

§ 1.355–9, under which the “Five-Year-Active-Business Asset Percentage” (as defined in proposed § 1.355–9(a)(6)) of each of the distributing corporation and the controlled corporation would be required to be at least five percent. Under the minimum active trade or business anti-abuse rule, a transaction or series of transactions would not have been given effect if undertaken with a principal purpose of affecting the Five-Year-Active-Business Asset Percentage of any corporation to avoid a determination that a distribution does not meet the minimum active trade or business requirement in proposed § 1.355–9.

The device anti-abuse rules and the minimum active trade or business anti-abuse rule generally would not have applied to (i) non-transitory acquisitions or dispositions of assets, or (ii) non-transitory transfers of assets between the distributing corporation and the controlled corporation.

The Treasury Department and the IRS received feedback from stakeholders that generally was critical of the proposed “per se” device rule and the two anti-abuse rules. In response to the feedback received, the Treasury Department and the IRS are withdrawing proposed §§ 1.355–2(d)(2)(iv)(E) and (d)(5) and 1.355–9(d). The withdrawal of these proposed rules does not affect the potential application of other rules or judicial doctrines, such as the substance-over-form or step-transaction doctrines. The Treasury Department and the IRS continue to study the issues addressed in the 2016 proposed regulations.

Drafting Information

The principal author of this document is Aglaia Ovtchinnikova of the Office of Associate Chief Counsel (Corporate). However, other personnel from the Treasury Department and the IRS participated in its development.

List of Subjects in 26 CFR Part 1

Income Taxes, Reporting and recordkeeping requirements.

Partial Withdrawal of Proposed Amendments to the Regulations

Under the authority of 26 U.S.C. 7805, proposed §§ 1.355–2(d)(2)(iv)(E) and (d)(5) and 1.355–9(d), contained in the notice of proposed rulemaking (REG–134016–15) that was published in the **Federal Register** on July 15, 2016 (81 FR 46004), are withdrawn.

Frank J. Bisignano,
Chief Executive Officer.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 261015–0010]

RIN 0648–BO22

Fisheries of the Exclusive Economic Zone Off Alaska; Modify Groundfish Season Timing in the Bering Sea and Aleutian Islands and Gulf of Alaska Groundfish Fisheries

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes two technical revisions to regulations for the opening and closing times of groundfish fisheries in the Bering Sea and Aleutian Islands (BSAI) and Gulf of Alaska (GOA) management areas. First, this proposed rule would authorize NMFS to determine the opening and closing times for the sablefish Individual Fishing Quota (IFQ) and Community Development Quota (CDQ) fishing season, taking into consideration the halibut IFQ/CDQ season set by the International Pacific Halibut Commission (IPHC). Second, this proposed rule would allow NMFS flexibility to change the time of day for closing a groundfish fishery. This proposed rule is necessary to minimize regulatory discards, reduce uncertainty for fishery participants, and enable fuller utilization and more precise limitation of allowable harvest. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the Fishery Management Plan for the Groundfish of the BSAI Management Area (BSAI FMP) and the Fishery Management Plan for the Groundfish Fisheries of the GOA (GOA FMP), and other applicable laws.

DATES: Submit comments on or before November 20, 2026.

ADDRESSES: A plain language summary of this proposed rule is available at <https://www.regulations.gov/docket/NOAA-NMFS-2026-1948>. You may submit comments on this document, identified by NOAA–NMFS–2026–1948, by either of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Visit <https://www.regulations.gov> and type

NOAA–NMFS–2026–1948 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

- **Mail:** Submit written comments to Gretchen Harrington, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

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.

Electronic copies of the draft Regulatory Impact Review (referred to as the “Analysis”) and Categorical Exclusion (CE) prepared for this action are available from <https://www.regulations.gov> with a search for 0648–BO22 or from the NMFS Rules and Regulation website at <https://www.fisheries.noaa.gov/rules-and-regulations/fisheries>.

FOR FURTHER INFORMATION CONTACT:
 Molly Zaleski, 907–586–7228,
molly.zaleski@noaa.gov.

SUPPLEMENTARY INFORMATION:

Authority for Action

NMFS manages the groundfish fisheries in the Exclusive Economic Zone (EEZ) under the BSAI FMP and GOA FMP. The North Pacific Fishery Management Council (Council) prepared and recommended these FMPs under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.* Regulations governing U.S. fisheries and implementing the BSAI and GOA FMPs appear at 50 CFR parts 600 and 679. This action is necessary to effectively carry out section 3.5.1 (Fishing Seasons) of both the BSAI FMP and GOA FMP, which defines when harvesting groundfish is permitted. That section of both FMPs states that the Secretary of Commerce will establish all fishing seasons by regulations that implement the FMPs to accomplish the goals and objectives of the FMPs, the Magnuson-Stevens Act, and other applicable laws.

Background

Section 3.5.1 (Fishing Seasons) of the BSAI and GOA FMPs defines the

periods when harvesting groundfish is permitted, the criteria the Council uses for recommending regulatory changes to fishing seasons, and the responsibility of the Secretary of Commerce for establishing fishing season by regulations to accomplish the goals and objectives of the FMPs. Groundfish seasons are specified at 50 CFR 679.23 and the authority to implement fishery closures is specified at § 679.20(d). A more detailed description of the background information and need for this proposed rule is provided in the Analysis prepared for this action (see ADDRESSES).

Sablefish and Halibut IFQ/CDQ Season Timing

Pacific halibut and sablefish fisheries off Alaska are managed under different statutory authorities, but harvest for both species often occurs at the same time. Pacific halibut fisheries in and off Alaska are managed under the authority of the Northern Pacific Halibut Act of 1982 (Halibut Act), which domestically implements an international agreement between the United States and Canada with annual allocations to each country set by the IPHC. The IPHC annually recommends management regulations that are subject to approval by the Secretary of State with the concurrence of the Secretary of Commerce, and NMFS then publishes the management measures as regulations on behalf of the IPHC. In contrast, sablefish fisheries in the EEZ off Alaska are managed under the authority of the Magnuson-Stevens Act. Although implemented under different authorities, the directed fixed gear commercial sablefish and halibut fisheries in Alaska are managed under the Halibut and Sablefish IFQ Program and the CDQ Program codified at 50 CFR part 679. Because many fishery participants hold halibut IFQ and sablefish IFQ and fish both simultaneously, they have benefited from aligned season timing.

Historically, the IPHC has set the time of day for the opening and closing of the halibut commercial fishing period as 1200 hours, Alaska local time (A.l.t.), which aligned with the time for the groundfish openings and closures, which includes the sablefish IFQ/CDQ fishing season, that is set in regulation. However, in 2024 the IPHC changed the opening of the halibut season to 0600 hours, A.l.t., and closing to 2359 hours, A.l.t., in response to requests from fishery participants (89 FR 19275, 18 March 2024). While the Regional Administrator, Alaska Region, NMFS (Regional Administrator) can set the sablefish IFQ/CDQ fishing season dates to align with the commercial halibut

IFQ/CDQ fishery for the purposes of reducing bycatch and regulatory discards between the two fisheries (§ 679.23(g)), current regulations direct that the opening and closing time for groundfish, including sablefish, must be 1200 hours, A.l.t. (§ 679.23(b)).

Vessel operators targeting halibut are frequently also targeting and catching sablefish as recognized in the language of § 679.23(g), such that the two fisheries can benefit from shared opening and closing times. A mismatch in opening and closing times for the sablefish and halibut IFQ/CDQ fisheries can lead to an increase in sablefish discards. Under current regulation at § 679.20(e), sablefish that are caught in the halibut fishery before 1200 hours, A.l.t., of the opening day or after 1200 hours, A.l.t., of the closing day cannot be retained over the maximum retainable amount (MRA) because they are counted as incidental catch. This requires sablefish and halibut IFQ/CDQ harvesters to either delay setting gear for halibut or discard sablefish caught in excess of the MRA for the first 6 hours of the halibut season and the last 12 hours of the halibut season.

Groundfish Closure Timing

Current regulations require the time for all openings and closures of groundfish fishing seasons, other than the beginning and end of the calendar fishing year, be set at 1200 hours, A.l.t. (§ 679.23(b)). If the Regional Administrator determines that a groundfish fishery opening or closure is warranted under § 679.20(d), NMFS announces the opening or closure in the **Federal Register**. Although NMFS specifies the time of these openings and closures, currently § 679.23(b) requires that the time specified always be 1200 hours, A.l.t. The fixed time of 1200 hours, A.l.t., sometimes results in NMFS closing a fishery under § 679.20(d) before the total allowable catch (TAC) is fully harvested. For example, if NMFS determines that the fishing fleet is catching 500 metric tons (mt) of groundfish every 24 hours and there is 750 mt remaining, NMFS must close the fishery at 1200 hours, A.l.t., the day before the TAC is reached, resulting in a 250 mt underage of TAC. Under this same scenario, given more flexibility on the closing time than is currently permitted, NMFS could close the fishery at 2400 hours, A.l.t., which would allow for more of the remaining 250 mt of groundfish to be harvested and could allow the TAC to be fully utilized while still avoiding a TAC overage.

Need for This Action

Current regulations at § 679.23(b) do not provide flexibility for NMFS to determine the best time of day to open or close a groundfish fishery.

In April 2025, the Council requested that NMFS revise regulations to allow NMFS to align the sablefish IFQ/CDQ season timing with the fishing period the IPHC sets for the commercial halibut IFQ/CDQ fishery. This action would minimize regulatory discards, improve harvest efficiency, and reduce uncertainty for fishery participants. Giving NMFS the flexibility to align the opening and closing times for sablefish and halibut IFQ/CDQ fishing seasons will ensure that sablefish IFQ/CDQ holders do not need to discard sablefish for the first 6 hours or the last 12 hours of the halibut IFQ/CDQ fishing season. In addition, should the IPHC revise the opening and closing time for the commercial halibut IFQ/CDQ fishery in the future, NMFS would have the ability to follow suit.

In October 2025, the Council expressed support for NMFS to modify the groundfish fishery closure timing to allow NMFS the flexibility to close the fishery at a different time if necessary for harvest to be closer to the TAC. This action would allow the Regional Administrator to close a groundfish fishery at a different time of the day, giving NMFS more flexibility and potentially allowing groundfish TACs to be more fully utilized and to avoid TAC overages. This would result in greater precision of management of some groundfish fisheries and reduce the probability of falling short of the TAC for the groundfish fleets. By allowing NMFS to specify the appropriate closure time instead of defaulting to 1200 hours, A.l.t., vessel operators may have additional opportunity to harvest and maximize the catch of valuable groundfish due to additional fishing hours. In addition, NMFS would have more flexibility in setting a closure time that ensures a TAC is not exceeded.

Proposed Rule

Through this action, NMFS is proposing to do the following: (1) modify regulations to allow the Regional Administrator to determine the opening and closing times of the sablefish IFQ/CDQ season based on dates and times for the halibut season, and (2) modify regulations to allow the Regional Administrator the flexibility to set the time of day for a groundfish closure when NMFS takes an inseason management action under § 679.20(d).

Sablefish IFQ/CDQ Season Timing

The first revision to address sablefish season timing alignment would apply exclusively to vessel operators fishing for sablefish under the IFQ and CDQ Programs with fixed gear in the BSAI and GOA management areas and would authorize the Regional Administrator to determine the opening and closing times for the sablefish IFQ/CDQ fishing season, taking into consideration the halibut IFQ/CDQ season set by the IPHC. To accomplish this, the proposed rule would revise § 679.23(g)(1) to allow the Regional Administrator to set the season opening and closing times by amending to state “opening and closing dates and times for sablefish” where originally the Regional Administrator only determined the opening date for sablefish. An exception from the 1200 hours, A.l.t., for sablefish IFQ/CDQ opening and closing time would also be added by new § 679.23(b)(1) because currently § 679.23(b) sets the opening and closing time of groundfish fisheries at 1200 hours, A.l.t., and sablefish is a groundfish (Table 2a to 50 CFR part 679.2).

Groundfish Season Closures

The second revision would allow NMFS flexibility in inseason closures to specify the time of day for closing groundfish fisheries, which is currently set at 1200 hours, A.l.t., and these inseason closures would apply to all vessel operators fishing groundfish in the BSAI and GOA management areas. To accomplish this, the proposed rule would add § 679.23(b)(2) to provide that the time of all groundfish closures of fishing seasons is 1200 hours, A.l.t., unless NMFS establishes a different fishery closure time in an action taken under § 679.20(d). Actions that NMFS may take under § 679.20(d), where NMFS may set a different time than 1200 hours A.l.t., include: (1) prohibiting directed fishing when a directed fishing allowance has been or will be reached (§ 679.20(d)(1)(iii)), (2) modifying any applicable side board limit once the sideboard directed fishing allowance is or will be reached (§ 679.20(d)(1)(iv), (v)), and (3) requiring that a groundfish species be treated in the same manner as prohibited species catch to avoid exceeding a TAC (*i.e.*, no retention allowed) (§ 679.20(d)(2)). The Regional Administrator may also establish area closures under § 679.25; however, these provisions are rarely used and there is no projected benefit to giving NMFS flexibility to set § 679.25 closures at a time other than 1200 hours, A.l.t. Therefore, NMFS is proposing

limiting this change to inseason actions taken under § 679.20(d) only.

Classification

NMFS is proposing this rule pursuant to section 305(d) of the Magnuson-Stevens Act. This action is taken to effectively set season opening and closing timing pursuant to section 3.5.1 of both the BSAI and GOA FMPs. The NMFS Assistant Administrator has determined that this proposed rule is consistent with the BSAI and GOA FMPs and is consistent with other applicable law, subject to further consideration after public comment.

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

Certification Under the Regulatory Flexibility Act

The Senior Lead Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. NMFS requests comments on this certification for this proposed rule. The factual basis for this determination is as follows.

This proposed rule would minimize regulatory burden on vessel operators that participate in the sablefish IFQ/CDQ fisheries and allow for increased predictability of season timing. This proposed action would also allow groundfish closures based on inseason management actions that could reduce the probability of entities either exceeding or falling short of the TAC. As a result, this proposed action would not have any adverse economic impacts on the small directly regulated entities, and the beneficial economic impact would likely be modest and not significant.

In the BSAI area, there were 92 individual catcher vessels (CVs) and 1 catcher/processor (C/P) with gross revenues less than or equal to \$11 million, based on the most recent year of data (2024). The six CDQ groups are also considered small entities. This represents the potential suite of directly regulated small entities. The determination of entity size is based on vessel revenues and affiliated group revenues. This determination also includes an assessment of fisheries cooperative affiliations, although actual vessel ownership affiliations have not been completely established. However, the estimate of these 93 vessels may be an overstatement of the number of small entities because of the complexity of analyzing the links and affiliations

across these vessels, particularly since many of them conduct operations in both Federal and State fisheries. There are 3 American Fisheries Act (AFA) cooperative affiliated motherhips that appear to fall under the 750 worker threshold and are therefore small entities.

In the GOA area, there were 602 individual CV and C/P entities with gross revenues less than or equal to \$11 million, based on the most recent year of complete data (2024). This includes an estimated 601 small CV entities and one small C/P entity in the GOA groundfish sector. The determination of entity size is based on vessel revenues and affiliated group revenues. This determination also includes an assessment of fisheries cooperative affiliations, although actual vessel ownership affiliations have not been completely established. However, the estimate of these 602 CVs and C/Ps may be an overstatement of the number of small entities because of the complexity of analyzing the links and affiliations across these vessels, particularly since many of them conduct operations in both Federal and State fisheries.

For the reasons described above, this action is expected to be beneficial by reducing regulatory discards and uncertainty for sablefish IFQ/CDQ harvesters and reducing the probability of falling short of the TAC for the groundfish fleets. This action is administrative and will not negatively impact the amount or location of harvest under any of the fishery management programs affected by this action. Total economic impacts are not expected to be significant as it will simplify and clarify regulations on the time of the day that sablefish seasons may open and close and the time of day that groundfish seasons may close, allowing more predictability for sablefish IFQ/CDQ harvesters and more efficient utilization of TAC for actions under § 679.20(d).

This proposed action, therefore, is not expected to have a significant economic impact on a substantial number of small entities. As a result, an initial regulatory flexibility analysis is not required, and none has been prepared.

Paperwork Reduction Act Statement

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

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: October 19, 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 679 as follows:

**PART 679—FISHERIES OF THE
EXCLUSIVE ECONOMIC ZONE OFF
ALASKA**

■ 1. The authority citation for part 679
continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*; 1801 *et
seq.*; 3631 *et seq.*; Pub. L. 108–447; Pub. L.
111–281.

■ 2. Amend § 679.23 by adding
paragraphs (b)(1) and (2) and by revising
paragraph (g)(1) to read as follows:

§ 679.23 Seasons.
* * * * *
(b) *Time of groundfish openings and
closures.* The time of all openings and
closures of fishing seasons, other than
the beginning and end of the calendar
fishing year, is 1200 hours, A.l.t., except
as provided in paragraphs (b)(1) and (2)
of this section.
(1) Sablefish openings and closures
under paragraph (g) of this section.
(2) NMFS establishes a different
fishery closure time in an action taken
under § 679.20(d).
* * * * *

(g) * * *
(1) Directed fishing for sablefish using
fixed gear in any IFQ regulatory area
may be conducted in any fishing year
during the period specified by the
Regional Administrator and announced
by publication in the **Federal Register**.
The Regional Administrator will take
into account the opening and closing
dates and times of the halibut season
when determining the opening and
closing dates and times for sablefish for
the purposes of reducing bycatch and
regulatory discards between the two
fisheries.
* * * * *
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