

STAFF SUMMARY FOR FEBRUARY 6, 2019

26. CALIFORNIA SHEEPHEAD**Today's Item****Information** ☐**Action** ☒

Consider adopting proposed changes to regulations concerning the filleting of California sheephead on vessels at sea.

Summary of Previous/Future Actions

- Notice hearing Oct 17, 2018; Fresno
- Discussion hearing Dec 12-13, 2018; Oceanside
- **Today's adoption hearing Feb 6, 2019; Sacramento**

Background

Section 27.65 defines the term "fillet"; lists the fillet requirements for, and specifies, those fish that may be filleted on a boat or brought ashore as fillets; and prohibits the filleting, steaking, or chunking of any species with a size limit unless a fillet size is otherwise specified. Almost all finfishes with a recreational minimum size limit also have a corresponding fillet length specified in Section 27.65.

Recreational anglers and the sport fishing industry, including the Sportfishing Association of California, have requested a fillet length regulation permitting California sheephead to be filleted at sea, since a minimum size limit was implemented in 2001.

The proposed regulation will amend subsection 27.65(b) to add California sheephead to the list of fish that may be filleted at sea and will specify that fillets must be a minimum of six and three-quarter inches in length and bear the entire skin intact.

California Environmental Quality Act (CEQA)

A notice of exemption (Exhibit 4) has been drafted consistent with FGC staff's recommendation to rely on a CEQA categorical exemption (Class 8) for these regulation changes. Staff has reviewed all of the available information possessed by FGC relevant to the issue, including the analysis and rationale presented in exhibits 3 and 4, and does not believe that reliance on the categorical exemption is precluded by the exceptions set forth in CEQA Guidelines Section 15300.2.

Significant Public Comments

1. One letter opposes the proposed regulation: provides rationale that discarded fish carcasses can lead to injury of sea birds and habituation of marine mammals to humans and fishing vessels; questions whether there is documentation to FGC's claim of "benefit to the state's environment..." and expresses general concern for sustainability of California sheephead fishing under the current size limit. The author requests five specific things. (Exhibit 6)

STAFF SUMMARY FOR FEBRUARY 6, 2019

Recommendation

FGC staff: FGC staff concurs that the public comment does not warrant changes to the proposed regulation for the reasons set forth in DFW's memo (Exhibit 7); recommends reliance on a CEQA categorical exemption (Class 8) for these regulation changes; and recommends adoption of the proposed regulation changes as recommended by DFW.

DFW: DFW does not believe the comments warrant changes to the proposed California sheephead fillet length regulation (see Exhibit 7). DFW recommends FGC adopt the regulation changes as proposed.

Exhibits

1. [DFW memo transmitting initial statement of reasons, received Oct 10, 2018](#)
2. [Initial statement of reasons](#)
3. [DFW memo with California Environmental Quality Act overview, received Oct 10, 2018](#)
4. [Draft notice of exemption](#)
5. [Economic and fiscal impact statement \(Std. 399\)](#)
6. [Email from Rebecca Dmytryk, Wildlife Emergency Services, received Dec 5, 2018](#)
7. [DFW memo responding to public comments, received Jan 24, 2019](#)

Motion/Direction

Moved by _____ and seconded by _____ that the Commission adopts the proposed changes to subsection 27.65(b), related to the filleting of California sheephead on vessels at sea, and that the Commission has determined, based on the record, that this approval is exempt from the California Environmental Quality Act pursuant to the guidelines in Title 14, Section 15308.

Date: October 8, 2018

To: Melissa Miller-Henson
Acting Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director

Subject: **Submission of Initial Statement of Reasons to Amend Subsection (b) of Section 27.65, Title 14, California Code of Regulations, Re: Filleting of Fish on Vessels; California Sheephead**

The Department of Fish and Wildlife (Department) requests the Fish and Game Commission (Commission) authorize publishing notice of its intent to amend subsection (b) of Section 27.65 of Title 14, California Code of Regulations (CCR), concerning the addition of a California sheephead fillet length regulation. Authorization of the request to publish notice will allow for discussion and possible adoption at the December 12-13, 2018 and February 6-7, 2019 Commission meetings, respectively.

Almost all finfishes with a recreational minimum size limit also have a corresponding fillet length. However, a fillet length regulation for California sheephead has not been created since the implementation of a minimum size limit [Section 28.26(c), Title 14, CCR] in 2001. Since then, recreational anglers and the sport fishing industry, including the Sportfishing Association of California, have been advocating for the implementation of a fillet length regulation permitting California sheephead to be filleted at sea. The Department recommends the establishment of a California sheephead fillet length regulation commensurate with its minimum size limit of 12 inches.

If you have any questions regarding this item, please contact Dr. Craig Shuman, Marine Regional Manager at (916) 445-6459. The public notice for this rulemaking should identify Environmental Scientist, Miranda Haggerty as the Department's point of contact. Her contact information is (562) 342-7162 or Miranda.Haggerty@wildlife.ca.gov.

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October 8, 2018
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STATE OF CALIFORNIA
FISH AND GAME COMMISSION
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION

Amend Subsection (b) of Section 27.65
Title 14, California Code of Regulations
Re: Filleting of Fish on Vessels; California Sheephead

I. Date of Initial Statement of Reasons: October 8, 2018

II. Dates and Locations of Scheduled Hearings:

(a) Notice Hearing: Date: October 17, 2018
Location: Fresno

(b) Discussion Hearing: Date: December 12, 2018
Location: Oceanside

(c) Adoption Hearing: Date: February 7, 2019
Location: Sacramento

III. Description of Regulatory Action:

(a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

Present Regulations

Section 27.65, Title 14, California Code of Regulations (CCR) defines fillet; lists the fillet requirements for, and specifies those fish that may be filleted on a boat or brought ashore as fillets; and prohibits the filleting, steaking, or chunking of any species with a size limit unless a fillet size is otherwise specified. Section 28.26, Title 14, CCR, specifies the bag limit, size limit, open areas, seasons and depth constraints for the recreational take of California sheephead (*Semicossyphus pulcher*).

Almost all finfishes with a recreational minimum size limit also have a corresponding fillet length. However, a fillet length regulation for California sheephead, a popular recreational fishery in southern California, has not been created since the implementation in 2001 of a minimum size limit of 12 inches (subsection 28.26(c), Title 14, CCR).

Proposed Regulation Changes

The proposed regulation will amend subsection 27.65(b) to add California sheephead to the list of fish that may be filleted, and will specify that fillets must be a minimum of 6 and three-quarter inches in length and bear the entire skin intact. The proposed amendment would list the California sheephead fillet regulation under subsection (b)(12) and the previously listed subsection (b)(12) would be renumbered to subsection (b)(13).

Necessity of Proposed Regulation

Recreational anglers and the sport fishing industry, including the Sportfishing Association of California (SAC), have been requesting a fillet length regulation permitting California sheephead to be filleted at sea. Most recreational anglers prefer to take home fresh fillets, rather than whole fish. In addition, California sheephead are difficult to fillet, so many anglers prefer to have experienced deck hands fillet their fish at sea for them. The proposed regulation would meet angler preferences for transport of cleaned fish.

It is necessary for the entire California sheephead skin to remain intact, since there could be difficulty in species identification if just a patch of skin was left on the fillet. Other species that could be confused with California sheephead by a single patch of skin left on the fillet include red-skinned rockfish species (*Sebastes* sp.), such as vermilion (*S. miniatus*), and canary rockfish (*S. pinniger*).

Potential Impact of Regulation Change

A potential impact of implementing a fillet length regulation is an increase in California sheephead harvest. However, the fishery is managed under a total allowable catch, so any possible increase in harvest will not impact the sustainability of the population. The number of California sheephead that are released because they cannot be filleted at sea is not known. On average, 15 percent of the California sheephead catch is discarded, and although the exact lengths of the discarded catch are not known, the majority are most likely under-sized catch that cannot be retained regardless of the fillet length regulation. Allowing filleting of California sheephead at sea might lower the number of discards by a small percentage. More importantly, a fillet length regulation would allow carcasses to be disposed of at sea after filleting and recycled back into the marine ecosystem, instead of anglers disposing of carcasses at home.

Data Collection and Analysis

Data necessary to support the proposed regulation have been collected through a collaborative effort between SAC and the California Department of Fish and Wildlife (Department). A total of 180 California sheephead were collected on three sampling trips off commercial passenger fishing vessels (CPFVs) over a wide expanse of reefs in Long Beach, Dana Point and San Diego during April 2018. Commercial fish traps were used to assure that only the appropriate sizes of California sheephead were collected, and all other fish could be released alive. Fish sizes ranged from 10-16 inches, with the majority (66 percent) surrounding the current minimum size of 12 inches (11-13 inches). The deckhands working on each CPFV filleted all the fish aboard the vessels while at sea to ensure realistic conditions of how other fishes are currently filleted. In addition, fish were filleted by six individuals with varying experience to account for possible differences in filleting ability. Department biologists measured the total length of the fish and the corresponding left and right fillet to the nearest millimeter.

The data were analyzed by taking the average of the two fillets in a pair, and then determining the relationship between average fillet length and total length of the fish by a regression analysis. This was also done for data collected in a past Department study in 2002-2003 and compared to the current study. Not only was there a very strong relationship between average fillet length and total fish length, but there was no significant

difference between current and past studies despite differences in filleting experience, sampling locations, and time periods (Figure 1).

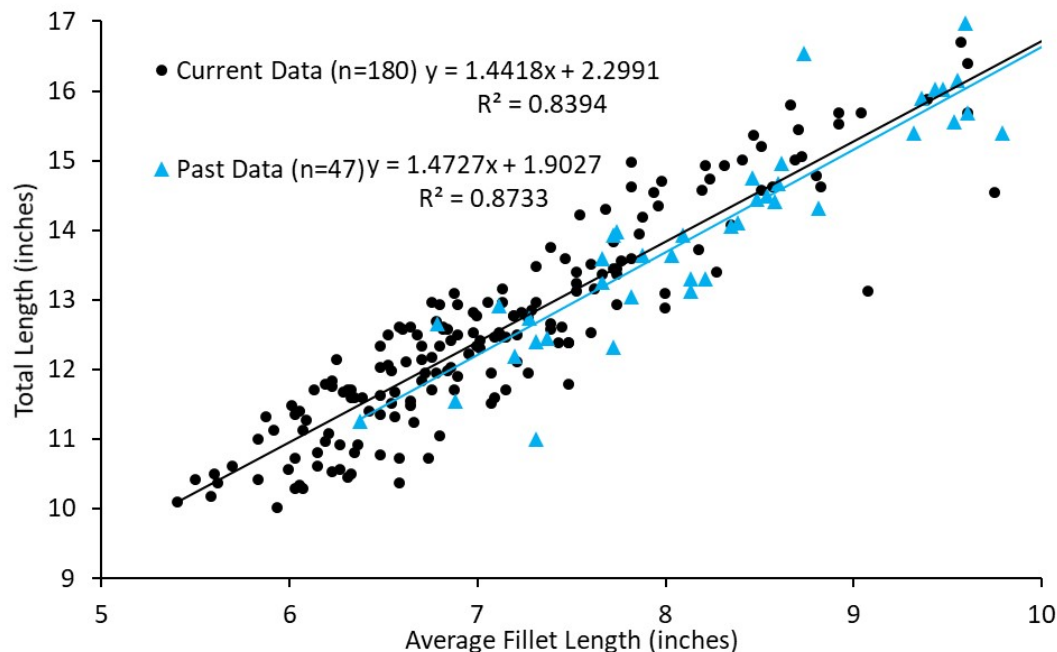


Figure 1. The relationship between average fillet length and total length of California sheephead for the current (black circles) and past (blue triangles) Department studies. The equation of the line and R^2 value for each are listed below the respective legend. The equations shown are measurements of the modeled regression line, where “x” is a coefficient that determines how “y” will increase. “ R^2 ” ranges between 0 and 1, where an R^2 value closer to 1 means a closer relationship that the data fits to the modeled regression line. The “n” values refer to sample size (180 in the current study; 47 in the past study).

From the results of the analysis, the equation of the line from the current data was used to predict the fillet length from a legal-sized 12-inch fish. Plugging 12 inches into the equation of the line predicts a 6.8-inch fillet length with lower and upper 95 percent confidence intervals of 6.66 and 6.92 inches, respectively. This means that from the 180 samples and varying filleting experience of deckhands the Department analyzed, there’s a 95 percent chance that the true mean of the fillet size from the sampled California sheephead population would be between 6.66 and 6.92 inches. Since fillet lengths are easiest to measure at a minimum of quarter inch intervals, the data portray two fillet length possibilities of either rounding down to 6.75 inches or rounding up to 7 inches. To aid in determining which possible fillet length is the most reasonable for a legal California sheephead, the possible fillet lengths were plugged back into the equation of the line to predict the total length with 95 percent confidence intervals (Table 1, Figure 2). The 7-inch fillet length has a predicted total length of over 12 inches (12.39 ± 0.21 inches) which reduces the likelihood of cutting a legal-sized fillet from a sublegal fish, but also might make it challenging to achieve a legal-sized fillet from a legal 12-inch fish. Thus, the recommended fillet length is 6.75 inches, as the predicted total length is the closest to 12 inches (12.03 ± 0.21 inches), which provides an attainable-sized fillet length and should prevent legal-sized fillets to be easily cut from sublegal-sized fish.

Analyzed Fillet Lengths (inches)	Predicted Fish TL (inches)	95% CI
6.5	11.67	11.47-11.88
6.75	12.03	11.83-12.24
7	12.39	12.18-12.6

Table 1. The predicted total lengths (TL) and associated 95 percent confidence intervals (CI) for three fillet length options.

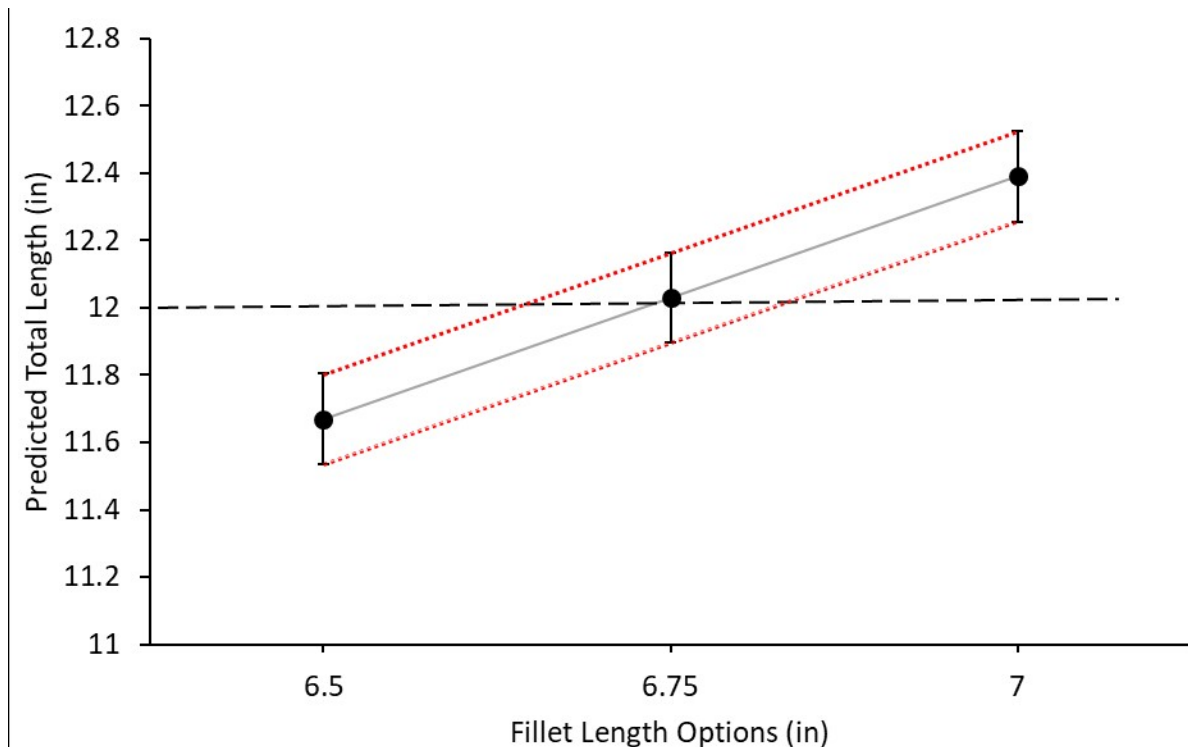


Figure 2. The predicted total length in inches for the fillet length options of 6.5, 6.75, or 7 inches based on the regression results of average fillet length and total length of fish. The red dotted lines represent the upper and lower 95 percent confidence intervals. The dashed black line at 12 inches denotes the current minimum size limit of California sheephead (Section 28.26, Title 14, CCR).

Changes to Authority and Reference Citations

Senate Bill 1473 (Stats. 2016, ch. 546) made organizational changes to the Fish and Game Code that became effective January 1, 2017. In accordance with these changes to the Fish and Game Code, Section 202 is removed from, and Section 265 is added to the authority and reference citations; Section 220 is removed from the reference citations; and Section 240 is removed from, and Section 399 is added to the reference citations.

(b) Goals and Benefits of the Proposed Regulation:

It is the policy of the state ensure the conservation, sustainable use, and where feasible, restoration of California's living marine resources of the benefit of all the citizens of the state. The objective of this policy shall be, among other things, to involve all interested parties in marine living resource management decisions.

The proposed regulation is in response to SAC and the recreational angling community, who have been requesting a fillet length regulation for California sheephead since 2001. As such, the regulation may increase angler satisfaction.

The proposed regulation may benefit the health and welfare of California residents through the increased consumption of nutritious California sheephead, and may benefit the environment through the return of California sheephead carcasses to the sea to be recycled back to the marine ecosystem.

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

Authority: Sections 200, 205, 265, 313, 5508 and 5509, Fish and Game Code.

Reference: Sections 200, 205, 265, 313, 399, 5508 and 5509, Fish and Game Code.

(d) Specific Technology or Equipment Required by Regulatory Change: None.

(e) Identification of Reports or Documents Supporting Regulation Change: None.

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

The Department mailed notification letters on July 16, 2018 to tribes that may be impacted or interested in this rulemaking. The Department received responses from two tribes, neither of which expressed concerns on the proposed regulation, or provided any other specific input.

No public meetings are scheduled prior to the notice publication. The 45-day public notice comment period provides adequate time for review of the proposed regulation.

IV. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

Two alternatives to the recommended 6.75-inch fillet were analyzed: a slightly smaller (6.5-inch) or larger (7.0-inch) fillet length. A 6.5-inch fillet length was obtained as an alternative by rounding down from the predicted 6.8 inches to the nearest half inch instead of quarter inch interval. A 6.5-inch fillet length has a predicted total length under 12 inches (11.67 ± 0.21 ; Table 1 and Fig. 2), which means a legal-sized fillet could often be cut from a sublegal-sized fish, so this alternative was rejected. The 7.0-inch fillet length alternative would allow an easily identifiable round number and would reduce the likelihood of cutting a legal-sized fillet from a fish under 12 inches. However, it may also make it challenging to achieve a legal-sized fillet from a legal 12-inch fish, since the expected length of a fish from which a 7.0-inch fillet is cut would be 12.39 inches (per Figure 2). Therefore, this alternative was also rejected. Since there are other fishes with a current fillet length to the closest

quarter inch (e.g., 16.75 inches for California halibut), the 6.75-inch fillet length is the Department's recommended size.

(b) No Change Alternative:

The no change alternative would leave existing regulations in place, and not allow for filleting of California sheephead on board vessels. Some deckhands on CPFVs partially fillet California sheephead so fillets remain attached to the carcass, and the angler only has to make one cut to remove them. However, it is possible that the fillet could become detached from the body, resulting in a violation. In addition, the angler would still need to carry home and discard the carcass. The no change alternative would not lead to any increase in angler satisfaction, nor would it allow California sheephead carcasses to be recycled back into the marine ecosystem.

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, because the proposed regulation will not increase net compliance costs or impact fishing effort and recreational fishing expenditures for recreational fishing related businesses. While not significant or statewide, CPFV businesses may choose to spend an estimated \$60 - \$110 per year on more plastic bags for the additional fillets and for the maintenance of fillet knives. This equates to \$12,660 - \$23,210 in costs for all CPFVs statewide. This will not affect the ability of California businesses to compete with businesses in other states because these small individual expenditures would increase customer satisfaction and be offset by fillet fee revenue.

(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; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment.

The Commission does not anticipate any impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses or the expansion of businesses in California because the proposed regulation is not likely to increase or decrease recreational fishing opportunities within California. It is possible that the implementation of the proposed regulation may increase workload for deckhands aboard CPFVs as the number of fish that can be filleted in an angler's catch at the end of the day

will increase. However, it is unlikely that the demand will increase so much that additional jobs will be necessary.

The Commission anticipates benefits to the health and welfare of California residents through the consumption of more California sheephead, a nutritious food.

The Commission does not anticipate any benefits to worker safety.

The Commission anticipates some benefit to the state's environment through the return of California sheephead carcasses to the marine ecosystem after being filleted.

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

This regulatory action will allow for the option for individuals to choose to pay \$2 - \$3 per fillet, which may amount to as much as \$10 - \$15 per CPFV trip. Individual CPFV businesses may choose to spend an estimated \$60 - \$110 per year on more plastic bags for the additional fillets and for the maintenance of fillet knives.

(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, Government Code: None.

(h) Effect on Housing Costs: None.

VII. Economic Impact Assessment

(a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State:

The Commission does not anticipate impacts on the creation or elimination of jobs within the state because the proposed action is not likely to cause substantial changes in the catch of California sheephead. There is the possibility that an increase in the total number of fish being filleted could cause an increase in the workload of deckhands. It is unlikely that the demand will increase so much that additional jobs will be necessary.

(b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State:

The Commission does not anticipate the creation of any new businesses, or elimination of existing businesses, because the proposed regulation is not likely to increase or decrease recreational fishing opportunities within California.

(c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State:

The Commission does not anticipate any effects substantial enough to induce the expansion of businesses currently doing business in the state. The implementation of a California sheephead fillet length regulation could cause a small increase in fillet fee revenue to CPFV businesses. Depending on the average price of \$2 - \$3 estimated to be charged for filleting California sheephead, a total annual increase in revenue of \$56,000 to \$85,000 may be received amongst all CPFV businesses, or an estimated \$269 - \$403 per CPFV. These estimates are based on the average annual catch of California sheephead from 2013 to 2017, which can fluctuate depending on a variety of environmental, biological and economic factors

(d) Benefits of the Regulation to the Health and Welfare of California Residents:

The Commission anticipates benefits to the health and welfare of California residents through the consumption of more California sheephead, a nutritious food.

(e) Benefits of the Regulation to Worker Safety:

The Commission does not anticipate any benefits to worker safety because the proposed regulation does not affect existing working conditions.

(f) Benefits of the Regulation to the State's Environment

The Commission anticipates some benefit to the state's environment through the return of California sheephead carcasses to the marine ecosystem after filleting instead of disposing of carcasses on land.

Informative Digest/Policy Statement Overview

Section 27.65, Title 14, California Code of Regulations (CCR) defines fillet; lists the fillet requirements for, and specifies those fish that may be filleted on a boat or brought ashore as fillets; and prohibits the filleting, steaking, or chunking of any species with a size limit unless a fillet size is otherwise specified. Section 28.26, Title 14, CCR, specifies the bag limit, size limit, open areas, seasons and depth constraints for the recreational take of California sheephead (*Semicossyphus pulcher*).

The proposed regulatory change to subsection 27.65(b), Title 14, CCR, adds a 6.75-inch minimum fillet length, and requires that the entire skin remain intact, allowing legal-sized California sheephead to be filleted on board vessels while at sea and brought ashore as fillets.

In addition, authority and reference citations are proposed to be amended in accordance with recent organizational changes to Fish and Game Code.

The proposed regulation is in response to the Sportfishing Association of California and the recreational angling community that have been requesting a fillet length regulation for California sheephead since 2001. As such, the regulation may increase angler satisfaction. Additionally, the proposed regulation may benefit the health and welfare of California residents through the increased consumption of nutritious California sheephead, and may benefit the environment through the return of California sheephead carcasses to the sea to be recycled back to the marine ecosystem.

The proposed regulations are neither inconsistent nor incompatible with existing state regulations. Section 20, Article IV, of the State Constitution specifies that the Legislature may delegate to the Fish and Game Commission (Commission) such powers relating to the protection and propagation of fish and game as the Legislature sees fit. The Legislature has delegated to the Commission the power to regulate the recreational take of fish. The Commission has reviewed its own regulations and finds that the proposed regulations are neither inconsistent nor incompatible with existing state regulations. The proposed regulation is consistent with existing state regulations as almost all finfishes with a recreational minimum size limit also have a corresponding fillet length. The Commission has searched the California Code of Regulations and finds no other state agency regulations pertaining to the recreational take of California sheephead or to the filleting of fish on board vessels at sea.

Proposed Regulatory Language

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

§27.65. Filleting of Fish on Vessels.

. . . [Subsections (a) and (b) are provided for context only. No changes are proposed]

(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:

. . . [No changes to subsections (b)(1) through (b)(11)]

(12) California sheephead: Fillets must be a minimum of 6 and three-quarter inches in length and shall bear the entire skin intact.

~~(12)-(13)~~ 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.

. . . [No changes to subsection (c)]

Authority cited: Sections 200, ~~202~~, 205, 265, 313, 5508 and 5509 Fish and Game Code.
Reference: Sections 200, ~~202~~, 205, ~~220, 240, 265~~, 313, 399, 5508 and 5509 Fish and Game Code.

Memorandum

Date: September 17, 2018

To: Valerie Termini
Executive Director
Fish and Game Commission

From: Craig Shuman, D. Env.
Marine Regional Manager



Subject: California Sheephead Fillet Length Regulation CEQA Overview

California Sheephead is a popular recreational fishery in southern California. Almost all sport-caught finfishes with a minimum size limit also have a corresponding fillet length. However, a fillet length regulation for California Sheephead has not been created since the implementation of a minimum size limit [Title 14, California Code of Regulations Section 28.26(c)] in 2001. Since then, recreational anglers and the sport fishing industry including the Sportfishing Association of California (SAC) have been advocating for the implementation of a fillet length regulation permitting California Sheephead to be filleted at sea.

Amendment to Subsection (b) of Section 27.65 will allow legal-sized California Sheephead to be filleted on board vessels while at sea and brought ashore as fillets. This amendment anticipates a benefit to the marine environment through the return of California Sheephead carcasses to the marine ecosystem. Additionally, an increase in California Sheephead take is an unexpected and unlikely outcome, as the proposed regulation does not impact the bag limit or size of fish that can be legally retained. The purpose of this memo is to describe staff's analysis of use of a categorical exemption under the California Environmental Quality Act (CEQA).

Categorical Exemption to Protect the Environment

The Commission adoption of these regulations is an action subject to CEQA. The review effort by Department staff pursuant to CEQA Guidelines section 15061 lead staff to conclude that adoption of the regulations would fall within Class 8 categorical exemptions (CEQA Guidelines section 15308). This exemption is related to agency actions to protect the environment. This regulatory proposal will allow anglers to fillet legal-sized California Sheephead aboard vessels while at sea and return the carcasses to the marine environment. This is more analogous to a natural process than discarding of carcasses on land. In staff's view, the Commission's adoption of regulations is an activity that is the proper subject of CEQA's Class 8 categorical exemption.

No Exceptions to Categorical Exemptions Apply

As to the exceptions to categorical exemptions set forth in CEQA Guidelines section 15300.2, including the prospect of unusual circumstances and related effects, the Department's review was guided by the California Supreme Court's recent decision in *Berkeley Hillside Preservation v. City of Berkeley*. Staff have reviewed all of the available information possessed by the Department relevant to the issue and does not believe adoption of the amendments to the existing regulations poses any unusual circumstances that would constitute an exception to the categorical exemptions set forth above. Compared to the activities that fall within Class 8 generally, which include natural resource enhancement activities such as the regulatory effort here, there is nothing unusual about the adopted amendments to the existing California Sheephead regulations.

In addition, even if there were unusual circumstances, no potentially significant effects on either a project-specific or cumulative basis are expected. The amendments to the regulations are intended to improve the management of California Sheephead and reduce the amount of California sheephead carcasses that would otherwise not be returned and ultimately recycled throughout the marine ecosystem. There is no anticipated change in the total amount of take. Even if there is an increase compared to current levels of take, California Sheephead is managed on a quota system which would cap any increase in take caused by this regulation at a level that prevents any impact on the overall Sheephead population. Therefore, the impact of this regulation, if any, would be a beneficial one through decreasing carcass disposal on land overall and keeping carcasses in the marine ecosystem.

Therefore, the Department does not believe that its reliance on the Class 8 categorical exemptions is precluded by the exceptions set forth in CEQA Guidelines section 15300.2.

If you have any questions regarding this item, please contact Miranda Haggerty, Environmental Scientist, at (562) 342-7162 or Miranda.Haggerty@wildlife.ca.gov.

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Notice of Exemption**Appendix E**

To: Office of Planning and Research
P.O. Box 3044, Room 113
Sacramento, CA 95812-3044

County Clerk

County of: _____

N/A

From: (Public Agency): CA Fish and Game Commission
1416 9th Street, Room 1320

Sacramento, CA 95814

(Address)

Project Title: Amend subsection (b) of Section 27.65, Re: Filleting of Fish on Vessels; CA sheephead

Project Applicant: N/A

Project Location - Specific:

Coastal areas south of Monterey, CA.

Project Location - City: N/A

Project Location - County: N/A

Description of Nature, Purpose and Beneficiaries of Project:

Amendment to subsection (b) of Section 27.65, Title 14, CCR adds a minimum fillet length regulation for California sheephead, where fillets must be a minimum of 6.75 inches in length and bear the entire skin intact. Environmental benefits of this regulation include returning CA sheephead carcasses to the marine ecosystem.

Name of Public Agency Approving Project: California Fish and Game Commission

Name of Person or Agency Carrying Out Project: California Department of Fish and Wildlife

Exempt Status: **(check one):**

- ☐ Ministerial (Sec. 21080(b)(1); 15268);
- ☐ Declared Emergency (Sec. 21080(b)(3); 15269(a));
- ☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- ☒ Categorical Exemption. State type and section number: Cal Code Regs., Title 14 §§ 15308
- ☐ Statutory Exemptions. State code number: _____

Reasons why project is exempt:
See attached.

Lead Agency

Contact Person: _____ Area Code/Telephone/Extension: 916-653-4899

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? ☐ Yes ☐ No

Signature: _____ Date: _____ Title: _____

☐ Signed by Lead Agency ☐ Signed by Applicant

Authority cited: Sections 21083 and 21110, Public Resources Code.
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

Date Received for filing at OPR: _____

ATTACHMENT TO NOTICE OF EXEMPTION
Adoption of Amendments to Subsection (b) of Section 27.65
Title 14, CCR

The California Fish and Game Commission (Commission) has taken final action under the Fish and Game Code and the Administrative Procedure Act (APA) with respect to the project mentioned on **[INSERT DATE]**. In taking its final action for the purposes of the California Environmental Quality Act (CEQA, Pub. Resources Code, § 21000 *et seq.*), the Commission adopted the amendment to subsection (b) of Section 27.65 relying on the categorical exemption for “Actions by Regulatory Agencies for Protection of the Environment” contained in CEQA Guidelines Section 15308. (Cal. Code Regs. tit. 14, §§ 15308.)

Categorical Exemptions to Protect Natural Resources and the Environment

In adopting the amendment to subsection (b) of Section 27.65, Title 14, California Code of Regulations, the Commission relied for purposes of CEQA on the Class 8 categorical exemption. In general, the exemption applies to agency actions to the environment. This amendment anticipates a benefit to the environment by returning California sheephead carcasses to the marine ecosystem. Therefore, the activity is one that is the proper subject of CEQA’s Class 8 categorical exemption.

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

ECONOMIC IMPACT STATEMENT

DEPARTMENT NAME Fish and Game Commission	CONTACT PERSON Miranda Haggerty, Environmental Scientist	EMAIL ADDRESS Miranda.Haggerty@wildfire.ca.gov	TELEPHONE NUMBER 562-342-7162
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 Amend subsection (b) of Section 27.65, Title 14, CCR, re: Filleting of Fish on Vessels; California sheephead			NOTICE FILE NUMBER Z

A. ESTIMATED PRIVATE SECTOR COST IMPACTS *Include calculations and assumptions in the rulemaking record.*

1. Check the appropriate box(es) below to indicate whether this regulation:

- | | |
|--|---|
| <input checked="" type="checkbox"/> a. Impacts business and/or employees | <input type="checkbox"/> e. Imposes reporting requirements |
| <input checked="" type="checkbox"/> b. Impacts small businesses | <input type="checkbox"/> f. Imposes prescriptive instead of performance |
| <input type="checkbox"/> c. Impacts jobs or occupations | <input checked="" type="checkbox"/> g. Impacts individuals |
| <input type="checkbox"/> d. Impacts California competitiveness | <input type="checkbox"/> h. None of the above (Explain below): |

*If any box in Items 1 a through g is checked, complete this Economic Impact Statement.
If box in Item 1.h. is checked, complete the Fiscal Impact Statement as appropriate.*

2. The Fish and Game Commission estimates that the economic impact of this regulation (which includes the fiscal impact) is:
(Agency/Department)

- ☒ Below \$10 million
☐ Between \$10 and \$25 million
☐ Between \$25 and \$50 million
☐ Over \$50 million *[If the economic impact is over \$50 million, agencies are required to submit a [Standardized Regulatory Impact Assessment](#) as specified in Government Code Section 11346.3(c)]*

3. Enter the total number of businesses impacted: ~211

Describe the types of businesses (Include nonprofits): Commercial Passenger Fishing Vessels (CPFVs) of the recreational fishing industry

Enter the number or percentage of total businesses impacted that are small businesses: ~100 %

4. Enter the number of businesses that will be created: 0 eliminated: 0

Explain: No impacts are anticipated on the creation of businesses as the infrastructure already exists to support the regulation.

5. Indicate the geographic extent of impacts: ☐ Statewide
☒ Local or regional (List areas): Coastal areas south of Monterey, CA.

6. Enter the number of jobs created: 0 and eliminated: 0

Describe the types of jobs or occupations impacted: There would be a slight increase in workload for CPFV crew/deckhands to fillet additional fish; however, this increased workload would not likely require additional deckhand positions.

7. Will the regulation affect the ability of California businesses to compete with other states by making it more costly to produce goods or services here? ☐ YES ☒ NO

If YES, explain briefly: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

ECONOMIC IMPACT STATEMENT (CONTINUED)**B. ESTIMATED COSTS** *Include calculations and assumptions in the rulemaking record.*1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? \$ 0 - \$108,233a. Initial costs for a small business: \$ 60-\$110* Annual ongoing costs: \$ 60-\$110* Years: 1b. Initial costs for a typical business: \$ 60-\$110* Annual ongoing costs: \$ 60-\$110* Years: 1c. Initial costs for an individual: \$ 0 - \$2/\$3 per fillet** Annual ongoing costs: \$ 0 - \$10-\$15/trip** Years: 1d. Describe other economic costs that may occur: *CPFV businesses may choose to spend more on plastic bags for additional sheephead fillets and for the maintenance of fillet knives. **See Addendum for explanation on potential voluntary individual costs.2. If multiple industries are impacted, enter the share of total costs for each industry: N/A - The marine recreational fishing industry is the only impacted industry.

3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements. Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted. \$ _____

4. Will this regulation directly impact housing costs? ☐ YES ☒ NO

If YES, enter the annual dollar cost per housing unit: \$ _____

Number of units: _____

5. Are there comparable Federal regulations? ☐ YES ☒ NOExplain the need for State regulation given the existence or absence of Federal regulations: Angler and recreational fishing industry interests.Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: \$ 0**C. ESTIMATED BENEFITS** *Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*1. Briefly summarize the benefits of the regulation, which may include among others, the health and welfare of California residents, worker safety and the State's environment: The primary benefits include angler satisfaction, increased revenue for CPFV businesses, the health and welfare of California residents, and the environment. See Addendum.2. Are the benefits the result of: ☐ specific statutory requirements, or ☒ goals developed by the agency based on broad statutory authority?Explain: See Addendum3. What are the total statewide benefits from this regulation over its lifetime? \$ See Addendum

4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation: _____

There would be a slight increase in workload for CPFV crew/deckhands to fillet additional fish; however,this increased workload would not likely require additional deckhand positions or an expansion of businesses.**D. ALTERNATIVES TO THE REGULATION** *Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: _____

See ISOR and Addendum

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

ECONOMIC IMPACT STATEMENT (CONTINUED)

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation: Benefit: \$ 69K - \$108K Cost: \$ 69K - \$108K

Alternative 1: Benefit: \$ 69K - \$108K Cost: \$ same +>waste

Alternative 2: Benefit: \$ 0 Cost: \$ 0

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives:

Estimates are based on average annual California sheephead catch (2013 - 2017), which fluctuates depending on environmental, biological & economic factors. See Addendum

4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs?

☐ YES☒ NO

Explain: Specific minimum fillet length is necessary to accord with existing regulations on the minimum size limits for California sheephead.

E. MAJOR REGULATIONS *Include calculations and assumptions in the rulemaking record.*

California Environmental Protection Agency (Cal/EPA) boards, offices and departments are required to submit the following (per Health and Safety Code section 57005). Otherwise, skip to E4.

1. Will the estimated costs of this regulation to California business enterprises exceed \$10 million? ☐ YES ☐ NO***If YES, complete E2. and E3******If NO, skip to E4***

2. Briefly describe each alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1: _____

Alternative 2: _____

(Attach additional pages for other alternatives)

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 1: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 2: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

4. Will the regulation subject to OAL review have an estimated economic impact to business enterprises and individuals located in or doing business in California exceeding \$50 million in any 12-month period between the date the major regulation is estimated to be filed with the Secretary of State through 12 months after the major regulation is estimated to be fully implemented?

☐ YES☒ NO

If YES, agencies are required to submit a [Standardized Regulatory Impact Assessment \(SRIA\)](#) as specified in Government Code Section 11346.3(c) and to include the SRIA in the Initial Statement of Reasons.

5. Briefly describe the following:

The increase or decrease of investment in the State: _____

The incentive for innovation in products, materials or processes: _____

The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

FISCAL IMPACT STATEMENT**A. FISCAL EFFECT ON LOCAL GOVERNMENT** *Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

- ☐ 1. Additional expenditures in the current State Fiscal Year which are reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

- ☐ a. Funding provided in _____
Budget Act of _____ or Chapter _____, Statutes of _____

- ☐ b. Funding will be requested in the Governor's Budget Act of _____
Fiscal Year: _____

- ☐ 2. Additional expenditures in the current State Fiscal Year which are NOT reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

Check reason(s) this regulation is not reimbursable and provide the appropriate information:

- ☐ a. Implements the Federal mandate contained in _____
- ☐ b. Implements the court mandate set forth by the _____ Court.

Case of: _____ vs. _____

- ☐ c. Implements a mandate of the people of this State expressed in their approval of Proposition No. _____

Date of Election: _____

- ☐ d. Issued only in response to a specific request from affected local entity(s).

Local entity(s) affected: _____

- ☐ e. Will be fully financed from the fees, revenue, etc. from: _____

Authorized by Section: _____ of the _____ Code;

- ☐ f. Provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each;

- ☐ g. Creates, eliminates, or changes the penalty for a new crime or infraction contained in _____

- ☐ 3. Annual Savings. (approximate)

\$ _____

- ☐ 4. No additional costs or savings. This regulation makes only technical, non-substantive or clarifying changes to current law regulations.

- ☒ 5. No fiscal impact exists. This regulation does not affect any local entity or program.

- ☐ 6. Other. Explain _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

FISCAL IMPACT STATEMENT (CONTINUED)**B. FISCAL EFFECT ON STATE GOVERNMENT** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

It is anticipated that State agencies will:☐ a. Absorb these additional costs within their existing budgets and resources.☐ b. Increase the currently authorized budget level for the _____ Fiscal Year☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☒ 3. No fiscal impact exists. This regulation does not affect any State agency or program.☐ 4. Other. Explain _____**C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☒ 3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program.☐ 4. Other. Explain _____

FISCAL OFFICER SIGNATURE

DATE



Original signature on file 10/9/18

The signature attests that the agency has completed the STD. 399 according to the instructions in SAM sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.

AGENCY SECRETARY

DATE



Original signature on file 11/6/18

Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD. 399.

DEPARTMENT OF FINANCE PROGRAM BUDGET MANAGER

DATE



Addendum to form STD. 399
ECONOMIC AND FISCAL IMPACT STATEMENT

Re: Amend Subsection (b) of Section 27.65, Re: Filleting of Fish on Vessels;
California Sheephead

ECONOMIC IMPACT STATEMENT

Section B. ESTIMATED COSTS

1. What are the total statewide dollar costs that businesses and individuals incur to comply with this regulation over its lifetime?

The calculations for initial and ongoing costs for an individual are based on the estimated price that will be charged by the Commercial Passenger Fishing Vessel (CPFV) for legal California sheephead to be filleted. It is important to note that this is an optional service, and individuals will only pay if they choose to have their California sheephead catch filleted by the deckhands on CPFV trips. Additionally, the fillet length regulation applies to all anglers. Anglers who fillet their legal California sheephead catch themselves, could do so at no cost. The maximum cost that an individual fishing aboard a CPFV would incur to have their California sheephead catch filleted is \$10 - \$15 per trip. This is based on the maximum bag limit of five California sheephead being filleted at \$2 - \$3 per fish. The annual ongoing costs are based on the average annual catch of California sheephead aboard CPFVs from 2013 – 2017 (Table 1). The lifetime (over one year) cost estimates are also used to estimate the total benefits from this regulation, as the fillet costs are paid directly to the CPFV businesses.

The costs for CPFVs to fillet sheephead would require spending on plastic bags and could involve spending on more knives and/or maintenance. The plastic bag costs to bag the 28,341 average annual number of retained sheephead at \$0.05 per bag, would be \$1,417 for all 211 vessels. Costs for each vessel would be about \$6.72 for additional plastic bags. With knife maintenance costs added, total per vessel costs are estimated to be \$60 - \$110 per year.

Table 1. The values used to estimate the total annual costs for the California sheephead fillet length regulation. Data from CPFV logs, 2013-2017.

Average annual number of retained California sheephead	Estimated total annual cost based (\$2 fillet) per fish	Estimated total annual cost based (\$3 fillet) per fish	Maximum individual angler costs per trip	Maximum individual CPFV costs for bags and knives	Lifetime (1-yr) costs for all CPFV anglers and CPFVs
28,341	\$56,682	\$85,023	\$10 - \$15	\$60 - \$110	\$69,342 - \$108,233

C. ESTIMATED BENEFITS

2. Are the benefits the result of: ☐ specific statutory requirements, or ☒ goals developed by the agency based on broad statutory authority?

Explain: It is the policy of the state ensure the conservation, sustainable use, and where feasible, restoration of California's living marine resources of the benefit of all the citizens of the state. The objective of this policy shall be, among other things, to involve all interested parties, including, but not limited to, individuals from the sport and commercial fishing industries, aquaculture industries, coastal and ocean tourism and recreation industries, marine conservation organizations, local governments, marine scientists, and the public in marine living resource management decisions.

3. What are the total statewide benefits from this regulation over its lifetime?

The proposed regulation is in response to the sport fishing industry request and the recreational angling community that have been advocating a fillet length regulation for California sheephead since 2001. The benefits of the proposed regulation are primarily an increase in angler satisfaction for a modest charge (\$2 - \$3/fillet) that will also boost CPFV revenue.

The Commission also anticipates benefits to the health and welfare of California residents through the consumption of more California sheephead, a nutritious food. The proposed regulation also anticipates some benefit to the state's environment through the return of California sheephead carcasses to the marine ecosystem after it has been filleted. The proposed regulation does not have foreseeable benefits to worker safety.

D. ALTERNATIVES TO THE REGULATION

1. Two alternatives to the recommended size of a 6.75-inch fillet are either a slightly smaller (6.5 inch) or larger (7.0 inch) fillet length. Both of these alternatives were rejected for the reasons set forth in the Initial Statement of Reasons. The economic impacts of both alternatives are expected to be the same as the economic impacts of the proposed regulation because the same number of fish at the same price per fillet would be expected to be filleted regardless of the prescribed fillet size. Alternative 1 listed in Section D.1. of the Std. 399 refers to both fillet-size alternatives.

Alternative 2 listed in Section D.1. of the Std. 399 refers to the no-change alternative which would leave existing regulations in place. The no-change alternative would incur no economic costs or benefits to individuals or the recreational fishing industry.

From: Rebecca Dmytryk <rebecca@wildlifeservices.org>
Sent: Wednesday, December 5, 2018 2:35 PM
To: FGC
Subject: Sheephead fillets
Attachments: ITEM 10 Sheephead.pdf

Please see the attached letter regarding proposal to amend §27.65. Filleting of Fish on Vessels.

Thank you!

Rebecca Dmytryk
Founder, President and CEO
rebecca@wildlifeservices.org

Happy New Year - let's make it poison-free!

Wildlife Emergency Services
Box 65 Moss Landing, CA 95039
Monterey / Santa Cruz 831-498-WILD (9453)
San Benito 831-WILD (9453)

[DONATE NOW](#)



Find help for a wild animal in distress with the [WildHelp](#) app for iOS.



Wildlife Emergency Services Box 65 Moss Landing, California 1-866-WILD-911 rebecca@wildlifeservices.org

December 5, 2018

RE: Item 10 Amendment of § 27.65. Filleting of Fish on Vessels

Dear Commissioners,

The petition to amend Subsection 27.65(b) to allow California sheephead to be filleted onboard a vessel, grabbed my attention. While adding sheephead to the list of fish that are allowed to be processed doesn't seem like that big of a deal, there's more to consider.

Warnings on pollution and harm to wildlife.

It's one thing to allow fishermen to fillet their catch before disembarking, but § 27.65 fails to mention proper disposal of the waste or warn of the laws that protect our waters and wildlife, like Section 5650 of California's Fish and Game Code and Section 374.7(a) of California's Penal Code.

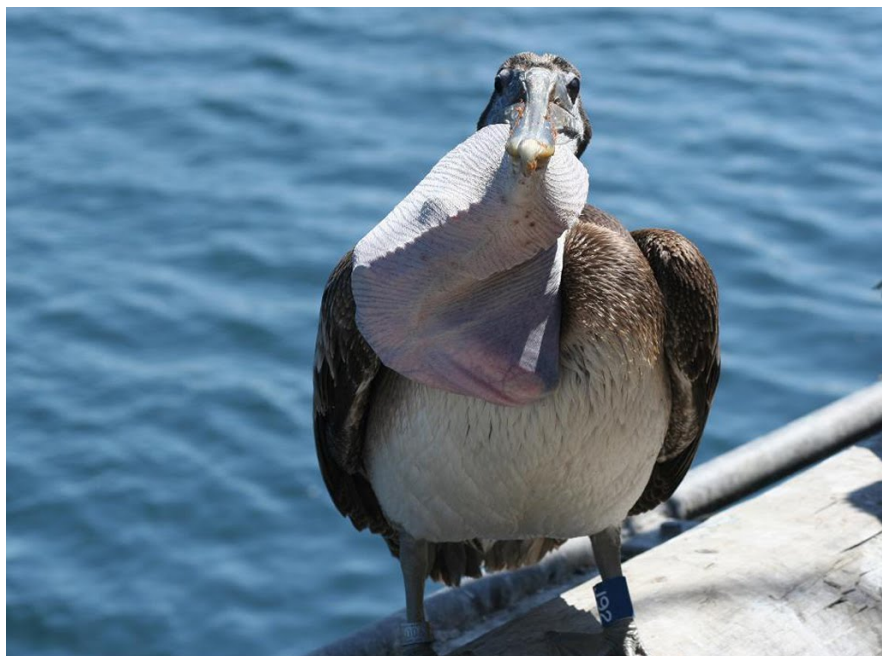
A danger to birds and marine mammals.

As a wildlife rescuer with over 35 years experience, I have had a number of encounters with brown pelicans suffering injuries caused directly by the act of filleting fish and disposal of their spiny carcasses into the ocean.

When a pelican tries to consume the skeletal remains, the sharp exposed spine and ribs get stuck in its pouch and throat, sometimes piercing through, sometimes blocking the bird's windpipe. When fish scraps are allowed to be dumped into the sea, this is what can happen.

When filleted remains are thrown overboard and where sea lions are present, pelicans often suffer tremendous bite wounds.

Again, where fish scraps are not disposed of properly, it can be deleterious to marine animals.





Potential for added burden on State's wildlife rehabilitation programs.

Surprisingly, these hideous degloving injuries are treatable and the prognosis is usually pretty good, however, the care and treatment of these wounds related to the filleting of fish is extremely costly for the State's wildlife rehabilitation programs.

The potential for increased patient load due to the potential increase in mishandling of fish waste should be reflected in the Economic and Fiscal Impact Statement.

Unfounded benefit to marine ecosystem.

Knowing how dangerous fish scraps are to brown pelicans and how harbor seals and sea lions can be habituated to humans and fishing vessels by the practice of dumping fish scraps at sea, I found the statements made about the impacts and benefits of the amendment, anthropocentric, and, where it mentions benefit to the marine ecosystem, unfounded and untrue.

There is plenty of evidence that filleted fish waste harms wildlife. Is there documentation to support Commission's claim of *"benefit to the state's environment through the return of California sheephead carcasses to the marine ecosystem after filleting instead of disposing of carcasses on land"*?

A contradiction in conservation.

First, Commissioners, did you know all sheephead are born female? Most morph into male in response to social cues - usually removal of a dominant male. They live in harem-like groups - one alpha male overseeing a group of females. At night, when they sleep, sheephead conceal themselves in a cocoon of mucous to avoid detection by predators.

Purple sea urchins are a threat to kelp forests. The Commission just recently adopted emergency regulations increasing the bag limit for purple sea urchins due to an overabundance. The sheephead is a critical predator of the purple sea urchin, however, **sheephead do not begin eating sea urchins until they about 12"**. That happens to be the minimum size limit set forth in the California Fishing Regulations.



Clearly, this keystone predator of the kelp forest must be allowed to grow larger before it's allowed to be taken. Clearly.

Excerpt from: *California Sheephead Populations Dwindling : Researchers Claim Fishing Disrupted Species' Intricate Gender-Change Process*

<https://www.independent.com/news/2009/may/13/california-sheephead-populations-dwindling/>

The natural process is such that when an alpha male dies, the largest and most capable female in the area will switch her sex to take his place. But the sudden absence of a dominant male caused by sport fishing will still signal a female to switch sex, even if she's too young and too small to effectively patrol the territory that her male predecessor did. "Fishing will take a large male out of the system, and all of a sudden there's no male around," Hamilton said. "That will stimulate a female to change sex into a male, so in places like Catalina where fishing is removing a lot of the big males, you're seeing a lot of really small, tiny males, a lot of dwarf males which you didn't see historically."

The result, then, of sport fishing in the Channel Islands is an overabundance of tiny, underdeveloped males and a shortage of egg-producing females. Premature sex-change also causes a deficiency of older, bigger females, which are capable of producing a greater number of eggs.

"Essentially, you see that these fish aren't spending as many years producing eggs as a female, because they're changing sex at a smaller size and a younger age," Hamilton said."

California sheephead need to be allowed to get older and larger so they can 1) consume the largest quantities of purple urchin, and 2) to be more productive as females - producing more offspring, and 3) for the populations to maintain a more natural and healthier balance of male to females.

I hope my concerns inspire the Commission to:

1. Conduct an audit of California's marine fish-cleaning stations and practices, i.e. if sportfishing boats dock and then clean fish, what is done with the fish waste? Document potential negative impacts on wildlife and marine environment, such as the habituation of marine mammals, injury to pelicans and other marine birds from either encounters with seals and sea lions or the spines of the fillet scraps.
2. Survey sportfishing vessels to document how discarding scraps impacts the marine environment - i.e. if gulls, pelicans, seals and sea lions becoming habituated to the boats because they are essentially being fed? Document any positive impacts to support claim that the practice benefits the ecosystem (more than the potential harm it causes).
3. Request documentation from California wildlife rehabilitators and rescue entities of the costs related to the response, capture, transport, and rehabilitation of brown pelicans with injuries related directly and indirectly (sea lion bite) to disposal of fish fillet scraps into the marine environment.
4. Consider increasing the size limit of the California sheephead from 12" to 15.5", supported by research to promote yield and maintain a healthy population.
5. Consider prohibiting the dumping of fish scraps into the ocean and encourage responsible disposal of fish processing waste.

Respectfully,

A handwritten signature in black ink, appearing to read 'Rebecca Dmytryk', with a stylized, cursive script.

Rebecca Dmytryk
Wildlife Emergency Services

Date: January 23, 2019

To: Melissa Miller-Henson
Acting Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director

Subject: **Public Comment Response for Proposed Amendment to Subsection (b) of Section 27.65, Title 14, California Code of Regulations, Re: Filleting of Fish on Vessels; California Sheephead (Agenda Item for the February 6, 2019 Fish and Game Commission Meeting)**

The Department of Fish and Wildlife (Department) has prepared this memo in response to a public comment regarding the proposed California Sheephead fillet length regulation (Section 27.65(b), Title 14, California Code of Regulations) noticed on November 16, 2018. One comment letter was received from Wildlife Emergency Services via e-mail on December 5, 2018. The five main comments on page 4 of the comment letter intended for Fish and Game Commission (Commission) consideration are summarized below, followed by the Department's bulletized response to each.

1. *Conduct an audit of California's marine fish-cleaning stations and practices, i.e. if sportfishing boats dock and then clean fish, what is done with the fish waste? Document potential negative impacts on wildlife and marine environment, such as the habituation of marine mammals, injury to pelicans and other marine birds from either encounters with seals and sea lions or the spines of the fillet scraps.*
 - The commenter's request for an audit of fish-cleaning stations and practices is beyond the scope of the proposed regulation. The proposed regulations allow California Sheephead to be filleted on vessels at sea and establish a minimum fillet size. The proposed regulations are anticipated to result in the disposal of fish carcasses and entrails upon filleting while at sea. The Department is not aware of any quantitative studies documenting impacts of filleted fish waste or carcasses to wildlife. On the contrary, there are multiple studies demonstrating the positive effects of fishery scraps on seabird populations (see references below).
2. *Survey sportfishing vessels to document how discarding scraps impacts the marine environment - i.e. if gulls, pelicans, seals and sea lions becoming habituated to the boats because they are essentially being fed? Document any*

positive impacts to support claim that the practice benefits the ecosystem (more than the potential harm it causes).

- There are multiple studies documenting that fish carcasses provide ecosystem services to the marine environment (Beasley et al. 2012, Burkepile et al. 2006, Holmund and Hammer 1999). Carcasses provide a crucial nutrient source to many scavengers, and decomposing carcasses provide carbon sources, which increases production of beneficial algae. These studies suggest the importance of carcasses is often overlooked, and that carcasses are actually a crucial component in marine food web dynamics. There are also multiple studies demonstrating the positive effects of fishery scraps on seabird populations. Many species rely greatly on discarded fish waste when forage fish become scarce, and data suggests that some breeding populations of seabirds grow with increasing fish landings due to their increased consumption of fish scraps (Garthe et al. 1996, Montevecchi 2002, Stenhouse and Montevecchi 1999). Therefore, scientific literature indicates that disposal of carcasses in the marine environment is beneficial, not deleterious, and therefore is not inconsistent with subsection (a)(6) of Fish and Game Code Section 5650, nor Penal Code Section 374.7.
- 3. *Request documentation from California wildlife rehabilitators and rescue entities of the costs related to the response, capture, transport, and rehabilitation of brown pelicans with injuries related directly and indirectly (sea lion bite) to disposal of fish fillet scraps into the marine environment.*
 - This request is outside the scope of this proposed regulation, as the disposal of fish scraps into the sea is a long-standing common practice that is not unique to this proposed regulation, and it is not expected that the new practice of disposing of California Sheephead will substantially add to total number of carcasses disposed of at sea.
- 4. *Consider increasing the size limit of the California sheephead from 12" to 15.5", supported by research to promote yield and maintain a healthy population.*
 - This request is outside the scope of this proposed regulation. Department analyses indicate that California Sheephead populations are healthy, landings are stable, and the fishery is sustainably managed at this time. The Department understands recent research has shown that size and maturity of California Sheephead can vary locally and be affected by fishing activities. However, studies also demonstrate that Marine Protected Areas (MPAs) help mitigate these impacts by supporting populations of the full size structure, including an abundance of larger California Sheephead. At this time, the Department does not have a resource concern for California Sheephead, or see a need for additional regulations, as the fishery is actively managed with a minimum size limit, bag limit, and annual total allowable catch quota.

5. *Consider prohibiting the dumping of fish scraps into the ocean and encourage responsible disposal of fish processing waste.*
- Based on available science, the Department considers the discarding of fish scraps into the ocean to be a responsible approach, as the scientific literature supports evidence of benefits to the marine ecosystem.

In conclusion, the Department does not believe the comments from Wildlife Emergency Services warrants changes to the proposed California Sheephead fillet length regulation.

If you have any questions regarding this item, please contact Environmental Scientist, Miranda Haggerty as the Department's point of contact. Her contact information is (562) 342-7162 or Miranda.Haggerty@wildlife.ca.gov.

ec: Stafford Lehr, Deputy Director
Wildlife and Fisheries Division
Stafford.Lehr@wildlife.ca.gov

Craig Shuman, D. Env., Regional Manager
Marine Region
Craig.Shuman@wildlife.ca.gov

Mike Stefanak, Assistant Chief
Law Enforcement Division
Mike.Stefanak@Wildlife.ca.gov

Susan Ashcraft, Marine Adviser
Fish and Game Commission
Susan.Ashcraft@fgc.ca.gov

Kirsten Ramey, Environmental Program
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