

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 10 1/2 inches.

Subsection 27.65(b)(10), Title 14, CCR would allow for the filleting of these species on a vessel as long as a one inch skin patch was attached and the fillets may be of any size. The legal size limit for these species is unenforceable once filleted on a boat or on shore since there is no legal filet size specified.

It is common for anglers to catch large leopard sharks, remove the entrails, head and tail, and cut the sharks into large chunks in order to store the fish onboard the vessel. According to Fish and Game Code the sharks still have to remain in a measurable condition. A large shark can have the head and tail removed for storage as long as the fish still remains in a measurable condition with a minimum length of 36 inches.

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 been issuing citations to anglers for violation of Section 5508 Fish & Game Code which 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 Fish & Game Code section 5508 yet they were following the 27.65 regulations in the Ocean Sport Fishing Regulation handbook.

The Department's legal counsel has determined that Fish & Game Code section 5508 and CCR T-14 27.65 are in conflict and 27.65 needs to be amended to protect species with size limits. Wording needs to be added to CCR T-14 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.

- (b) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Sections 202, 205, 215 and 220 Fish and Game Code.

Reference: Section 202, 205, 206, 215 and 220 Fish and Game Code.

- (c) Specific Technology or Equipment Required by Regulatory Change:

None

- (d) Identification of Reports or Documents Supporting Regulation Change:

None

- (e) Public Discussions of Proposed Regulations Prior to Notice Publication:

The Law Enforcement Division briefed the Marine Resources Committee at their meeting in Monterey on February 15, 2011. Commissioner Rogers and Commissioner Sutton agreed that a regulation change would provide needed protection for marine resources.

IV. Description of Reasonable Alternatives to Regulatory Action:

- (a) Alternatives to Regulation Change:

None

- (b) No Change Alternative:

The no change alternative would allow the current illegal take and concealment of undersize Leopard Sharks, Ca. Sheephead and Redtail Surfperch.

- (c) Consideration of Alternatives:

In view of the 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 as and less burdensome to affected private persons than the proposed regulation

V. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

VI. 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 initial 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:

None

(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

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 fillet 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 as 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 fillet 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.

Regulatory Language

Section 27.65 Title 14, CCR, is amended to read:

§27.65. Filletting of Fish on Vessels.

(a) Definition of Fillet: For the purpose of this section a fillet is the flesh from one side of a fish extending from the head to the tail which has been removed from the body (head, tail and backbone) in a single continuous piece.

(b) Fish That May be Filleted: No person shall fillet on any boat or bring ashore as fillets any fish, except in accordance with the following requirements:

(1) Kelp bass, sand bass, spotted bass, and ocean whitefish: All fillets shall be a minimum of six and one-half inches in length. Each fillet shall bear intact a one-inch square patch of skin.

(2) Barracuda: Fillets must be a minimum of 17 inches in length. Each fillet shall bear intact a one-inch square patch of silver skin.

(3) Lingcod. Lingcod fillets must be a minimum of 16 inches in length. Each fillet shall bear intact a one-inch square patch of skin. The minimum size and minimum fillet size for lingcod may be changed during the year or in-season by the department under the authority of subsection 27.20(e). The department will provide a news release notifying the public 10 days in advance of a change to the minimum size and minimum fillet size for lingcod made under the authority of subsection 27.20(e). Anglers and divers are advised to check the current rules before fishing. The latest fishing rules may be found on the department's website at: www.dfg.ca.gov/mrd/, or by calling (831) 649-2801 for recorded information, or by contacting a department office.

(4) White sea bass: Fillets must be a minimum of 19 inches in length. Each fillet shall bear intact a one-inch square patch of silver skin.

(5) Pacific bonito: No more than 10 fillets of any length may be possessed. All bonito fillets possessed shall be considered a part of the allowable undersized tolerance of five bonito per day less than 24 inches fork length or weighing less than five pounds as provided in Section 28.32 of these regulations. All fillets shall bear intact a one-inch square patch of skin.

(6) California halibut taken from or possessed aboard a vessel south of Point Arena (Mendocino County): Fillets must be a minimum of 16 and three-quarter inches in length and shall bear the entire skin intact. A fillet from a California halibut (flesh from one entire side of the fish with the entire skin intact) may not be cut in half fillets. However, a fillet may be cut lengthwise in a straight line along the midline of the fillet where the fillet was attached to the vertebra (backbone) of the fish only if the two pieces of a fillet remain joined along their midline for a length of at least two inches at one end of the fillet.

(7) Yellowtail: Fillets must be a minimum of 17 inches in length, except not more than 10 fillets may be less than 17 inches. Each fillet shall bear intact a one-inch square patch of skin.

(8) Rockfish: Fillets must have the entire skin attached. Bocaccio fillets must be a

minimum of five inches in length. The minimum size and minimum fillet size for rockfish may be changed during the year or in-season by the department under the authority of subsection 27.20(e). The department will provide a news release notifying the public 10 calendar days in advance of a change to the minimum size and minimum fillet size for rockfish made under the authority of subsection 27.20(e). Anglers and divers are advised to check the current rules before fishing. The latest fishing rules may be found on the department's website at: www.dfg.ca.gov/mrd/, or by calling (831) 649-2801 for recorded information, or by contacting a department office.

(9) California scorpionfish (commonly termed "sculpin"): Fillets must be a minimum of 5 inches. Each fillet shall bear intact a one-inch square patch of skin. The minimum size and minimum fillet size for California scorpionfish may be changed during the year or in-season by the department under the authority of subsection 27.20(e). The department will provide a news release notifying the public 10 days in advance of a change to the minimum size and minimum fillet size for California scorpionfish made under the authority of subsection 27.20(e). Anglers and divers are advised to check the current rules before fishing. The latest fishing rules may be found on the department's website at: www.dfg.ca.gov/mrd/, or by calling (831) 649-2801 for recorded information, or by contacting a department office.

(10) All other species except those listed in subsection (c) of this section: Each fillet shall bear intact a one-inch square patch of skin. The fillets may be of any size.

(c) Fish That May Not be ~~Filletted~~ Filletted, Steaked or Chunked: No person shall fillet, steak or cut into chunks on any boat or bring ashore as fillets, steaks or chunks 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)~~ any species with a size limit unless a fillet size is otherwise specified in these regulations. California halibut may be filleted or brought ashore as fillets south of Point Arena (Mendocino County).

Note: Authority cited: Sections 200 and 202, Fish and Game Code. Reference: Sections 200, 202, 205, 206, 220, 240, 5508 and 5509, Fish and Game Code.