

Staff Summary for April 17-18, 2024

14. Readoption of White Sturgeon Emergency Regulation (consent)**Today's Item**Information Action

Consider adopting a 90-day extension of emergency regulations concerning recreational take of white sturgeon (*Acipenser transmontanus*) to support recovery of populations and to track fishing pressure and success.

Summary of Previous/Future Actions

- Adoption hearing for emergency regulations concerning recreational take of white sturgeon October 11-12, 2023
- **Today consider adopting first 90-day extension of emergency regulations concerning recreational take of white sturgeon** **April 17-18, 2024**

Background

At its October 2023 meeting, the Commission adopted emergency regulations to amend recreational take of white sturgeon to support recovery of populations and to track fishing pressure and success (see Exhibit 1 for detailed background information). The Commission adopted an emergency regulation that implemented four concepts:

1. Reduced the white sturgeon slot limit from 40 to 60 inches to 42 to 48 inches.
2. Reduced the number of fish harvested to one fish per report card per year but allowed anglers to continue catch and release fishing after they have harvested one fish.
3. Applied a seasonal closure in upper spawning grounds only from January through May.
4. Reduced the vessel limit to two fish per day per boat.

The emergency regulation went into effect on November 16, 2023 for a period of 180 days; if not extended by the Commission, the emergency regulation will expire May 15, 2024.

For today's meeting, the Department has provided a draft finding of emergency and a draft statement of proposed emergency regulatory action for the Commission to consider in re-adopting the emergency regulation (exhibits 2 and 3).

Significant Public Comments (N/A)**Recommendation**

Commission staff: Under a motion to adopt the consent calendar, determine, pursuant to Section 399 of the California Fish and Game Code, that adopting these regulation changes is necessary for the immediate conservation, preservation, and protection of birds, mammals, fish, amphibians, or reptiles, including, but not limited to, their nests or eggs. Further determine, pursuant to Section 11346.1 of the California Government Code, that an emergency situation exists and that the proposed regulation changes are necessary to address the emergency. Readopt for an additional 90 days the emergency regulations

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amending sections 5.79, 5.80, 27.90 and 27.92, related to the recreational take of white sturgeon, as recommended by the Department.

Department: Adopt a 90-day extension of the emergency regulations amending sections 5.79, 5.80, 27.90 and 27.92.

Exhibits

1. [Staff summary from October 11-12, 2024 \(for background purposes only\)](#)
2. [Department transmittal memo, received March 19, 2024](#)
3. [Draft emergency statement](#)
4. [Draft proposed regulatory language](#)
5. [Economic and fiscal impact statement \(STD. 399\) and addendum](#)

Motion

Moved by _____ and seconded by _____ that the Commission adopts the staff recommendations for items 11 through 15 on the consent calendar.

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*(For Background Purposes Only)***9. WHITE STURGEON EMERGENCY REGULATION****Today's Item**Information Action

Discuss and consider adopting emergency regulations concerning recreational take of white sturgeon to support recovery of sturgeon populations and to track fishing pressure and success.

Summary of Previous/Future Actions

- Wildlife Resources Committee (WRC) discussion and recommendation September 19, 2023; WRC
- **Today's adoption hearing** **October 11-12, 2023**

Background

White sturgeon is an anadromous fish species that resides primarily in the San Francisco Bay-Delta and migrates as adults into the major rivers of the Central Valley to spawn. White sturgeon are long lived, potentially in excess of 100 years, with most individuals reaching maturity by approximately 14 to 15 years. Mature white sturgeon spawn every 2 to 5 years. Successful recruitment to the adult population is uncommon, occurring approximately every 6 to 7 years, and is highly correlated with above normal water years as measured by high mean daily Sacramento–San Joaquin River Delta outflow. The abundance of legal-sized white sturgeon in California has declined considerably since the 1980s, when abundance was estimated to be approximately 175,000 fish. In 2015, the Department estimated abundance in California at about 48,000 fish, and the Department's 2023 estimate was about 33,000 fish.

At present, recreational anglers can keep one white sturgeon per day, with a combined total of three per year, between 40 and 60 inches (fork length). The season is open year-round, with some limited regional and/or seasonal closures. Fishing pressure for white sturgeon, as measured by the number of fish harvested by anglers, has remained relatively stable; however, the number of fish caught and released has declined precipitously, indicating that fewer fish overall are being caught. The exploitation rate (i.e., the age-specific proportion of the population or biomass that is removed each year) of white sturgeon is estimated to be very high, ranging from 8 to 29.6% between 2007 and 2015. It has been suggested that the highest exploitation rate that a white sturgeon population can sustain is approximately 5 to 10%.

During July and August 2022, the San Francisco Bay region experienced a major harmful algal bloom (HAB) of *Heterosigma akashiwo* that resulted in significant mortality of fishes, including sturgeon. The resulting mortality has exacerbated what the Department believes to be an already unsustainable level of fishery exploitation of white sturgeon into a crisis situation.

Synopsis of Events

The Commission was first informed about the existence of an emergency through WRC. At the January 2023 WRC meeting at the request of the chair, the Department responded to an op-ed written by various sturgeon researchers in the academic field, calling on the Department to close the recreational white sturgeon fishery. The Department's response included a brief

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(For Background Purposes Only)

discussion of white sturgeon population declines, and the status of white sturgeon data being processed from various sources, including ongoing evaluation of impacts caused to the species by the summer of 2022 HAB, the possibility of future regulatory actions, data collection and modelling, and future stakeholder input. At the January meeting, the Department indicated that, based on the information available at the time, emergency action was not warranted, but that data was still being analyzed.

During the May 2023 WRC meeting, the Department outlined its previous and future plans for stakeholder engagement on the subject of potential white sturgeon regulation changes, stating its intent to develop a proposed regular rulemaking for Commission consideration that would change white sturgeon regulations for the 2025 calendar year, and that the Department was continuing to analyze data to determine the status of white sturgeon and appropriate management measures, including options for changes to sport fishing.

At the September 2023 WRC meeting, the Department presented new evidence on the white sturgeon population, the effects of the HAB, current and historical rates of sturgeon exploitation, and other information, all of which led the Department to conclude that an emergency situation exists. To protect the surviving population of white sturgeon and maintain a recreational fishery into the future, the Department stated that immediate steps are necessary to (1) stop angler-associated harvest of adult white sturgeon and (2) minimize harassment and handling on the spawning grounds so that adults can successfully spawn, and new individuals can recruit to the population.

Given this new information, WRC decided to recommend to the full Commission that it consider an emergency regulation at its next scheduled meeting, in October 2023. As a result of that WRC decision, Commission staff requested the Commission president add an agenda item to the October meeting to allow the Commission to consider emergency action.

Proposed Emergency Regulations

This proposed regulatory action amends sections 5.79, 5.80, 27.90 and 29.72, which describe report card and tagging requirements, seasons, and associated bag limits for white sturgeon recreational fishing in inland waters.

- Section 5.79: Removes language regarding white sturgeon harvest tags, as no harvest would be allowed under the proposed emergency regulations. Adds a requirement for anglers to report the length of any fish caught, to provide the Department with additional data for future management options. Adds language to instruct anglers to report additional sturgeon caught and released to provide data on fishing pressure and success.
- Section 5.80: Specifies white sturgeon fishing seasons from the west Carquinez Bridge east to the Highway 50 bridge on the Sacramento River, and above the Highway 50 bridge on the Sacramento River and the I-5 bridge on the San Joaquin River; changes the fishing to catch-and-release only; and changes the daily bag limit to 0.
- Section 27.90: Specifies white sturgeon fishing seasons for the Carquinez Bridge area, which falls under the jurisdiction of marine fisheries; changes the fishing to catch-and-release only; and changes the daily bag limit to 0.

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- Section 27.92: Updates language to a bag limit of 0 and specifies that white sturgeon is catch-and-release only in ocean waters.

Further details on the proposed changes are available in the emergency statement and proposed regulatory language (exhibits 4 and 5).

Significant Public Comments

1. An owner of a bait shop writes in opposition to the proposed emergency regulations, stating that the closure is not necessary and will have a dire effect on small businesses and the fishing industry (Exhibit 6).
2. A member of the public expresses concern that the urgency for the rulemaking is exaggerated. They state that the information provided is only from the last 4 years and that historical information from the past 80 years should also be considered. Lastly, they indicate that they are unaware of any successful catch-and-release fisheries on the West Coast, and are skeptical of the survey results that inquired if people would continue to fish without the option of harvest (Exhibit 7).

Recommendation

Commission staff: Adopt the emergency regulations amending sections 5.79, 5.80, 27.90, and 27.92 related to white sturgeon catch and release as recommended by the Department.

Committee: The Wildlife Resources Committee recommends the Commission adopt an emergency regulation regarding recreational take of white sturgeon.

Department: Adopt the emergency regulations as presented in the emergency statement in Exhibit 4 to pause all harvest of white sturgeon within the recreational fishery until new regulations can be developed that will limit exploitation to sustainable rates based on monitoring data.

Exhibits

1. Department presentation
2. Supplementary material from the Department, received October 4, 2023
3. Department memo, received September 22, 2023
4. Draft emergency statement and informative digest
5. Draft proposed regulatory language
6. Email from Leonard Butcher, received September 18, 2023
7. Email from Jacob Linard, received September 25, 2023

Motion

The Commission determines, pursuant to Section 399 of the California Fish and Game Code, that adopting these regulations is necessary for the immediate conservation, preservation, and protection of birds, mammals, fish, amphibians, or reptiles, including, but not limited to, their nests or eggs.

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The Commission further determines, pursuant to Section 11346.1 of the California Government Code, that an emergency situation exists and finds the proposed regulations are necessary to address the emergency.

Moved by _____ and seconded by _____ that the Commission adopts the emergency regulations amending sections 5.79, 5.80, 27.90 and 27.92 related to white sturgeon catch and release fishing regulations.

Memorandum

Date: March 15, 2024

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

From: Charlton H. Bonham
Director

Subject: Submittal of Emergency Statement for Readoption of Sections 5.79, 5.80, 27.90 and 27.92, Title 14, California Code of Regulations, Re: White Sturgeon

Please find attached the Findings of Emergency and Statement of Proposed Emergency Regulatory Action to Readopt amendments to sections 5.79, 5.80, 27.90 and 27.92, of Title 14, California Code of Regulations. At its October 11, 2023 meeting, the Fish and Game Commission (Commission) approved an emergency rulemaking amending sections 5.79, 5.80, 27.90, and 29.72, Title 14, CCR, which describe report card and tagging requirements, and seasons and bag limits for White Sturgeon sport fishing in inland waters. The current emergency rule will expire after six months, on May 15, 2024, unless it is readopted for an additional 90 days at the April 18, 2024 Commission meeting. The continuation of the emergency action reducing the bag limit, reducing the size limit, instituting a per-day vessel limit, and closing fishing in migrating and spawning habitat is necessary to protect the White Sturgeon population until a permanent regulation can be implemented.

During July and August 2022, the San Francisco Bay region experienced a major Harmful Algal Bloom (HAB) that resulted in significant mortality of sturgeon. The Department recorded over 850 sturgeon carcasses, the majority legal-sized or larger. Based on carcass studies and fish kills of other species of sturgeon, it is thought that only a small percentage of the fish killed floated long enough to be detected. The absolute magnitude of this impact on the White Sturgeon population is unknown but is thought to be significant.

To protect the surviving population and maintain a recreational fishery into the future, immediate steps are necessary to reduce angler associated harvest of adult White Sturgeon and to minimize harassment and handling on the spawning grounds. Continuing the emergency action directed at reducing exploitation rate and protecting reproduction of the species is necessary until long term regulations are enacted that will adequately protect the remaining White Sturgeon population.

We request submission of this emergency action to the Office of Administrative Law after consideration at the April meeting. If you have any questions or need additional information, please contact Jay Rowan, Chief, Fisheries Branch at fisheries@wildlife.ca.gov. The Department point of contact for this emergency

Melissa Miller-Henson, Executive Director
Fish and Game Commission
March 15, 2024
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regulation should identify Statewide Sturgeon Coordinator, John Kelly. He can be reached at sturgeon@wildlife.ca.gov.

cc: Chad Dibble, Deputy Director
Wildlife and Fisheries Division

Jay Rowan, Branch Chief
Fisheries Branch
Wildlife and Fisheries Division

Dan Kratville, Senior Environmental Scientist (Supervisor)
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State of California
Fish and Game Commission
Finding of Emergency and
Statement of Proposed Emergency Regulatory Action

Readoption of Emergency Action to Amend Sections 5.79, 5.80, 27.90, and 27.92
Title 14, California Code of Regulations
Re: White Sturgeon

Date of Statement: February 15, 2024

Throughout this document, Department or CDFW refer to the California Department of Fish and Wildlife and Commission refers to the California Fish and Game Commission. Unless otherwise specified, all section references in this document are to Title 14 of the California Code of Regulations (CCR).

I. Emergency Regulations in Effect to Date

At its October 11, 2023 meeting, the Commission approved an emergency rulemaking amending sections 5.79, 5.80, 27.90, and 27.92, Title 14, CCR, which describe report card and tagging requirements, and seasons and bag limits for White Sturgeon sport fishing in inland and ocean waters.

Background

White Sturgeon Sport Fishing

White Sturgeon (*Acipenser transmontanus*) are an anadromous species of fish that reside primarily in the San Francisco Bay Delta (SF Bay) and migrate as adults into the major rivers of the Central Valley to spawn. Most spawning occurs in the Sacramento River approximately between Verona and Colusa (Schaffter 1997), with a lesser amount of spawning on the lower San Joaquin River (Jackson et al. 2015). Some additional spawning may occur in tributaries such as the Feather, Bear, and Yuba rivers. White Sturgeon are long lived, potentially in excess of 100 years, with most reaching maturity by approximately 19 years, spawning every two to four years once mature (Chapman et al. 1996; Hildebrand et al. 2016). Successful recruitment to the adult population is uncommon, occurring approximately every six to seven years, highly correlated with above normal water years as measured by high mean daily Delta outflow (CDFW 2023; Fish 2010). The abundance of legal-sized White Sturgeon has declined considerably since the 1980s, when abundance was estimated to be approximately 175,000 fish (CDFW 2023; Danos et al. 2019). In 2015, the Department estimated abundance at about 48,000 fish (Danos et al. 2019), and the most recent estimate was about 33,000 fish (CDFW 2023).

Fishing pressure for White Sturgeon has remained stable at roughly 40,000 to 45,000 anglers per year since 2013 when fees were first charged for the Sturgeon Fishing Report Card (Card). Based on Card returns, the number of fish harvested by anglers has remained relatively stable. However,

the number of fish caught and released has declined precipitously, indicating that fewer fish overall are being caught. According to Card data, in 2021, anglers kept 46% of landed fish (Hause et al. 2021). The majority of anglers that harvest fish keep only one a year (75%), with only about 5% of anglers that harvest (1% of Cardholders) keeping the full three-fish limit. Exploitation rate of White Sturgeon is estimated to be very high, ranging from 8 to 29.6% between 2007 and 2015 (Blackburn et al. 2019) and averaging 8.1% in the years since that time (CDFW 2023). It is suggested that the highest exploitation rate that a sturgeon population can sustain is approximately 5 to 10% (Beamesderfer and Farr 1997), and that does not account for other anthropogenic sources of mortality such as habitat loss, altered hydrology, or contaminants. For comparison, Washington and Oregon use 3.8% as a target for management in areas that permit harvest.

Section 5.79, White Sturgeon Report Card and Tagging Requirements for Inland Waters

The emergency regulations amended White Sturgeon report card and tagging requirements for inland waters in the following subsections:

- All subsections: White Sturgeon has been capitalized for consistency throughout the regulation.
- Subsection (b): Edit text to reflect that report cards will come with only one tag rather than three. Add subsections (7) and (8) to clarify when anglers can continue to fish catch and release after harvesting a fish. Anglers will not be permitted to fish catch and release the same day they harvest a fish in order to prevent 1) take over the daily possession limit and 2) “high grading” (holding a fish in captivity while continuing to fish in the hopes of catching a larger individual).
- Subsection (c)(1): Add a requirement for anglers to report length of caught fish. This is necessary to provide more data availability on the nature of size to inform future management options related to age.
- Subsection (c)(2): Remove the current language that tells anglers if all lines on the card are filled, any additional sturgeon caught and released do not need to be recorded, and replace with language guiding anglers to report additional sturgeon caught and released on the back of the card. This is necessary in order to track fishing pressure and success. It is valuable to track all fish caught by anglers and this should not be restricted simply by the size of the printed card. This type of data allows the Department to form a better understanding of the fishery as we plan long-term regulations for the fishery.

Section 5.80, White Sturgeon

The proposed regulations will amend the White Sturgeon open season and daily and annual bag limit in the following subsections:

- All subsections: White Sturgeon has been capitalized for consistency throughout the regulation.
- Subsection (a); from the west Carquinez Bridge east to the Hwy 50 bridge on the Sacramento River and the I-5 bridge on the San Joaquin River the fishing season will

remain open all year. Above the Hwy 50 bridge on the Sacramento River and the I-5 bridge on the San Joaquin River, including all tributaries of both rivers, fishing will be allowed from June 1 through December 31 and all fishing for sturgeon will be unlawful from January 1 to May 31. This is necessary to maintain recreational fishing, which has economic and cultural benefits, while preventing additional mortality of the impacted White Sturgeon population and minimizing harassment and handling of migrating and spawning individuals. White Sturgeon are known to handle catch and release fishing with minimal adverse impacts except during migration and spawning season when additional stress of catch can cause fish to abort spawning activities.

- Subsection (b), now (b) and (c); Divide this subsection so there are individual sections for daily and annual limits. This will allow unambiguous clarification of when catch and release angling is permitted. Change the annual bag limit of “three fish per year statewide” to “one fish per calendar year statewide”. This is necessary to reduce harvest of White Sturgeon in inland waters to ensure protection of the population impacted by the HAB-induced fish kill and provide protection during migration and spawning.
- Add subsection (d); add vessel daily limit of two fish per day per vessel, regardless of how many sturgeon report card holders are on board. This will help reduce the daily amount of harvest associated with multi-angler vessels, both private and professional, and should contribute to less overall harvest of the adult population.
- Subsection (c), now (e): change the minimum legal size from 40 to 42 in. fork length and the maximum size from 60 to 48 in. fork length. Reducing the slot limit to target a lower size range of adults is expected to reduce overall harvest and provide more protection of the larger, most reproductively valuable fish in the population.
- Subsections (e) through (l) will need to be re-lettered to account for the splitting of subsection (b) and the addition of subsection (d) daily vessel maximum harvest.

Section 27.90, White Sturgeon

These regulations refer to areas west of the Carquinez Bridge, which fall under the jurisdiction of marine fisheries. The emergency regulations will amend the White Sturgeon open season and daily and annual bag limit in the following subsections:

- All subsections: White Sturgeon has been capitalized for consistency throughout the regulation.
- Subsection (a): west of the Carquinez Bridge, angling will be allowed all year, except as described in Section 27.95. This note has been added to explicitly draw attention the existing seasonal closure in San Francisco Bay.
- Subsection (b), now (b) and (c); Divide this subsection so there are individual sections for daily and annual limits. This will allow unambiguous clarification of when catch and release angling is permitted. Change the annual bag limit of “three fish per year statewide” to “one fish per calendar year statewide”. This is necessary to reduce harvest of White Sturgeon in marine waters to ensure protection of the population impacted by the HAB-induced fish kill and provide protection during migration and spawning.
- Add subsection (d); add vessel daily limit of two fish per day per vessel, regardless of how many sturgeon report card holders are on board. This will help reduce the daily amount of

harvest associated with multi-angler vessels, both private and professional, and should contribute to less overall harvest of the adult population.

- Subsection (c), now (e): change the minimum legal size from 40 to 42 in. fork length and the maximum size from 60 to 48 in. fork length. Reducing the slot limit to target a lower size range of adults is expected to reduce overall harvest and provide more protection of the larger, most reproductively valuable fish in the population.
- Subsections (c) through (h) will need to be re-lettered to account for the splitting of subsection (b) and the addition of subsection (d) daily vessel maximum harvest.

Subsection 27.92, White Sturgeon Report Card and Tagging Requirements for Ocean Waters

The proposed regulations will amend White Sturgeon report card and tagging requirements for ocean waters in the following subsections:

- All subsections: White Sturgeon has been capitalized for consistency throughout the regulation.
- Subsection (b): Edit text to reflect that report cards will come with only one tag rather than three. Add subsections (7) and (8) to clarify when anglers can continue to fish catch and release after harvesting a fish. Anglers will not be permitted to fish catch and release the same day they harvest a fish in order to prevent 1) take over the daily possession limit and 2) “high grading” (holding a fish in captivity while continuing to fish in the hopes of catching a larger individual).
- Subsection (c)(1), now subsection (b)(1); add a requirement for anglers to report length of caught fish to provide more data availability to inform future management options. Subsection (c)(2), now subsection (b)(2); remove the current language that tells anglers if all lines on the card are filled any additional sturgeon caught and released do not need to be recorded and replace with language guiding anglers to report additional sturgeon caught and released on the back of the card. This is necessary in order to track fishing pressure and success. It is valuable to track all fish caught by anglers and this should not be restricted simply by the size of the printed card. This type of data allows the Department to form a better understanding of the fishery as we plan long-term regulations for the fishery.

II. Request for Approval of Readoption of Emergency Regulations

At the October 11, 2023 FGC meeting, the Commission voted in support of an emergency action that limited harvest via reductions in the bag and legal slot limits, and instituted per-day vessel limits and seasonal and geographic closures of migrating and spawning habitat. This was intended to protect the existing population in the short term while allowing time for the Department to develop new long-term management measures for the future population.

The current emergency rule will expire after six months, on May 15, 2024, unless it is readopted for an additional 90 days at the April 18, 2024 meeting of the Fish and Game Commission (Commission). The continuation of the emergency action reducing the bag limit, reducing the size limit, instituting a per-day vessel limit, and closing fishing in migrating and spawning habitat is

necessary to protect the White Sturgeon population until a permanent regulation can be implemented.

It is anticipated that a standard rulemaking to permanently adopt these White Sturgeon fishery changes will be received by the Commission at its June 14-15, 2024 meeting at which time the Commission may authorize publication of a notice of its intent to adopt the regulations. It is expected that the permanent regulations would become effective in January 2025.

III. Statement of Facts Constituting the Need for Readoption of Regulatory Action

Until the start of the emergency action on November 16, 2023, recreational anglers were permitted to keep one White Sturgeon per day, and a combined total of three per year, between 40 and 60 in. fork length, meaning the measurement of the fish from the front of its head to the fork in its tail. The season was open year-round, with some limited regional and/or seasonal closures. The emergency action accomplished the following:

- a) reduced the annual bag limit for White Sturgeon from three to one fish,
- b) reduced the legal-sized slot limit from 40-60" total length (TL) to 42-48" TL,
- c) placed a limit of two fish per day per boat, and
- d) closed White Sturgeon fishing in the migrating and spawning reaches of the Sacramento and San Joaquin rivers from January 1 through May 31.

It is likely to have resulted in the desired effect of reducing exploitation rate and protecting spawning fishes; however, the actual effect of the emergency action will not be quantifiable until summer 2025 due to how data are collected in this fishery. The Department monitors harvest using the Sturgeon Fishing Report Card (card) which must be returned after the end of the calendar year. Card data are analyzed and trends are reported in the summer of the year following the card year (e.g. 2023 data will be reported in summer 2024) after sufficient time is given for cards to be returned to the Department, entered in the database, QA/QC by staff, and then analyzed. The emergency regulations went into effect on November 16, 2023, so only 1.5 months of data under the emergency action will be available for analysis later in 2024. It is possible that trends associated with the emergency action will become apparent in those data, but the Department will not be able to accurately assess the effects of this action until the summer of 2025 when 2024 data are available. The continued emergency action directed at reducing exploitation rate and protecting reproduction of the species is necessary until long term regulations are enacted that will adequately protect the remaining White Sturgeon population.

IV. Existence of an Emergency and Need for Immediate Action

The Commission considered the following factors in determining that an emergency does exist at this time:

The magnitude of potential harm:

During July and August 2022, the SF Bay region experienced a major HAB of *Heterosigma akashiwo* that resulted in significant mortality of fishes, including both White and Green sturgeon. The unprecedented fish kill resulting from the 2022 HAB killed at least 850 sturgeon, primarily

White Sturgeon (CDFW 2023). Of these carcasses, 86% were legal-sized or greater, representing mature, spawning broodstock (CDFW 2023). This estimate represents the minimum mortality experienced, which may have been an order of magnitude greater based on data from other sturgeon populations. This added mortality from the HAB was equivalent to 62% of the mortality due to harvest in 2022. Further, *H. akashiwo* bloomed again in the summer of 2023, resulting in a less intense HAB that resulted in the loss of at least 15 White and one Green sturgeon, suggesting that recurring HABs should be anticipated in the future. The abundance of legal-sized White Sturgeon has already declined considerably in the past forty years, and these HAB fish kills exacerbated the situation considerably. Abundance was estimated to be approximately 175,000 legal-sized fish in the 1980s (Danos et al. 2019). The Department's most recent population estimate of White Sturgeon was around 33,000 fish. Without knowledge of the true size of the population reduction resulting from the HAB fish kills, these mortality events could be impacting a considerable portion of the population.

The existence of a crisis situation:

The fish kill resulting from the HAB exacerbated what the Department believed to be an already unsustainable level of fishery exploitation of White Sturgeon into a crisis situation. In order to protect the surviving population of White Sturgeon and maintain a recreational fishery into the future, immediate steps were necessary to reduce angler associated harvest of adult White Sturgeon and to minimize harassment and handling on the spawning grounds so that these adults can spawn successfully, and new individuals can recruit to the population. The Department recommended that all harvest of White Sturgeon within the recreational fishery be paused until new regulations could be developed to limit exploitation to sustainable rates based on monitoring, which was opposed by the recreational sturgeon fishing industry. Based on carcass studies and fish kills of other species of sturgeon, it is thought that only a small percentage of the fish killed floated long enough to be detected (Fox et al. 2020). A second, less intense HAB of the same organism resulted in additional mortality, indicating that HABs are likely to recur in the future. The absolute magnitude of this impact on the White Sturgeon population is unknown, but is thought to be quite significant. Based on fishery data, the White Sturgeon population was already overexploited under current regulations, and updated regulations were needed and were being considered. The mortality from the HAB fish kills elevated an unsustainable situation into a crisis.

The immediacy of the need:

Immediate steps are necessary to reduce harvest of White Sturgeon, and allow the remaining population to persist after the die-offs. Take of White Sturgeon peaks in the fall and winter, so individuals are at risk if action is not taken quickly. Harassment and handling must be eliminated on White Sturgeon spawning grounds to ensure new individuals are recruiting to the population and maintain a recreational fishery in the future. These steps will protect the population while long term fishery changes are implemented, reducing fishery mortality and protecting spawning. Furthermore, In July and August 2023, a new HAB of the same species formed in the Northern San Francisco Bay. As of mid-August, 15 White Sturgeon carcasses and one Green Sturgeon carcass have been reported. It is imperative that we act to mitigate anthropogenic sturgeon

mortality during this or future HAB events. These steps will protect the population while long term fishery changes are implemented, reducing fishery mortality and protecting spawning.

Whether the anticipation of harm has a basis firmer than simple speculation:

The Department has monitored the White Sturgeon population since the 1950s, focusing primarily on abundance of legal-sized fish that are targeted in the fishery. Records indicate that the population has declined substantially from ~175,000 legal sized in the 1980s to ~33,000 in the most recent estimate. The historic SF Bay fish kill in 2022 is also known to have killed a large number of mature, spawning-age sturgeon though the absolute magnitude of that impact is unknown. Harvest of the adult population is known to be high, routinely exceeding exploitation rates recommended in the scientific literature and used by other natural resource agencies of management. Recruitment in the population is known to be poor, infrequent, and closely associated with above normal water years, making it difficult for the species to recover from overharvest. Under current environmental and management conditions, the White Sturgeon population cannot handle the current rate of exploitation and is not sustainable. Long term permanent regulation changes are needed to limit harvest to sustainable levels. Until new regulations are in place, the reduction of harvest of White Sturgeon will minimize fishery related impacts to the population and minimize the magnitude of potential harm, while still offering recreational fishing opportunities to anglers.

V. Readoption Criteria

Same as or Substantially Equivalent

Pursuant to Government Code subdivision 11346.1(h), a readoption may be approved only if the text is “the same as or substantially equivalent to an emergency regulation previously adopted by that agency.” The language proposed for this rulemaking is the same as the language of the original emergency regulation.

Substantial Progress

Government Code subdivision 11346.1(h) specifies “Readoption shall be permitted only if the agency has made substantial progress and proceeded with diligence to comply with subdivision (e)” [sections 11346.2 through 11347.3, inclusive].

A regular rulemaking (certificate of compliance) is currently underway and will be presented to the Commission for public notice at its April 17-18, 2024 meeting.

Proposed Action by the Commission

The Commission proposes the readoption of the emergency amendments to sections 5.79, 5.80, 27.90, and 27.92 that are the same as previously effective.

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

None. No costs or savings to state agencies or costs/savings in federal funding to the state are anticipated. The Department's existing level of monitoring and enforcement activities is expected to be unchanged by this emergency action. However, the Department anticipates a reduction in White Sturgeon Report Cards sales revenue estimated to be (-\$13,596) over the 90 day emergency readoption period in fiscal year 2023-2024.

(b) Nondiscretionary Costs/Savings to Local Agencies

None.

(c) Programs Mandated on Local Agencies or School Districts

None.

(d) 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.

(e) Effect on Housing Costs

None.

IV. Technical, Theoretical, and/or Empirical Studies, Reports, or Documents Relied Upon:

The Department relied on the following documents in proposing this emergency rulemaking action:

California Department of Fish and Wildlife (CDFW). 2023. White Sturgeon 2023 Emergency Regulation Change: Supporting Material. California Department of Fish and Wildlife, Fisheries Branch, West Sacramento, California.

Danos, A., J. DuBois, R. Baxter, J. T. Kelly, and M. L. Gingras. 2019. White Sturgeon, *Acipenser transmontanus*, Enhanced Status Report. California Department of Fish and Wildlife. <https://marinespecies.wildlife.ca.gov/white-sturgeon/>

Hause, C. L., C. Parker, D. Kratville, D. Stompe, J. A. Hobbs, and J. T. Kelly. 2023. Sturgeon Fishing Report Card: 2022 Summary Data Report. California Department of Fish and Wildlife, West Sacramento, California. <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=213586>

Hause, C. L., C. Parker, D. Kratville, D. Stompe, J. A. Hobbs, and J. T. Kelly. 2022. Sturgeon Fishing Report Card: 2021 Summary Data Report. California Department of Fish and Wildlife, West Sacramento, California. <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=202750>

V. Documents Providing Background Information

Beamesderfer, R. C. P., and R. A. Farr. 1997. Alternatives for the protection and restoration of sturgeons and their habitat. *Environmental Biology of Fishes* 48:407–417.

Blackburn, S. E., M. L. Gingras, J. DuBois, Z. J. Jackson, and M. C. Quist. 2019. Population Dynamics and Evaluation of Management Scenarios for White Sturgeon in the Sacramento–San Joaquin River Basin. *North American Journal of Fisheries Management* 39(5):896–912.

Chapman, F. A., J. P. Van Eenennaam, and S. I. Doroshov. 1996. The reproductive condition of white sturgeon, *Acipenser transmontanus*, in San Francisco Bay, California. *Fishery Bulletin* 94:628–634.

Fish, M. A. 2010. White Sturgeon Year-Class Index for the San Francisco Estuary and its Relation to Delta Outflow. *IEP Newsletter* 23(2):80–84.

Fox, D. A., E. A. Hale, and J. A. Sweka. 2020. Examination of Atlantic Sturgeon Vessel Strikes in the Delaware River Estuary: Final Report. NOAA-NMFS Award No. NA16NMF4720357.

Halvorson, L. J., B. J. Cady, K. M. Kappenman, B. W. James, and M. A. H. Webb. 2018. Observations of handling trauma of Columbia River adult white sturgeon, *Acipenser transmontanus* Richardson, 1836, to assess spawning sanctuary success. *Journal of Applied Ichthyology* 34(2):390–397.

Hildebrand, L. R., A. Drauch Schreier, K. Lepla, S. O. McAdam, J. McLellan, M. J. Parsley, V. L. Paragamian, and S. P. Young. 2016. Status of White Sturgeon (*Acipenser transmontanus* Richardson, 1863) throughout the species range, threats to survival, and prognosis for the future. *Journal of Applied Ichthyology* 32:261–312.

Jackson, Z. J., J. J. Gruber, and J. P. Van Eenennaam. 2015. White Sturgeon Spawning in the San Joaquin River, California, and Effects of Water Management. *Journal of Fish and Wildlife Management* 7(1):171–180.

Lamansky, J. A., K. A. Meyer, J. M. DuPont, B. J. Bowersox, B. Bentz, and K. B. Lepla. 2018. Deep hooking, landing success and gear loss using inline and offset circle and J hooks when bait fishing for white sturgeon. *Fisheries Management and Ecology* 25(2):100–106.

Schaffter, R. G. 1997. White sturgeon spawning migrations and location of spawning habitat in the Sacramento River, California. *California Fish and Game* 83(1):1–20.

VI. Authority and Reference

Section 5.79

Authority cited: Sections 200, 205, 265 and 399, Fish and Game Code.

Reference: Sections 200, 205 and 265, Fish and Game Code.

Section 5.80

Authority cited: Sections 200, 205, 265, 275 and 399, Fish and Game Code.

Reference: Sections 110, 200 and 205, Fish and Game Code.

Section 27.90

Authority cited: Sections 200, 202, 205, 220 and 399, Fish and Game Code.

Reference: Sections 200, 205 and 206, Fish and Game Code.

Section 27.92

Authority cited: Sections 200, 205, 265 and 399, Fish and Game Code.

Reference: Sections 200, 205 and 265, Fish and Game Code.

VII. Fish and Game Code Section 399 Finding

In accordance with subdivision (a) of section 399 of the Fish and Game code, the Commission finds that adopting this regulation is necessary for the immediate conservation, preservation, or protection of adult White Sturgeon during the State of Emergency proclaimed to exist in California and directs state officials to take immediate action to prepare for and mitigate the effects of HAB-induced White Sturgeon mortality.

Informative Digest/Policy Statement Overview

White Sturgeon (*Acipenser transmontanus*) are a species of fish native to California which live primarily in the San Francisco Bay Delta and migrate to the rivers of the Central Valley to spawn. White Sturgeon live potentially more than 100 years. Most reach sexual maturity by approximately 19 years of age and spawn every 2-4 years once mature. It is rare for larval sturgeon to survive to adulthood; successful broods occur every 6-7 years and are associated with above-average water flow in the Delta. The population of White Sturgeon has declined considerably in the last forty years. In the 1980s, the abundance of adult White Sturgeon was estimated to be 175,000 fish. The Department's most recent estimate is about 33,000 fish.

Until the emergency action, recreational anglers could keep one White Sturgeon 40-60 inches long per day and a total of three per year. The season was year-round, with some limited exceptions. As of November 16, 2023, the Department of Fish and Wildlife (Department) recommended an emergency action that a) reduced the annual bag limit for White Sturgeon from three to one fish, b) reduced the legal-sized slot limit from 40-60" total length (TL) to 42-48" TL, c) placed a limit of two fish per day per boat, and d) closed White Sturgeon fishing in the migrating and spawning reaches of the Sacramento and San Joaquin rivers from January 1 through May 31. Since the Department established its Sturgeon Fishing Report Card (Card) in 2013, about 40-45,000 recreational anglers have purchased cards every year. Based on data gathered from Cards, the number of fish kept by anglers has remained steady, but the number of fish caught and released has declined significantly, which indicates that fewer fish overall are being caught. The exploitation rate of White Sturgeon is estimated to be very high in California, between 8 and 30% between 2007-2015 and averaging 8.1% since that time. The sustainable exploitation rate of White Sturgeon is likely less than 4%. The Department believes that the current exploitation rate of sturgeon is unsustainable, and has been investigating ways to better manage the population.

The unsustainable exploitation rate of White Sturgeon was exacerbated to a crisis in 2022, when the San Francisco Bay experienced a major Harmful Algal Bloom (HAB) that resulted in significant mortality of many fishes, including White Sturgeon. The Department recorded over 850 sturgeon carcasses, the majority legal-sized or larger. Based on carcass studies and fish kills of other species of sturgeon, it is thought that only a small percentage of the fish killed floated long enough to be detected. The absolute magnitude of this impact on the White Sturgeon population is unknown, but is thought to be quite significant. A less intense HAB in 2023 killed at least 15 White Sturgeon and 1 Green Sturgeon.

Immediate steps are necessary to reduce harvest of White Sturgeon to protect the surviving population after the unprecedented fish kill until revised long-term regulations can be developed. Harassment and handling of fish must be eliminated on their migrating and spawning grounds to allow current adults to spawn successfully, ensuring a recreational fishery into the future.

Benefits of the Regulation:

These harvest restrictions will protect the remaining population while new long-term regulations are developed during proposed re-adoption actions, providing opportunity for surviving fish to spawn unmolested.

Consistency and Compatibility with Existing Regulations

Article IV, Section 20 of the State Constitution specifies that the Legislature may delegate to 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 sport fishing in waters of the state (Fish and Game Code sections 200, 205, and 315). The Commission has reviewed its own regulations and finds that the proposed regulations are consistent with other recreational fishing regulations in Title 14, CCR, and therefore finds that the proposed regulations are neither inconsistent nor incompatible with existing state regulations. The Commission has searched the California Code of Regulations and finds no other state agency regulations pertaining to temporarily prohibiting harvest of White Sturgeon due to population decline.

Proposed Emergency Regulatory Language

Sections 5.79, Title 14, CCR, is amended to read as follows:

§ 5.79. White Sturgeon Report Card and Tagging Requirements for Inland Waters (FG 683, See Section 701).

- (a) Sturgeon Fishing Report Card Required. All anglers must have a valid Sturgeon Fishing Report Card in their possession while fishing for or taking Wwhite Ssturgeon. Cardholders must complete and return the card pursuant to regulations in this Section and in Section 1.74.
- (b) Tagging and Recording Requirements for Retained Fish. A Sturgeon Fishing Report Card includes a detachable tag~~tag~~ that shall be used to tag any Wwhite Ssturgeon that is taken and retained in the sport fishery. Any Wwhite Ssturgeon possessed by any person shall be tagged.
 - (1) Upon taking and retaining a Wwhite Ssturgeon, the cardholder shall immediately record the following information:
 - (A) The fishing location, time of catch and length of the fish shall be recorded legibly and permanently in the appropriate spaces on the tag. The cardholder shall immediately and completely punch out the date of catch (month and day) on the sturgeon tag.~~Tags shall be used in sequential order.~~
 - (B) The month, day, fishing location and length of the fish shall be recorded in the appropriate spaces on the Sturgeon Fishing Report Card ~~which corresponds to the number on the tag.~~
 - (2) Immediately after recording the information above, the cardholder shall remove and completely detach the tag from the card and affix it to the Wwhite Ssturgeon. Cardholders shall not wait until completion of fishing activity to tag any Wwhite Ssturgeon in possession.
 - (3) The tag shall be securely fastened to the fish. To affix the tag, a “zip tie”, string, line or other suitable material shall be passed through the tag at the location specified on the sturgeon tag and attached to the fish.
 - (4) ~~Tags~~The tag shall not be removed from the report card until immediately prior to affixing to a Wwhite Ssturgeon. Any tags detached from the report card and not affixed to a Wwhite Ssturgeon shall be considered used and therefore invalid. No person shall possess any used or otherwise invalid sturgeon tags.
 - (5) Records of Prior Activity. The tag ~~All tags~~ must be accounted for at all times by entry of a record on the Sturgeon Fishing Report Card ~~corresponding to all tags that are not in the cardholder's possession.~~ Any tag that was lost or destroyed shall be recorded as such on the corresponding line on the Sturgeon Fishing Report Card.
 - (6) If the sturgeon has a department reward disk attached, write the reward disk number in the space provided on the report card.
 - (7) After retaining and tagging a White Sturgeon, a cardholder shall not continue to fish catch and release for White Sturgeon on the same day.

- (8) Cardholders that have retained and tagged a White Sturgeon are permitted to catch and release White Sturgeon starting on the day after the tag was used.
- (c) Reporting Requirements for Released Fish.
- (1) Whenever the cardholder catches and releases a sturgeon, the cardholder shall immediately record the month, day, location code, length, and species of sturgeon.
- (2) If all lines in the “sturgeon released” field of the report card are filled, any additional sturgeon caught and released ~~need not be recorded on the card~~ may be recorded on the back of the card.
- (3) If the sturgeon has a department reward disk attached, write the reward disk number in the space provided on the report card.
- (d) Sturgeon tags must be left affixed to the fish in place, including while stored at a residence or non-transient location, until the fish is processed for immediate consumption.
- (e) The annual fee for the Sturgeon Fishing Report Card is specified in Section 701(c).

NOTE: Authority cited: Sections 200, 205 ~~and 265~~, 265 and 399, Fish and Game Code.

Reference: Sections 200, 205 and 265, Fish and Game Code.

Proposed Emergency Regulatory Language

Section 5.80, Title 14, CCR, is amended to read as follows:

§ 5.80. White Sturgeon.

- (a) Open season: ~~All year, except for closures listed under special regulations.~~ (1)
All year: from the west Carquinez Bridge east to the Hwy 50 bridge on the Sacramento River and the I-5 bridge on the San Joaquin River.
(2) From June 1 through December 31: above the Hwy 50 bridge on the Sacramento River and the I-5 bridge on the San Joaquin River, including all tributaries of both rivers. From January 1 through May 31: it is unlawful to take White Sturgeon.
- (b) ~~Daily and annual bag limit: One fish per day. Three fish per year statewide.~~
- (b) Daily limit: One fish per day. After harvesting a White Sturgeon, anglers shall not continue to catch and release White Sturgeon on the same day. Anglers that have retained and tagged a fish are permitted to fish catch and release for White Sturgeon starting on the day after the tag was used.
- (c) Annual bag limit: One fish per calendar year statewide.
- (d) Daily vessel maximum harvest: All persons aboard a vessel may be cited for violation of a daily vessel maximum harvest limit. No more than two White Sturgeon may be harvested per day on a vessel, regardless of the number of anglers on board. Anglers must have in their possession a report card with a valid tag in order to retain a White Sturgeon. When the daily vessel maximum harvest is reached, only anglers that have not tagged a White Sturgeon that day may continue to fish catch and release for White Sturgeon.
- (~~ee~~) Size limit: No fish less than ~~40~~42 inches fork length or greater than ~~60~~48 inches fork length may be taken or possessed.
- (~~ef~~) Methods of take: Only one single point, single shank, barbless hook may be used on a line when taking sturgeon. The sturgeon must voluntarily take the bait or lure inside its mouth. No sturgeon may be taken by trolling, snagging or by the use of firearms. Sturgeon may not be gaffed, nor shall any person use any type of firearm or snare to take any sturgeon. For the purposes of this section, a snare is a flexible loop made from any material that can be tightened like a noose around any part of the fish.
- (~~eg~~) Removal from water. Any sturgeon greater than 68 inches fork length may not be removed from the water and shall be released immediately.
- (~~fh~~) Report card required: Any person fishing for or taking sturgeon shall have in their possession a nontransferable Sturgeon Fishing Report Card issued by the

department and shall adhere to all reporting and tagging requirements for sturgeon defined in Sections 1.74 and 5.79, Title 14, CCR.

- (g) Special North Coast District Sturgeon Closure (Humboldt, Del Norte, Trinity and Siskiyou cos.). It is unlawful to take any sturgeon in the North Coast District at any time.
- (h) For regulations on take and possession of sturgeon in ocean waters as defined in Section 27.00, see Sections 27.90, 27.91, and 27.95.
- (i) Special Sierra and Valley District Sturgeon Closure from January 1 to December 31 (Shasta, Tehama, Butte and Glenn cos.).
 - (1) Sacramento River from Keswick Dam to the Highway 162 Bridge.
 - (A) It is unlawful to take any sturgeon.
 - (B) It is unlawful to use wire leaders.
 - (C) It is unlawful to use lamprey or any type of shrimp as bait.
- (j) Special Yolo Bypass Flood Control System Sturgeon Closure. It is unlawful to take any sturgeon in the Yolo Bypass, Toe Drain Canal, and Tule Canal upstream of Lisbon Weir at any time.

NOTE: Authority cited: Sections 200, 205, 265 and ~~275~~, 275 and 399, Fish and Game Code.

Reference: Sections 110, 200 and 205, Fish and Game Code.

Proposed Emergency Regulatory Language

Section 27.90, Title 14, CCR, is amended to read as follows:

§ 27.90. White Sturgeon.

- (a) Open season: All year except as described in Section 27.95 of these regulations.
- ~~(b) Daily and annual bag limit: One fish per day. Three fish per year statewide.~~
- (b) Daily limit: One fish per day. After harvesting a White Sturgeon, anglers shall not continue to catch and release White Sturgeon on the same day. Anglers that have retained and tagged a fish are permitted to fish catch and release for White Sturgeon starting on the day after the tag was used.
- (c) Annual bag limit: One fish per calendar year statewide.
- (d) Daily vessel maximum harvest: All persons aboard a vessel may be cited for violation of a daily vessel maximum harvest limit. No more than two White Sturgeon may be harvested per day on a vessel, regardless of the number of anglers on board. Anglers must have in their possession a report card with a valid tag in order to retain a White Sturgeon. When the daily vessel maximum harvest is reached, only anglers that have not tagged a White Sturgeon that day may continue to fish catch and release for White Sturgeon.
- (~~e~~) Size limit: No fish less than ~~40~~42 inches fork length or greater than ~~60~~48 inches fork length may be taken or possessed.
- (~~f~~) Methods of take: Only one single point, single shank, barbless hook may be used on a line when taking sturgeon. The sturgeon must voluntarily take the bait or lure in its mouth. No sturgeon may be taken by trolling, snagging or by the use of firearms. Sturgeon may not be gaffed, nor shall any person use any type of firearm or snare to take any sturgeon. For the purposes of this section, a snare is a flexible loop made from any material that can be tightened like a noose around any part of the fish.
- (~~g~~) Removal from water. Any sturgeon greater than 68 inches fork length may not be removed from the water and shall be released immediately.
- (~~h~~) Report card required: Any person fishing for or taking sturgeon shall have in their possession a nontransferable Sturgeon Fishing Report Card issued by the department and shall adhere to all reporting and tagging requirements for sturgeon defined in Sections 1.74 and 27.92, Title 14, CCR.
- (~~g~~) For regulations on take and possession of sturgeon in inland waters as defined in Section 1.53, see Section 5.80 and Section 5.81.
- (~~h~~) Boat limits, as defined in Subsection 27.60(c) and Section 195, are not authorized for sturgeon fishing and shall not apply to the take, possession or retention of Wwhite Ssturgeon.

NOTE: Authority cited: Sections 200, ~~202~~, 205 ~~and 220~~, 265, 275, and 399, Fish and Game Code.

Reference: Sections 110, 200, and 205, ~~and 206~~, Fish and Game Code.

Proposed Emergency Regulatory Language

Section 27.92, Title 14, CCR, is amended to read as follows:

§ 27.92. White Sturgeon Report Card and Tagging Requirements for Ocean Waters (FG 683, See Section 701).

- (a) Sturgeon Fishing Report Card Required. All anglers must have a valid Sturgeon Fishing Report Card in their possession while fishing for or taking Wwhite Ssturgeon. Cardholders must complete and return the card pursuant to regulations in this Section and in Section 1.74.
- (b) Tagging and Recording Requirements for Retained Fish. A Sturgeon Fishing Report Card includes a detachable tags that shall be used to tag any Wwhite Ssturgeon that is taken and retained in the sport fishery. Any Wwhite Ssturgeon possessed by any person shall be tagged.
 - (1) Upon taking and retaining a Wwhite Ssturgeon, the cardholder shall immediately record the following information:
 - (A) The fishing location, time of catch and length of the fish shall be recorded legibly and permanently in the appropriate spaces on the tag. The cardholder shall immediately and completely punch out the date of catch (month and day) on the sturgeon tag. ~~Tags shall be used in sequential order.~~
 - (B) The month, day, fishing location and length of the fish shall be recorded in the appropriate spaces on the Sturgeon Fishing Report Card ~~which corresponds to the number on the tag.~~
 - (2) Immediately after recording the information above, the cardholder shall remove and completely detach the tag from the card and affix it to the Wwhite Ssturgeon. Cardholders shall not wait until completion of fishing activity to tag any Wwhite Ssturgeon in possession.
 - (3) The tag shall be securely fastened to the fish. To affix the tag, a “zip tie”, string, line or other suitable material shall be passed through the tag at the location specified on the sturgeon tag and attached to the fish.
 - (4) ~~The Tag~~ tag shall not be removed from the report card until immediately prior to affixing to a Wwhite Ssturgeon. Any tags detached from the report card and not affixed to a Wwhite Ssturgeon shall be considered used and therefore invalid. ~~No~~ person shall possess any used or otherwise invalid sturgeon tags.
 - (5) Records of Prior Activity. ~~The tag~~ All tags must be accounted for at all times by entry of a record on the Sturgeon Fishing Report Card ~~corresponding to all tags that are not in the cardholder's possession.~~ Any tag that was lost or destroyed shall be recorded as such on the corresponding line on the Sturgeon Fishing Report Card.

- (6) If the sturgeon has a department reward disk attached, write the reward disk number in the space provided on the report card.
- (7) After retaining and tagging a White Sturgeon, cardholders shall not continue to catch and release White Sturgeon on the same day.
- (8) Cardholders that have retained and tagged a White Sturgeon are permitted to fish catch and release for White Sturgeon starting on the day after the tag was used.

(c) Reporting Requirements for Released Fish.

- (1) Whenever the cardholder catches and releases a sturgeon, the cardholder shall immediately record the month, day, location code, length, and species of sturgeon.
- (2) If all lines in the “sturgeon released” field of the report card are filled, any additional sturgeon caught and released ~~need not be recorded on the card~~ may be recorded on the back of the card.
- (3) If the sturgeon has a department reward disk attached, write the reward disk number in the space provided on the report card.

(d) Sturgeon tags must be left affixed to the fish in place, including while stored at a residence or non-transient location, until the fish is processed for immediate consumption.

(e) The annual fee for the Sturgeon Fishing Report Card is specified in Section 701, Title 14, CCR.

NOTE: Authority cited: Sections 200, 205 ~~and 265~~, 265 and 399, Fish and Game Code.
Reference: Sections 200, 205 and 265, Fish and Game Code.

ECONOMIC IMPACT STATEMENT

DEPARTMENT NAME Fish and Game Commission	CONTACT PERSON David Thesell	EMAIL ADDRESS fgc@fgc.ca.gov	TELEPHONE NUMBER 916 902-9291
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 Readopt Emergency Action: Amend Section 5.79, 5.80, 27.90, and 27.92, Title 14, CCR, Re: White Sturgeon			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 type="checkbox"/> a. Impacts business and/or employees | <input type="checkbox"/> e. Imposes reporting requirements |
| <input type="checkbox"/> b. Impacts small businesses | <input type="checkbox"/> f. Imposes prescriptive instead of performance |
| <input type="checkbox"/> c. Impacts jobs or occupations | <input type="checkbox"/> g. Impacts individuals |
| <input type="checkbox"/> d. Impacts California competitiveness | <input checked="" type="checkbox"/> h. None of the above (Explain below): |

Emergency action: no economic assessment only fiscal impact assessment

*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.*

Fish and Game Commission

2. The _____ 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: _____

Describe the types of businesses (Include nonprofits): _____

Enter the number or percentage of total businesses impacted that are small businesses: _____

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

Explain: _____

5. Indicate the geographic extent of impacts: Statewide
 Local or regional (List areas): _____

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

Describe the types of jobs or occupations impacted: _____

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. 10/2019)

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? \$ _____

a. Initial costs for a small business: \$ _____ Annual ongoing costs: \$ _____ Years: _____

b. Initial costs for a typical business: \$ _____ Annual ongoing costs: \$ _____ Years: _____

c. Initial costs for an individual: \$ _____ Annual ongoing costs: \$ _____ Years: _____

d. Describe other economic costs that may occur: _____

2. If multiple industries are impacted, enter the share of total costs for each 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 NO

Explain the need for State regulation given the existence or absence of Federal regulations: _____

Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: \$ _____

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: _____

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

Explain: _____

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

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

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: _____

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

STD. 399 (Rev. 10/2019)

ECONOMIC IMPACT STATEMENT (CONTINUED)

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

Regulation: Benefit: \$ _____ Cost: \$ _____

Alternative 1: Benefit: \$ _____ Cost: \$ _____

Alternative 2: Benefit: \$ _____ Cost: \$ _____

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

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: _____

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. 10/2019)

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 _____

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 White Sturgeon Report Card sales are anticipated to drop resulting in a \$13,596 decline in CDFW revenue for the remainder of fiscal year 2023-24.

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

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

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

STD399 ADDENDUM

Emergency Action to Amend Sections 5.79, 5.80, 27.90, and 27.92
Title 14, California Code of Regulations
Re: White Sturgeon

Readopt I

Economic Impact Statement

Under the 90-day extension of this emergency regulation, take will still be permitted to anglers that purchase a Sturgeon Report Card, but harvest will be limited by 1) reduction of the legal slot limit, 2) reduction of the annual bag limit, 3) adding a vessel limit of two fish per day, and 4) protecting critical migrating and spawning behavior via a seasonal and geographic closure of river habitat. Catch and release angling will be permitted after anglers reach their annual harvest limit to preserve recreational angling opportunities.

This emergency action is necessary to maintain current and future recreational fishing's economic and cultural benefits, while preventing additional mortality of the impacted White Sturgeon population and minimizing harassment of spawning individuals.

A. ESTIMATED PRIVATE SECTOR COST IMPACTS

1. Answer: h. None of the above. (Explain below):

Emergency regulations do not require an economic impact statement; only fiscal impacts must be evaluated (California Government Code Section 11346.1).

Fiscal Impact Statement details are provided below.

Fiscal Impact Statement

A. FISCAL EFFECT ON LOCAL GOVERNMENT

Answer: 5. No fiscal impact.

The proposed amendment to Section 5.79, Title 14, CCR will not have the potential for a fiscal effect on local governments.

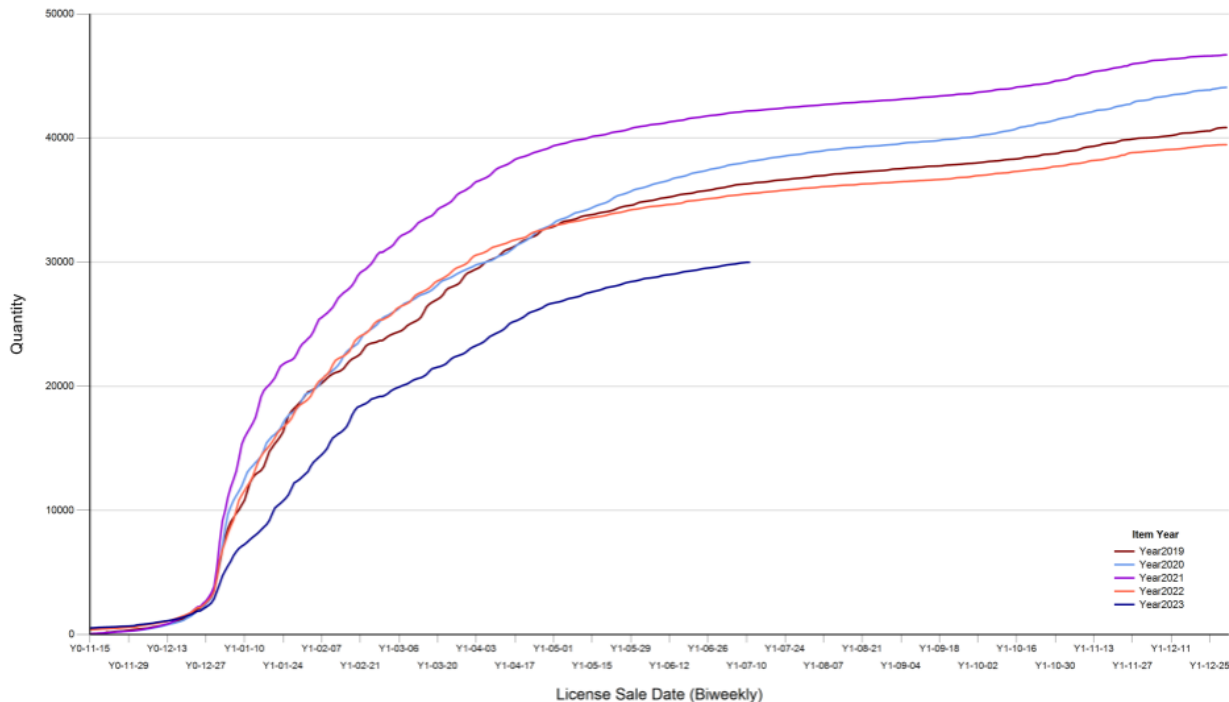
B. FISCAL EFFECT ON STATE GOVERNMENT

Answer: 4. Other.

The Fish and Game Commission (Commission) anticipates that the readoption of the proposed emergency action for another 90 days will not introduce new costs or savings for state agencies. The Department of Fish and Wildlife's (Department) existing level of monitoring and enforcement activities is expected to be unchanged. However, the Department anticipates that the continued reduced take limits may result in a continued drop in White Sturgeon Report Cards sales revenue estimated to be (-\$13,596) over the 90-day emergency readoption period during that later part of fiscal year 2023-2024.

Sales of Sturgeon report cards since a fee has been charged are plotted in Figure 1, showing purchases throughout the year. Most cards are sold in the first months of the year, with a small bump in sales in the later months of the year. Sales in years 2020 and 2021 may have been elevated due to the Covid-19 pandemic surge in outdoor recreation. For this fiscal year, as of July 2023, Sturgeon card sales have reached about 30,000, which is about 17% less than the amount sold in 2022, and 19% less than 2019, which are more historically-typical years with no pandemic affects. While difficult to discern with certainty, the lower 2023 numbers to date may be a result of the new 365-day sportfish license and the recent closure of the salmon fishery. Many other states with 365-day licenses experienced absolute declines in license sales and for some sport fishers, no ~~s~~Salmon opportunity induces them to forego all fishing trips for any other fish. Thus, acknowledging the probable influence of those factors, 2023-24 fiscal year total sales were already projected to be about 32,92933,491 or 18 percent less than the 40,851 average sold during a typical year.

Figure 1. Cumulative license sales quantity 2019-2023 for sturgeon report card
 Multiple Year Cumulative License Sales Quantity Comparison For Fish - Sturgeon Report Card - 0260



A Department survey of White Sturgeon fishery participants reveals that while over 67 percent report the main reason to fish for White Sturgeon is recreation and 70 percent state that their goal is only or mostly catch and release; approximately 27 percent state their goal is to fish for food and 43 percent answer that they would not participate in a catch and release only fishery. These sentiments have been recognized in the proposed emergency action in efforts to balance resource protection with recreational fishery opportunity.

Recent spatial and temporal take patterns suggest that the emergency action's proposed January to May upper spanning ground closure is the one component that may induce a small decline in report card sales during the 180-day emergency period.

The evidence that six percent of the seasonal catch has occurred in the area of the proposed January to May spanning ground closure, may induce those individual fishers to not purchase a Sturgeon Report Card, if that is the only time and area that they fish. Many may pursue Sturgeon in other areas at different times as well as the spawning grounds. But for some, that may be the only area and time for Sturgeon fishing, so it is reasonable to project a six percent drop in card sales revenue in 2024. This amounts to an estimated 1,025 fewer cards sold in 2023 and 1,320 fewer in 2024.

Table 1. White Sturgeon Report Card Price 2023 and 2024

2023 Base Fee	ALDS 3% Surcharge	2023 DFG Revenue per Card	2024 Base Fee	2024 DFG Revenue per Card
\$9.50	\$0.29	\$9.79	\$10.00	\$10.30

The 2023 Department revenue per card is \$9.79 and \$10.30 in 2024. The projected revenue losses to the Department for reduced White Sturgeon report card sales are \$10,037 for the calendar year 2023, and \$13,596 for 2024. The fiscal year 2023-2024 losses are projected to total \$23,633.

C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS

Answer: 3. No fiscal impact.

The proposed emergency action will not have the potential for a fiscal effect on the federal funding of state programs.