

TITLE 14. Fish and Game Commission Notice of Proposed Changes in Regulations

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 205, 265, 270, 275, 315, and 399, of the Fish and Game Code, interpret or make specific sections 110, 200, 205, and 265, proposes to amend sections 5.79, 8.80, 27.90, and 29.72, Title 14, California Code of Regulations (CCR), relating to white sturgeon fishing.

Informative Digest/Policy Statement Overview

Unless otherwise specified, all section references in this document are to Title 14, CCR.

The California Department of Fish and Wildlife (Department) is recommending that the California Fish and Game Commission (Commission) amend sections 5.79, 5.80, 27.90 and 27.92 to protect the white sturgeon population until a long-term regulation can be implemented.

The proposed changes to the white sturgeon (*Acipenser transmontanus*) sport fishing regulations aim to continue the one fish annual bag limit, reduced size limit, per-day vessel limit, and fishing closures established by emergency regulatory action on October 13, 2023 (Office of Administrative Law file #2023-1106-01E, 2024-0508-02EE). The existing emergency regulations are set to expire in November 2024, following planned second readoption of the emergency regulations in August. It is anticipated that a standard rulemaking with long-term changes to the white sturgeon fishery will be received by the Commission in summer 2024. The proposed amendments in this current rulemaking are necessary to protect the white sturgeon population until the long-term regulation can be implemented.

Proposed Changes to the Regulation

- Section 5.79: Amend white sturgeon report card and tagging requirements for inland waters.
- Section 5.80: Amend white sturgeon open season and daily and annual bag limit.
- Section 27.90: Amend white sturgeon open season and daily and annual bag limit for areas west of the Carquinez Bridge.
- Section 27.92: Amend white sturgeon report card and tagging requirements for ocean waters.

Benefit of the Regulations

The goal of these regulations is to continue the harvest restrictions that will protect the remaining population while new long-term regulations are developed, providing opportunity for surviving fish to spawn unmolested.

The Commission anticipates benefits to the state's environment through this regulatory action to make near-term the emergency action directed at reducing exploitation rate and protecting reproduction of the species is necessary until more updated management actions for the fishery are enacted that will adequately protect the remaining white sturgeon population in the long-term. Based on fishery data, the white sturgeon population was already overexploited under current regulations, and updated regulations were needed and are being considered.

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.

Public Participation

Comments Submitted by Mail or Email

It is requested, but not required, that written comments be submitted on or before August 1, 2024 at the address given below, or by email to FGC@fgc.ca.gov. Written comments mailed, or emailed to the Commission office, must be received before 12:00 noon on August 9, 2024. If you would like copies of any modifications to this proposal, please include your name and mailing address. Mailed comments should be addressed to Fish and Game Commission, PO Box 944209, Sacramento, CA 94244-2090.

Meetings

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Mountain Side Conference Center, 10001 Minaret Road, Conference Room 4, Mammoth Lakes, California, Mammoth Lakes, California on **Wednesday June 19, 2024**, and may continue on **Thursday June 20, 2024**. This meeting will also include the opportunity to participate via webinar/teleconference. Instructions for participation in the webinar/teleconference hearing will be posted at www.fgc.ca.gov in advance of the meeting or may be obtained by calling 916-653-4899. Please refer to the Commission meeting agenda, which will be available at least 10 days prior to the meeting, for the most current information.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the River Lodge Conference Center, 1800 Riverwalk Drive, Fortuna, California, which will commence **Wednesday, August 14, 2024**, and may continue on **Thursday, August 15, 2024**. This meeting will also include the opportunity to participate via webinar/teleconference. Instructions for participation in the webinar/teleconference hearing will be posted at www.fgc.ca.gov in advance of the meeting or may be obtained by calling 916-653-4899. Please refer to the Commission meeting agenda, which will be available at least 10 days prior to the meeting, for the most current information.

Availability of Documents

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikethrough format can be accessed through the Commission website at www.fgc.ca.gov. The regulations as well as all related documents upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Melissa Miller-Henson, Executive Director, Fish and Game Commission, 715 P Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above-mentioned documents and inquiries concerning the regulatory process to Melissa Miller-Henson or Jenn Bacon at FGC@fgc.ca.gov or at the preceding address or phone number. **Dr. John Kelly, Statewide Sturgeon Coordinator, Department of Fish and Wildlife, has been designated to respond to questions on the substance of the proposed regulations. Dr. Kelly can be reached at sturgeon@wildlife.ca.gov.**

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any

person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action/Results of the Economic Impact Assessment

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 Business, 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. A bag limit maintains the existing economic climate because the reduction is not significant enough to alter fishing behavior beyond reducing daily harvest.

(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. This proposed action should allow for ongoing fishing activity similar to current and historical levels which would not affect the demand for jobs or the demand for goods and services. The Commission does not anticipate any benefits to the health and welfare of California residents, or worker safety. The Commission anticipates benefits to the State's environment by sustainably managing California's sportfishing resources.

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

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. No change in fees, nor gear or equipment requirements are introduced for the recreational White Sturgeon fishery.

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

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 the proposed regulation. However, the Department anticipates a continuation of the reduction in White Sturgeon Report Cards sales revenue since the emergency had been implemented. Card sales revenue losses are estimated to be about \$20,000 in the 2024 license year.

(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.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code Sections 11342.580 and 11346.2(a)(1).

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

FISH AND GAME COMMISSION

Melissa Miller-Henson
Executive Director

Dated: May 17, 2024