

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: June 20, 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 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 Commission approved the re-adoption (emergency extension) of this emergency rulemaking for an additional 90 days at its April 17-18, 2024 meeting.

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 consistent with the Department's following of the 7th edition of *Common and Scientific Names of Fishes from the United States, Canada, and Mexico* (AFS Special Publication 34; 2013).
- 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 and released 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 emergency regulations amended 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 Highway 50 bridge on the Sacramento River and the Interstate-5 bridge on the San Joaquin River, the fishing season will remain open all year. Above the Highway 50 bridge on the Sacramento River and the

Interstate-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 harmful algal bloom (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 inches fork length and the maximum size from 60 to 48 inches 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.
- Re-letter subsections (c) through (j) as (e) through (l) 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 amended 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 inches fork length and the maximum size from 60 to 48 inches 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.
- Re-letter subsections (c) through (h) as (e) through (j) 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 emergency regulations amended 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): add a requirement for anglers to report length of caught and released fish to provide more data availability to inform future management options.
- 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.

II. Request for Approval of Readoption of Emergency Regulations

On October 11, 2023, 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 emergency regulations went into effect on November 16, 2023. On April 18, 2024, the Commission voted to extend the emergency regulations for 90 days. And on June 20, 2024, the Commission voted to extend the emergency regulations for a second 90-day extension.

The current emergency rule will expire on August 14, 2024, The continuation of the emergency action reducing the bag limit, reduced the slot 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.

At its April 17-18, 2024 meeting, the Commission authorized publication of notice of its intent to adopt these white sturgeon fishery changes for the long term (Certificate of Compliance, Office of Administrative Law notice ID Z2024-0517-02). It is expected that the permanent regulations would become effective in 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 inches 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, quality assurance and quality control 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. By mid-August, 2023, 15 white sturgeon carcasses and one green sturgeon carcass were 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 approximately 175,000 legal sized in the 1980s to

approximately 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 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].

At its April 17-18, 2024 meeting, the Commission authorized publication of notice of its intent to adopt these white sturgeon fishery changes for the long term (Certificate of Compliance, Office of Administrative Law notice ID Z2024-0517-02).

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 additional 90-day emergency readoption period in later months of 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, 205, 265, 275, and 399, Fish and Game Code.

Reference: Sections 110, 200, and 205, 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. The Department of Fish and Wildlife (Department) recommended and the California Fish and Game Commission (Commission) adopted an emergency action which went into effect November 16, 2023 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. The current emergency rule will expire, after an initial 90-day extension, on August 14, 2024, unless a second extension of an additional 90 days is approved. 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.

Benefits of the Regulation:

These emergency harvest restrictions will protect the remaining population while new long-term regulations are developed, 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.