

IX. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

No alternatives were identified.

(b) No Change Alternative:

No alternatives were identified

(c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed or would be as effective, and less burdensome to the affected private persons than the proposed regulation.

X. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

(b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

The proposed change is not likely to have any negative economic impact.

(c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None.

(e) Nondiscretionary Costs/Savings to Local Agencies:

None.

(f) Programs mandated on Local Agencies or School Districts:

None.

(g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4:

None.

(h) Effect on Housing Costs:

None.

Updated Informative Digest/Policy Statement Overview

Currently subsection 27.65(b)(10), Title 14, CCR states “All other species except those listed in sub-section (c) of this section: Each fillet shall bear intact a one inch square patch of skin. The fillets may be of any size.”

Subsection 27.65(c), Title 14, CCR states “No person shall fillet on any boat or bring ashore as fillets the following fish: cabezon, greenlings of the genus Hexagrammos, salmon, striped bass, sturgeon, and any species of flatfish except California halibut may be filleted or brought ashore as fillets south of Point Arena (Mendocino County).”

There is currently no specified filet size limit for Leopard Shark which has a size limit of 36 inches, California Sheephead which has a size limit of 12 inches and Redtail Surfperch which has a size limit of 10½ inches.

Subsection 27.65(b)(10) allows for the filleting of Leopard Shark, CA Sheephead, and Redtail Surfperch on a vessel as long a one inch skin patch is attached and the fillets may be of any size. The legal overall size limit for these species is unenforceable once filleted on a boat or on shore since there is no legal filet size specified in regulations.

Wardens in the field are issuing numerous citations to subjects taking undersize leopard sharks in San Francisco Bay. Under current regulations, undersize leopard sharks are being taken illegally and filleted to avoid detection of the undersized fish by Game Wardens. The same problem exists for Sheephead and Redtail Surfperch.

Wardens are expressing frustration over these regulations when they find filleted leopard shark on a vessel and can not determine if the shark was a legal size. Wardens are finding an increasing number of filleted leopard shark on vessels and increasing knowledge by anglers of the loophole in the regulations. Wardens have issued citations to anglers for violation of Fish & Game Code Section 5508 when they find filleted Leopard Shark, Redtail Surfperch and Sheephead. Fish and Game Code section 5508 states it is unlawful to possess on any boat or to bring ashore any fish upon which a size or weight limit is prescribed in such a condition that its size or weight cannot be determined. Unfortunately when a person goes to court and points out subsections 27.65 (b)(10) and (c), the cases are dismissed due to the loop hole in the regulations.

Anglers are expressing confusion over the regulations as well as some have been issued citations for Section 5508, Fish & Game Code, yet they were following the 27.65 regulations in the Ocean Sport Fishing Regulation handbook.

The Department’s legal office has determined that Section 5508, Fish & Game Code and Section 27.65, Title 14, CCR are in conflict and Section 27.65, Title 14, and needs to be amended to protect species with size limits. Wording needs to be added to Section 27.65 stating, unless there is a fillet, chunk, or steak size limit for a fish with an overall size limit, that fish may not be steaked, chunked or filleted aboard a vessel.

The Fish and Game Commission adopted the proposed regulations as noticed at its August 3, 2011 meeting.