



Length measured in a straight line, passing over the pectoral fin from the tip of the lower jaw with the mouth closed, to the extreme end of the middle of the tail

Figure 2. Minimum commercial size.

Classification

IPHC Regulations

These IPHC annual management measures are a product of an agreement between the United States and Canada and are published in the **Federal Register** to provide notice of their effectiveness and content. Pursuant to Section 4 of the Northern Pacific Halibut Act of 1982, 16 U.S.C. 773b, the Secretary of State, with the concurrence of the Secretary of Commerce, may “accept or reject” but not modify these recommendations of the IPHC. These regulations become effective upon that acceptance. The notice-and-comment and delay-in-effectiveness date provisions of the Administrative Procedure Act (APA), 5 U.S.C. 553(b) and (d), are inapplicable to IPHC management measures because these regulations involves a foreign affairs function of the United States, 5 U.S.C. 553(a)(1). As stated above, the Secretary of State has no discretion to modify the recommendations of the IPHC. The additional time necessary to comply with the notice-and-comment and delay-in-effectiveness requirements of the APA would disrupt coordinated international conservation and management of the halibut fishery pursuant to the Convention and the Northern Pacific Halibut Act of 1982. The publication of these regulations in

the **Federal Register** provide the affected public with notice that the IPHC management measures are in effect. Furthermore, no other law requires prior notice and public comment for this rule. Because prior notice and an opportunity for public comment are not required to be provided for these portions of this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are not applicable. Accordingly, no Regulatory Flexibility Analysis is required for this portion of the rule and none has been prepared. This final rule has been determined to be not significant for the purposes of Executive Order 12866.

Authority: 16 U.S.C. 773 *et seq.*

Dated: March 3, 2021.

Samuel D. Rauch, III,

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

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 191125-0090; RTID 0648-XA895]

Atlantic Highly Migratory Species; Commercial Aggregated Large Coastal Sharks and Hammerhead Sharks in the Western Gulf of Mexico Sub-Region; Closure

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is closing the commercial fishery for the aggregated large coastal sharks (LCS) and hammerhead shark management groups in the western Gulf of Mexico sub-region. This action is necessary because the commercial landings of sharks in the aggregated LCS management group in the western Gulf of Mexico sub-region for the 2021 fishing season have reached 80 percent of the available commercial quota, and the aggregated LCS and hammerhead shark management groups quotas are linked under the regulations. This closure will affect anyone

commercially fishing for sharks in the western Gulf of Mexico sub-region.

DATES: The commercial fishery for the aggregated LCS and hammerhead shark management groups in the western Gulf of Mexico sub-region are closed effective 11:30 p.m. local time March 8, 2021, until the end of the 2021 fishing season on December 31, 2021, or until and if NMFS announces via a notice in the **Federal Register** that additional quota is available and the season is reopened.

FOR FURTHER INFORMATION CONTACT:

Lauren Latchford, lauren.latchford@noaa.gov, and Derek Kraft derek.kraft@noaa.gov at 301-427-8503; fax 301-713-1917.

SUPPLEMENTARY INFORMATION: The Atlantic shark fisheries are managed under the 2006 Consolidated Atlantic Highly Migratory Species (HMS) Fishery Management Plan (FMP), its amendments, and implementing regulations (50 CFR part 635) issued under authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*).

Under § 635.5(b)(1), dealers must electronically submit reports on sharks that are first received from a vessel on a weekly basis through a NMFS-approved electronic reporting system. Reports must be received by no later than midnight, local time, of the first Tuesday following the end of the reporting week unless the dealer is otherwise notified by NMFS. Under § 635.28(b)(4), the quotas of certain species and/or management groups are linked. If quotas are linked, when the specified quota threshold for one management group or species is reached and that management group or species is closed, the linked management group or species closes at the same time (§ 635.28(b)(3)). The quotas for the aggregated LCS and hammerhead shark management groups in the western Gulf of Mexico sub-region are linked (§ 635.28(b)(4)(iii)).

Under § 635.28(b)(3), when NMFS calculates that the landings for any linked species and/or management group have reached or are projected to reach a threshold of 80 percent of the available quota, and are projected to reach 100 percent of the relevant quota by the end of the fishing season, NMFS will file for publication with the Office of the Federal Register a notice of an overall, regional, and/or sub-regional closure, as applicable, for the linked species and/or management groups that will be effective no fewer than 4 days from date of filing for public inspection. From the effective date and time of the

closure until and if NMFS announces, via a notice in the **Federal Register**, that additional quota is available and the season is reopened, the fisheries for all linked species and/or management groups are closed, even across fishing years.

On December 1, 2020 (85 FR 77007), NMFS announced that for 2021, the commercial western Gulf of Mexico aggregated LCS sub-regional quota was 72.0 metric tons (mt) dressed weight (dw) (158,724 pounds (lb) dw) and the western Gulf of Mexico hammerhead sharks sub-regional quota was 11.9 mt dw (26,301 lb dw). Dealer reports received through March 3, indicate that 81 percent (58.2 mt dw) of the available western Gulf of Mexico aggregated LCS management group sub-regional quota has been landed and that less than 6 percent (<1.0 mt dw) of the available western Gulf of Mexico hammerhead sharks sub-regional quota has been landed. Dealer reports, however also indicate that daily landing rates of aggregated LCS in the sub-region are increasing. Based on these dealer reports, the western Gulf of Mexico aggregated LCS management group sub-regional quota has exceeded 80 percent of the available quota on March 3, 2021. Thus, closure of the commercial western Gulf of Mexico aggregated LCS fishery is warranted at this time under the regulations. While the western Gulf of Mexico hammerhead shark sub-regional quota has reached less than 6 percent of the available quota, it is linked to the aggregated LCS fishery, and therefore, under the regulations closes when the aggregated LCS management group in the western Gulf of Mexico sub-region closes. Accordingly, NMFS is closing the commercial aggregated LCS and hammerhead shark management groups in the western Gulf of Mexico sub-region as of 11:30 p.m. local time March 8, 2021.

All other shark species or management groups in the western Gulf of Mexico sub-region that are currently open remain open at this time, including the commercial blacktip sharks, non-blacknose small coastal sharks, blue sharks, smoothhound sharks, and pelagic sharks other than porbeagle or blue sharks.

The boundary between the Gulf of Mexico region and the Atlantic region is defined at § 635.27(b)(1) as a line beginning on the East Coast of Florida at the mainland at 25°20.4' N lat, proceeding due east. Any water and land to the south and west of that boundary is considered for the purposes of monitoring and setting quotas, to be within the Gulf of Mexico region. The boundary between the western and

eastern Gulf of Mexico sub-regions is drawn along 88°00' W long (§ 635.27(b)(1)(ii)). Persons fishing aboard vessels issued a commercial shark limited access permit (LAP) under § 635.4 may still retain sharks in the aggregated LCS and/or hammerhead shark management groups in the eastern Gulf of Mexico sub-region (east of 88°00' W long).

During the closure, retention of sharks in the aggregated LCS and/or hammerhead shark management groups in the western Gulf of Mexico sub-region is prohibited for persons fishing aboard vessels issued a commercial shark LAP under § 635.4. However, persons aboard a commercially permitted vessel that is also properly permitted to operate as a charter vessel or headboat for HMS, has a shark endorsement, and is engaged in a for-hire trip could fish under the recreational retention limits for sharks and “no sale” provisions (§ 635.22 (c)). Persons aboard a commercially permitted vessel that possesses a valid shark research permit under § 635.32 may continue to harvest and sell aggregated LCS and/or hammerhead sharks in the western Gulf of Mexico sub-region pursuant to the terms and conditions of the shark research permit, if a NMFS-approved observer is onboard and the shark research fishery, as applicable, is open.

During this closure, a shark dealer issued a permit pursuant to § 635.4 may not purchase or receive aggregated LCS and/or hammerhead sharks in the western Gulf of Mexico sub-region from a vessel issued an Atlantic shark LAP, except that a permitted shark dealer or processor may possess aggregated LCS and/or hammerhead sharks in the western Gulf of Mexico sub-region that were harvested, off-loaded, and sold, traded, or bartered prior to the effective date of the closure and were held in storage consistent with § 635.28(b)(6). Additionally, a permitted shark dealer may possess aggregated LCS and/or hammerhead sharks in the western Gulf of Mexico sub-region that were harvested by a vessel issued a valid shark research fishery permit per § 635.32 with a NMFS-approved observer onboard during the trip the sharks were taken on as long as the LCS research fishery quota remains open. Similarly, a shark dealer issued a permit pursuant to § 635.4 may, in accordance with relevant State regulations, purchase or receive aggregated LCS and/or hammerhead sharks in the western Gulf of Mexico sub-region if the sharks were harvested, off-loaded, and sold, traded, or bartered from a vessel that fishes only in State waters and that has

not been issued an Atlantic Shark LAP, HMS Angling permit, or HMS Charter/Headboat permit pursuant to § 635.4.

Classification

Pursuant to 5 U.S.C. 553(b)(B), the Assistant Administrator for Fisheries, NOAA (AA), finds that providing prior notice and public comment for this action is impracticable and contrary to the public interest because the fishery is currently underway and any delay in this action would result in overharvest of the quotas for these species and management groups and thus would be inconsistent with fishery management requirements and objectives. The regulations implementing the 2006 Consolidated HMS FMP and amendments provide for inseason retention limit adjustments and fishery closures to respond to the unpredictable nature of availability on the fishing grounds, the migratory nature of the species, and regional variations. NMFS is not able to give notice sooner nor would sooner notice be practicable given the structure of the regulations, which close the fisheries under specified regulatory criteria or thresholds. Furthermore, closures need to be based on near real-time data to balance fishing opportunities against the management goal of preventing quota overharvests. Similarly, affording prior notice and opportunity for public comment on this action is contrary to the public interest because if a quota is exceeded, the stock may be negatively affected and fishermen ultimately could experience reductions in the available quota and a lack of fishing opportunities in future seasons. For these reasons, the AA also finds good cause to waive the 30-day delay in effective date pursuant to 5 U.S.C. 553(d)(3). This action is required under § 635.28(b)(3) and § 635.28(b)(4) and is exempt from review under Executive Order 12866.

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

Dated: March 4, 2021.

Jennifer M. Wallace,

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

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 210210-0018 and 210217-0141]

RTID 0648-XA883

Fisheries of the Exclusive Economic Zone Off Alaska; Sablefish Managed Under the Individual Fishing Quota Program

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

ACTION: Temporary rule; opening.

SUMMARY: NMFS is opening directed fishing for sablefish with fixed gear managed under the Individual Fishing Quota (IFQ) Program and the Community Development Quota (CDQ) Program. The season will open 1200 hours, Alaska local time (A.l.t.), March 6, 2021, and will close 1200 hours, A.l.t., December 7, 2021. This period is the same as the 2021 commercial halibut fishery opening dates adopted by the International Pacific Halibut Commission. The IFQ and CDQ halibut season is specified by a separate publication in the **Federal Register** of annual management measures.

DATES: Effective 1200 hours, A.l.t., March 6, 2021, until 1200 hours, A.l.t., December 7, 2021.

FOR FURTHER INFORMATION CONTACT: Allyson Olds, 907-586-7228.

SUPPLEMENTARY INFORMATION: Beginning in 1995, fishing for Pacific halibut and sablefish with fixed gear in the IFQ regulatory areas defined in 50 CFR 679.2 has been managed under the IFQ Program. The IFQ Program is a regulatory regime designed to promote the conservation and management of these fisheries and to further the objectives of the Magnuson-Stevens Fishery Conservation and Management Act and the Northern Pacific Halibut Act. Persons holding quota share receive an annual allocation of IFQ. Persons receiving an annual allocation of IFQ are authorized to harvest IFQ species within specified limitations. Further information on the implementation of the IFQ Program, and the rationale supporting it, are contained in the preamble to the final rule implementing

the IFQ Program published in the **Federal Register**, November 9, 1993 (58 FR 59375) and subsequent amendments.

This announcement is consistent with § 679.23(g)(1), which requires that the directed fishing season for sablefish managed under the IFQ Program be specified by the Administrator, Alaska Region, and announced by publication in the **Federal Register**. This method of season announcement was selected to facilitate coordination between the sablefish season, chosen by the Administrator, Alaska Region, and the halibut season, adopted by the International Pacific Halibut Commission (IPHC). The directed fishing season for sablefish with fixed gear managed under the IFQ Program will open 1200 hours, A.l.t., March 6, 2021, and will close 1200 hours, A.l.t., December 7, 2021. This period runs concurrently with the IFQ season for Pacific halibut announced by the IPHC. The IFQ and CDQ halibut season will be specified by a separate publication in the **Federal Register** of annual management measures pursuant to 50 CFR 300.62.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR part 679, which was issued pursuant to section 304(b), and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest, as it would delay the opening of the sablefish fishery thereby increasing bycatch and regulatory discards between the sablefish fishery and the halibut fishery, and preventing the accomplishment of the management objective for simultaneous opening of these two fisheries. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of March 3, 2021.

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

Dated: March 4, 2021.

Jennifer M. Wallace,

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

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