful and timely consultation with Tribal officials from the area covered by the FMP. 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. NMFS invited consultation on this action through exchanged emails with Tribal officials leading up to the development of the rule, only the Makah Tribe indicated an intent to fish.

Pursuant to 5 U.S.C. 553(d)(3), the NMFS Assistant Administrator finds good cause to waive the 30-day delay in the date of effectiveness for this final rule. Such a delay would be contrary to the public interest because it would create significant operational limitations to the commercial whiting sectors without providing associated benefits to the regulated community or the fishery.

The Pacific whiting fishing season extends from May 1 to December 31. This year’s season began on May 1, 2026, under interim allocations (consistent with the procedures laid out at 50 CFR 660.140(d)(1)(ii)(B)(2)) based on a proxy coastwide TAC analyzed in the 2026 Pacific whiting stock assessment (see **ADDRESSES**), because this rule, establishing final allocations for 2026, had not yet been issued. This proxy coastwide TAC was 350,000 mt, which is approximately 8 percent lower than the 2026 adjusted coastwide TAC of 380,000 mt, resulting in interim allocations that are also 8 percent lower than the allocations issued in this final rule.

Delaying the effective date of the full 2026 season allocations would represent a significant operational limitation to the commercial whiting sectors, because it would decrease their flexibility and opportunity to harvest the optimal yield. This rule increases catch limits for Pacific whiting compared to the restrictive interim allocation the fishery is currently operating under, and delaying the effective date of this rule by 30 days would limit the ability of the Pacific whiting commercial sectors to realize the full level of economic opportunity the final allocations provide. In addition, if the non-Tribal commercial sectors fully harvest their interim allocations during the 30-day period before the final allocations under this rule go into effect, NMFS would be required to close the Pacific whiting fishery, which could have significant negative economic impact. At the same time, one of the general policy purposes for allowing for a 30-day delay is to give the regulated community time to adjust their practices to come into compliance. But a 30-day delay to the effective date would not achieve this policy purpose, because such a delay would provide the Pacific whiting commercial sectors with less operational flexibility, not more. There are no new compliance burdens placed on the fishing community with this rule. In addition, because the total

catch limits allocated to each sector for the 2026 season will be the same regardless of whether this rule goes into effect immediately or after 30 days, delaying the effective date of the rule would not provide any additional benefit to the long-term biological or economic sustainability of the fishery. For the foregoing reasons, requiring a 30-day delay in the effective date would be contrary to the public interest, and there is good cause to waive this requirement.

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

This final rule is exempt from the requirements of Executive Order 14192 because it is a routine fishing action.

Final Regulatory Flexibility Analysis

NMFS issued a proposed rule on March 6, 2026 (91 FR 11022) for the 2026 Pacific whiting Tribal allocation and 2026 incidental set-aside. An Initial Regulatory Flexibility Analysis (IRFA) was prepared and summarized in the Classification section of the preamble to the proposed rule. The description of this action, its purpose, and its legal basis are described in the preamble to the proposed rule and are not repeated here. A FRFA was prepared and incorporates the IRFA. There was one public comment received on the IRFA. A copy of the FRFA is available from NMFS (see **ADDRESSES**). A summary of the FRFA, per the requirements of 5 U.S.C. 604, follows.

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, 90 FR 52917, November 24, 2025; 50 CFR part 200). In addition, the SBA 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 (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 and Estimate of the Number of Small Entities to Which the Rule Applies

This 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 ten C/P endorsed permits owned by three 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 2026, all three owners of the ten 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 that are eligible to harvest Pacific whiting. 120 of these permits are annually allocated whiting quota pounds based on catch history. There are an additional 38 eligible permits/accounts eligible to harvest whiting that are not allocated whiting quota, but are permitted to buy or trade whiting quota pounds. The Shorebased IFQ sector also includes 39 licensed first receiver sites, of which 7 companies receive and process whiting. Of these companies that receive whiting, six are not considered small entities, we estimate one would be considered a small entity.

Vessels participating in the Shorebased IFQ program may also participate in the MS Co-op Program, which 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 six MS processor permits and a catcher vessel fleet currently composed of a single co-op with 33 Mothership/Catcher Vessel endorsed permits (with three permits each having two catch history assignments). For 2026, eight permits in the MS Co-op reported that they are not small businesses, NMFS estimates the remaining 25 permits to be considered small entities.

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 regulations, 86 of which are considered small entities.

Description of the Projected Reporting, Recordkeeping and Other Compliance Requirements of the Rule, Including an Estimate of the Classes of Small Entities Which Will Be Subject to the Requirement and the Type of Professional Skills Necessary for Preparation of the Report or Record

This final rule contains no recordkeeping or information collection requirements.

Explanation of the Criteria Used To Evaluate Whether the Rule Would Impose Effects on “A Substantial Number” of Small Entities

The criteria are described above. NMFS estimates that there are 100 non-Tribal entities directly affected by these regulations, 86 of which are considered small entities. This is considered a significant number of small entities. This rule is not expected to result in adverse impacts on small entities, as detailed in the following sections of this FRFA.

Explanation of the Criteria Used To Evaluate Whether the Rule Would Impose “Significant” Economic Effects

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.

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.

Estimate of Economic Impacts by Entity Size and Industry

Impacts to the U.S. non-Tribal fishery are measured with an estimate of ex-vessel revenue. Ex-vessel revenue is calculated by multiplying annual landings of Pacific whiting in metric tons by the average ex-vessel price of whiting. 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 is subsequent attainment of sector allocations, and ex-vessel revenues. For the years 2015 to 2025, the U.S. non-Tribal commercial fishery sectors averaged harvests of approximately 262,861.33 mt, and revenues of \$51.39 million annually. The 2025 average ex-vessel price of Pacific whiting was \$256 per mt. The 2025 U.S. non-Tribal commercial fishery sectors attained a Pacific whiting catch of approximately 238,435.10 mt out of a U.S. TAC of 295,520 mt (80.9 percent attainment), resulting in a total ex-vessel revenue of \$61.04 million.

To estimate the ex-vessel revenue resulting from the 2026 TAC of Pacific whiting, the recommended U.S. TAC is multiplied the most recent ex-vessel price per mt of Pacific whiting, and a range of potential harvests attainment percentages based on average landings for the previous 10 years.

The adjusted coastwide TAC of 380,000 mt results in an adjusted U.S. TAC of 280,744 mt and, after deduction of the Tribal allocation and the incidental catch set-aside, a U.S. non-Tribal HG of 230,863.80 mt. Using the 2025 weighted-average non-Tribal price of \$256 per metric ton, the 2026 adjusted U.S. TAC is estimated to result in an ex-vessel revenue of \$53.37 million for the U.S. non-Tribal fishing fleet if 100 percent harvested. However, due to operational constraints, the U.S. commercial sectors attained approximately 50 percent and 80 percent of the non-Tribal HG in 2024 and 2025. At this attainment range the 2026 U.S. non-Tribal HG which would result in an estimated total ex-vessel revenue of \$29.55 to \$47.28 million for entities participating in the Shorebased sector, C/P co-op, and MS co-op. 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 \$256 per mt. At that price, the 2026 Tribal allocation of 49,130.20 mt would potentially have an ex-vessel value of \$12.57 million if fully harvested. Tribal catch is highly variable and dependent on the presence of Pacific whiting migrating within the boundaries of Tribal U&A. In recent years, Tribal catch within the Makah U&A has been constrained by low presence of whiting in the area. From 2024–2025, Tribal catch ranged from 1,541 mt to 526 mt which would range in value from \$394,496 to \$134,656 in revenue using 2025 ex-vessel price of \$256 per mt.

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. For example, in 2025 NMFS reapportioned 41,750 mt of the original 51,716 mt Tribal allocation (Bulletin: Reapportionment of Tribal Pacific Whiting Allocation for 2025, September 23, 2025; Bulletin: Second Reapportionment of Tribal Pacific Whiting Allocation for 2025, November 19, 2025). The revised Pacific whiting allocations for 2025 following the reapportionment were: Tribal 10,000 mt, C/P Co-op 96,821.80 mt; MS Co-op 68,344.80 mt; and Shorebased IFQ Program 119,603.40 mt. 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.

Regulatory Flexibility Act Determination of No Significant Impact

Based on the above analysis this rule would not have a significant economic impact on small entities. This rule is similar to previous rulemakings concerning Pacific whiting. This rule 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. The JMC TAC recommendation and resulting Pacific whiting allocations to the non-Tribal sectors are expected to 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. NMFS

finds that this rule will not adversely affect small entities.

Summary of the Significant Issues Raised by the Public in Response to the IRFA, a Summary of the Agency's Assessment of Such Issues, and a Statement of Any Changes Made in the Final Rule as a Result of Such Comments

NMFS issued a proposed rule on March 6, 2026 (91 FR 11022). The comment period on the proposed rule closed March 23, 2026. NMFS received one comment on the IRFA and made the corresponding corrections to the FRFA, as described above under Comment 7.

No changes from the proposed action are being considered in the final action.

Description of Any Significant Alternatives to the Proposed Rule That Accomplish the Stated Objectives of Applicable Statutes and That Minimize Any Significant Economic Impact of the Proposed Rule on Small Entities

For the Pacific whiting Tribal allocation, and set-asides 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 Tribal allocation of 17.5 percent and the recommended U.S. TACs of 280,744.00 mt for 2026 would yield a Tribal allocation of 49,130.20. 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 set-asides 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 set-asides of the US 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 set-asides received no further consideration.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule and shall designate such publications as "small entity compliance guides." The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. Stakeholders subscribed to the Groundfish and Whiting listservs will be sent a public notice providing links to the final rule and the small entity compliance guide available from NMFS at the following website: <https://www.fisheries.noaa.gov/>

west-coast/sustainable-fisheries/compliance-guides-west-coast-groundfish. Stakeholders will receive the notice without any further action on their end.

Reporting and Recordkeeping Requirements

This final rule contains no recordkeeping or information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Relevant Federal Rules That May Duplicate, Overlap, or Conflict With the Action

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

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Indian Fisheries.

Dated: May 5, 2026.

Samuel D. Rauch III,

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

For the reasons set out in the preamble, NMFS amends 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 49,130.20 mt, which is 17.5 percent of the 280,744 mt U.S. TAC.

* * * * *

■ 3. Amend table 2a to part 660, subpart C, 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

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

Species/stock	Area	OFL	ABC	ACL ^a	Fishery HG ^b
Pacific Whiting ^d	Coastwide	559,334 (d)	(d)	(d)	230,863.80

^dPacific hake/whiting. The 2026 OFL of 559,334 mt is based on the 2026 assessment with the F-40 proxy fishing rate that would reduce spawning biomass to 40 percent of estimated unfished levels. The 2026 coastwide adjusted Total Allowable Catch (TAC) is 380,000 mt. The U.S. TAC is 73.88 percent of the coastwide TAC. The 2026 adjusted U.S. TAC is 280,744 mt. From the U.S. TAC, 49,130.20 mt is deducted to accommodate the Tribal fishery, and 750 mt is deducted to accommodate research and bycatch in other fisheries, resulting in a 2026 non-Tribal fishery HG of 230,863.80 mt. The TAC for Pacific whiting is established under the provisions of the Agreement between the Government of the United States of America and the Government of Canada on Pacific Hake/Whiting of 2003 and the Pacific Whiting Act of 2006, 16 U.S.C. 7001-7010, and the international exception applies. Therefore, no ABC or ACL values are provided for Pacific whiting.

* * * * * ■ 4. Amend table 2b to part 660, subpart C, by revising the entry for “Pacific Whiting” to read as follows: **Table 2b to Part 660, Subpart C—2026, and Beyond, Allocations by Species or Species Group**

TABLE 2b TO PART 660, SUBPART C—2026, AND BEYOND, ALLOCATIONS BY SPECIES OR SPECIES GROUP

Species/stock & complexes	Area	Fishery HG or ACT	Trawl		Non-Trawl	
			%	mt	%	mt
Pacific whiting	Coastwide	230,863.80	100	230,863.80	0	0

■ 5. In § 660.140, amend table 1 to paragraph (d)(1)(ii)(D) by revising the entry for “Pacific Whiting” to read as follows: **§ 660.140 Shorebased IFQ Program.** (ii) * * * (D) * * * (d) * * * (1) * * *

TABLE 1 TO PARAGRAPH (d)(1)(ii)(D)—SHOREBASED TRAWL ALLOCATIONS FOR 2025 AND 2026

IFQ species	Area	2025 Shorebased trawl allocation (mt)	2026 Shorebased trawl allocation (mt)
Pacific whiting ^a	Coastwide	102,082.68	96,962.80

^aManaged through an annual international process. These allocations will be updated when announced.