

Staff Summary for December 11-12, 2024

12. White Sturgeon Emergency Sport Fishing During California Endangered Species Act Candidacy (consent)**Today's Item**Information Action

Consider adopting a 90-day extension of emergency regulations for the recreational take of white sturgeon (*Acipenser transmontanus*) in inland and ocean waters, pursuant to California Fish and Game Code Section 2084.

Summary of Previous/Future Actions

- Adoption hearing for emergency regulations concerning the recreational take of white sturgeon August 14-15, 2024
- **Today consider adopting a 90-day extension of emergency regulations concerning the recreational take of white sturgeon** **December 11-12, 2024**

Background

On July 12, 2024, notice was published in the California Regulatory Notice Register notifying the public that white sturgeon is officially a candidate species and is afforded the same protections as a species listed as threatened or endangered under the California Endangered Species Act (CESA). At its August 2024 meeting, the Commission adopted emergency regulations to add two new sections to Title 14 addressing white sturgeon fishing and report card requirements during the CESA candidacy (see Exhibit 1 for additional background). Previously amended sections (5.79, 5.80, 27.90, 27.92) are currently inoperative and a sentence has been added to the beginning of each of the sections with a cross-reference to the new sections 5.78 and 27.93.

The proposed regulation for re-adoption is the same as the original emergency with the exception of a proposed minor clarification on fish handling in sections 5.78(e) and 27.93(e) where the words "solely by the" will be added to read:

- (e) Handling and removal from water: Any sturgeon greater than 60 inches fork length may not be removed from the water and shall be released immediately. Sturgeon of any size shall not be held out of water suspended by the gills, gill plates, mouth, or solely by the tail, and shall not be dragged across the ground, boat decks, or piers.

The added language is necessary to clarify the earlier regulatory changes regarding the proper handling of sturgeon. To minimize risk of injury to white sturgeon in the current catch-and-release fishery, regulatory changes were made to restrict holding sturgeon in ways that could damage their gills, mouth, or spine. The new language is meant to prevent dangling the sturgeon vertically by the tail, which would put too much strain on the cartilage of the spine.

The goal of the emergency regulations is to permit a catch-and-release fishery for white sturgeon during the CESA status review process since it is expected to have minimal impact on both individuals and the population, while providing recreational opportunities for anglers and mitigating adverse economic impacts to businesses that serve sturgeon angling.

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Significant Public Comments

A member of the public proposes a sunset date to catch-and-release fishing for sturgeon, stating that setting an end to the regulation provides the Department sufficient time to assess population levels and potentially reinstate limited harvest if necessary, while demonstrating a proactive approach to conservation. This comment addresses the larger issue of the future regulation of sturgeon and not today's 90-day emergency extension. (Exhibit 6)

Recommendation

Commission staff: Find, pursuant to Section 399 of the Fish and Game Code, that adopting the proposed emergency regulation 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 and for the immediate preservation of the public peace, health and safety, or general welfare.

Further determine, pursuant to Section 11346.1 of the Government Code, that an emergency situation exists and find the proposed regulation is necessary to address the emergency.

Adopt a 90-day extension of the proposed emergency regulation to amend Section 671, as proposed in Exhibit 4 and discussed today.

Department: Adopt a 90-day extension of the emergency regulations adding sections 5.78 and 27.93, and amending sections 5.79, 5.80, 27.90 and 27.92.

Exhibits

1. [Staff summary from August 14-15, 2024 \(for background purposes only\)](#)
2. [Department transmittal memo, received November 14, 2024](#)
3. [Draft emergency statement, dated October 30, 2024](#)
4. [Draft proposed regulatory language](#)
5. [Draft economic and fiscal impact statement \(STD 399\) and addendum](#)
6. [Email from Joshua Russo, received November 14, 2024](#)

Motion

Moved by _____ and seconded by _____ that the Commission adopts the staff recommendations for Item 12 on the consent calendar.

Staff Summary for August 14-15, 2024
 (For background purposes only)

14. White Sturgeon Emergency Sport Fishing During California Endangered Species Act Candidacy

Today's Item

Information

Action

Consider adopting emergency regulations for the sport take of white sturgeon in inland and ocean waters, pursuant to California Fish and Game Code Section 2084.

Summary of Previous/Future Actions

- **Today's discussion and consideration of adopting emergency regulations for the sport take of white sturgeon** **August 14-15, 2024**

Background

On November 29, 2023, the Commission received a petition to list white sturgeon as threatened under the California Endangered Species Act (CESA). The petitioners argued that long-term declines in the abundance of white sturgeon are due to (1) Central Valley water management infrastructure and operations; (2) overharvest in the sport fishery; (3) harmful algal blooms; and (4) other factors such as poaching, pollution, vessel strikes, and climate change. At its June 2024 meeting, after review of the Department's petition evaluation report, comments received, and discussion, the Commission determined that the petitioned action may be warranted.

On July 12, 2024 a notice was published in the California Regulatory Notice Register notifying the public that white sturgeon is officially a candidate species, and that white sturgeon is temporarily afforded the same protections as a species listed as threatened or endangered pursuant to Section 783.1 and Fish and Game Code Section 2085. Protections under CESA during candidacy exist to protect the species until a comprehensive, peer-reviewed status review can be completed and informed decisions made about whether to list, and how to manage, the species.

On May 28, 2024, the Nor-Cal Guides and Sportsmen's Association submitted a petition for regulation change to the Commission stating that candidacy has the potential to cause irreparable damage to the businesses and anglers who fish for white sturgeon in California's coastal, San Francisco Bay/Sacramento-San Joaquin Delta, and inland waters, noting impacts to guides, charter boat captains, and angling-associated businesses (see exhibit B5, item 17, this meeting). Likewise, at its June 19, 2024, meeting, the Commission heard testimony from members of the sturgeon angling and business community requesting that the fishery remain open with some level of take. Generally, the concern expressed was that a complete closure of the fishery during CESA candidacy would create substantial economic harm to businesses that rely on the white sturgeon fishery, including charter captains, guides, bait and tackle stores and suppliers, marinas, and related services. Such factors may be considered when authorizing some form of take under Section 2084 of the California Fish and Game Code, which allows the Commission, based on the best available scientific information, to authorize

Staff Summary for August 14-15, 2024
(For background purposes only)

the take any fish by hook and line for sport that is listed as an endangered, threatened, or candidate species provided that the take is consistent with CESA.

The potential for substantial economic harm, coupled with the sudden nature of the protections that candidate species receive, constitutes an emergency that authorizes the Commission to address the matter through regulation. Total closure of the white sturgeon sport fishery as a result of the species becoming a candidate species for CESA listing represents a financial crisis to Californians who rely on this fishery as part of their business, including boat captains, fishing guides, and businesses that rely on anglers such as bait and tackle stores and suppliers, marinas, and other boat services. Additionally, many of these businesses have already been impacted by other major fishery changes in the state, including two years of closure to the salmon fishery and changes to the halibut and rockfish fisheries. A Department memo (Exhibit 1) contains an estimation of economic hardships that will be produced by white sturgeon's candidacy, based on a letter from the Nor-Cal Guides and Sportsmen's Association and the Golden Gate Fishermen's Association (Exhibit 6).

The proposed regulatory action creates two new sections in Title 14 of the California Code of Regulations that supersede, but do not replace, four existing sections addressing white sturgeon fishing and report card requirements. New Section 5.78 combines most elements of existing sections 5.79 and 5.80, and defines seasons, closed areas, gear and handling restrictions, and report card requirements for catch-and-release fishing in inland waters; new Section 27.93 combines the elements of sections 27.90 and 29.72 in the same manner for ocean waters. The existing sections (5.79, 5.80, 27.90, 27.92) are currently inoperative because they are superseded by CESA take prohibitions. This action proposes the sections continue in Title 14 but remain inoperative, pending a later Commission decision about sport harvest with regard to a potential CESA listing for white sturgeon. The goal of these new regulations is to permit during the CESA status review process a catch-and-release fishery for white sturgeon since it is expected to have minimal impact on the population, while providing sport fishing opportunities for anglers and mitigating adverse economic impacts to businesses that serve sturgeon angling.

Significant Public Comments (N/A)

Recommendation

Commission staff: Adopt the proposed emergency regulation authorizing sport take of white sturgeon as proposed in Exhibit 3 and discussed today.

Department: Adopt the regulation as proposed in Exhibit 3.

Exhibits

1. Department memo transmitting the original draft emergency statement, received July 29, 2024
2. Draft emergency statement and informative digest updated by staff, dated August 6, 2024
3. Draft proposed regulatory language

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(For background purposes only)

4. Draft economic and fiscal impact statement (STD 399) and addendum
5. Department presentation
6. Letter from James Stone, President, Nor-Cal Guides and Sportsmen's Association and James Smith, Member, Golden Gate Fishermen's Association Board of Directors, received June 4, 2024

Motion

Moved by _____ and seconded by _____ that the Commission finds, pursuant to Section 399 of the Fish and Game Code, that adopting the proposed emergency regulation is necessary for the immediate preservation of the public peace, health and safety, or general welfare.

The Commission further determines, based on the record, that this approval is exempt from the California Environmental Quality Act as an action necessary to prevent or mitigate an emergency as specified in Subsection 15269(c) of Title 14 of the California Code of Regulations, and Public Resources Code Section 21080(b)(4), as well as to protect a natural resource pursuant to the guidelines in California Code of Regulations, Title 14, Section 15307, and relying on Subsection 15061(b)(3) of Title 14.

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

Therefore, the Commission adopts the emergency regulation to add sections 5.78 and 27.93, as discussed today.

Memorandum

Date: November 13, 2024

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

From: Charlton H. Bonham
Director

Subject: **Item for December 11-12, 2024 meeting: Submission of Emergency Statement and regulatory documents to Readopt the Addition of Sections 5.78 and 27.93 and Amend Sections 5.79, 5.80, 27.90 and 27.92 of Title 14 of the California Code of Regulations Re: White Sturgeon Fishing During CESA Candidacy Emergency**

Please find attached the Findings of Emergency Statement of Proposed Readoption of Emergency Regulatory Action to add Sections 5.78 and 27.93 and amend sections 5.79, 5.80, 27.90, and 27.92 of Title 14 of the California Code of Regulations.

The California Fish and Game Commission (Commission) voted to approve White Sturgeon as a candidate species for listing under the California Endangered Species Act (CESA) on June 19, 2024. By accepting the petition, the Commission prohibited take of White Sturgeon, including “catch-and-release” by recreational angling, effective July 12, 2024. The Commission requested the California Department of Fish and Wildlife (Department) propose options to authorize take of White Sturgeon as a candidate species by anglers under Fish and Game Code (F&G Code) Section 2084(a)(2), which allows for take of fish by hook and line for sport based on the best available scientific information provided the take is consistent with Fish and Game Code Division 3, Chapter 1.5.

During the June 19, 2024 meeting, the Commission heard testimony from members of the sturgeon angling and business community expressing a closure of the fishery during CESA candidacy created serious and substantial economic harm to businesses that rely on the White Sturgeon fishery, including charter captains, guides, bait and tackle stores and suppliers, marinas, and related services. Representatives of the fishing industry also filed regulation change petition 2024-06 on May 28, 2024, and specifically referenced the following economic revenue for the White Sturgeon Industry.5 Commercial Passenger Fishing Vessels; combined annual sturgeon revenue of \$300,000.

- 24 captains operating 6-pack vessels full time; combined annual sturgeon revenue of \$1.2 million dollars. Six-pack vessels are small charter boats limited to a maximum of six passengers.

- 16 captains operating 6-pack vessels part time; combined annual sturgeon revenue of \$300,000 revenue.
- Approximately 45 charter/guide services with \$1.8 million in total revenues
- 10,000-15,000 recreational boats whose economic impacts include launch fees, gas, bait, tackle, rods, reels, ice and more.
- The supply chain of bait/suppliers/distributors with an estimated sturgeon revenue of \$1 million, including approximately 50 tackle stores.

While the Department is unable to verify all of the stated losses and closures to businesses reported in Petition No. 2024-06, the Department has determined that a closure to sport fishing for White Sturgeon during the CESA candidacy period will cause serious economic harm to business that rely on the White Sturgeon fishery and to the Department from loss of license and report card sales.

At its August 15, 2024 meeting, the Commission approved an emergency rulemaking adding sections 5.78 and 27.93 and amending sections 5.79, 5.80, 27.90, and 27.92, Title 14, CCR, which describe White Sturgeon sport fishing during CESA candidacy.

The emergency regulation created two new sections under Title 14, CCR, that supersede but do not replace four existing sections addressing White Sturgeon fishing and report card requirements. Section 5.78 combines most elements of existing sections 5.79 and 5.80, and defines seasons, closed areas, gear and handling restrictions, and report card requirements for catch-and-release fishing in inland waters. Section 27.93 combines 27.90 and 29.72 in the same manner for ocean waters. The existing sections (5.79, 5.80, 27.90, 27.92) will remain in Title 14 but will be inoperative, with an added sentence at the beginning of the section with a cross-reference to the new sections. The proposed regulation for re-adoption is the same as the original emergency with the exception of a minor clarification on fish handling in sections 5.78(e) and 27.93(e).

The best available science suggests that non-lethal take via a catch-and-release fishery will not be harmful to the long-term viability of White Sturgeon in California. Studies conducted on White Sturgeon fisheries in other states show little to no mortality, and no long-term negative impacts to White Sturgeon individuals or populations, because of catch-and-release recreational fishing. The Department does not believe the best available science supports any level of harvest during candidacy. The best available scientific information regarding White Sturgeon abundance in CA indicates that there has been a long-term decline and the recent Harmful Algal Blooms (HABs) in 2022 and 2023 are suspected to have killed a substantial portion of mature adults. The Department understands that fishery is not the primary cause for declining numbers, however, the harvest does contribute to cumulative loss and must be considered. Based on these data and the current CESA candidate listing, the

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Department must prioritize protection of the species and is unable to support harvest (at any level) of the population at this time.

Readopting an emergency regulation to continue to offer recreational White Sturgeon fishing opportunities consistent with F&G Code Section 2084 would avoid serious harm related to economic impacts on sturgeon-related businesses including fishing guides, charters, and bait shops. Sturgeon catch-and-release fisheries on other populations (OR, WA, ID, British Columbia) are popular and provide significant economic impact to related business and local economies. For example, a 2022 survey of the Fraser River catch-and-release White Sturgeon fishery indicated that anglers spend an average of US\$628 per day, fishing catch-and-release for sturgeon, compared to US\$129 in all other fisheries combined. Additionally, Fraser River sturgeon anglers relied on paid guide services 46% of the time compared to 9% in all other fisheries. In California, the Department sold 34,529 Sturgeon report cards in 2023. A survey of California sturgeon anglers conducted by the Department in 2023 found that 13.7% respondents used a fishing guide or Charter to fish for White Sturgeon. Commercial Passenger Fishing Vessel (CPFV) logs collected by the Department indicate that over 480 sturgeon trips were taken in 2023. CPFV's targeting sturgeon typically carry between 2 and 6 anglers per trip. In addition, angling for sturgeon is exclusively conducted with bait, of which the vast majority is procured through local bait and tackle stores.

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 regulation should identify Statewide Sturgeon Coordinator, John Kelly. He can be reached at sturgeon@wildlife.ca.gov.

ec: **Department of Fish and Wildlife**

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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 Add Sections 5.78 and 27.93 and Amend Sections 5.79, 5.80,
27.90, and 27.92

Title 14, California Code of Regulations

Re: White Sturgeon Sport Fishing During CESA Candidacy Emergency

Date of Statement: October 30, 2024

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

I. Emergency Regulations in Effect to Date

At its August 15, 2024 meeting, the Commission approved an emergency rulemaking adding sections 5.78 and 27.93 and amending sections 5.79, 5.80, 27.90, and 27.92, Title 14, CCR, which describe white sturgeon sport fishing during the candidacy period under the California Endangered Species Act (CESA). The emergency regulations went into effect on September 6, 2024 (OAL file #2024-0827-02E).

Background

White sturgeon (*Acipenser transmontanus*) is an anadromous species of fish that resides primarily in the San Francisco Bay Delta (SF Bay) and migrates as adults into the major rivers of the Central Valley to spawn. Most spawning occurs in the Sacramento River 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 14 to 19 years, spawning every two to four years once mature (Chapman et al. 1996; Hildebrand et al. 2016). Successful recruitment of juveniles is infrequent, 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). Considerable declines in both relative and absolute abundance have been measured by the Department (CDFW 2023; Danos et al. 2019). The most recent Department estimate was approximately 33,000 fish (CDFW 2023).

White sturgeon have been the focus of a recreational fishery since 1954. Until recently, recreational anglers could keep one white sturgeon per day, and a combined total of three per year with a slot limit of 40 and 60 inches (in.) fork length (FL; 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. In 2022, a Harmful Algal Bloom (HAB) of the marine phytoflagellate *Heterosigma akashiwo* resulted in the largest fish kill in the recorded history of the region. Many

species were impacted during this event including white sturgeon. Over 850 white sturgeon carcasses were found during monitoring, but the full magnitude of the fish kill is unknown as only approximately 20% of the shoreline was able to be surveyed. A HAB of the same species occurred again in 2023, though of lower intensity, leading to 15 recorded white sturgeon carcasses. Due to cessation of funding for the historical abundance monitoring program, it has not been possible to make a white sturgeon abundance estimate since the HAB events.

As a result of long-term declines in the population, the impacts of the HAB, and the unknown current status of the population, the Department proposed an emergency regulation shifting the recreational fishery to catch-and-release only, as well as protection of the migrating and spawning grounds in October 2023. The goal of the 2023 emergency regulation recommendation was to protect the species from over-exploitation while long term fishing regulations could be revised that would offer harvest opportunities at levels that would not threaten the long-term success of the population. During the California Fish and Game Commission meeting considering the emergency regulation, the industry expressed concerns about the effect closure of harvest would have on their business and livelihoods, particularly in light of a recent closure of the salmon fishery and changes to other popular fisheries such as halibut and rockfish. In response, the Commission and Department worked with stakeholders to create an emergency regulation to reduce fishing pressure on white sturgeon while retaining harvest. Under emergency regulations enacted on November 16, 2023, anglers with a Sturgeon Report Card were permitted to take one white sturgeon a year between 42 and 48 in. FL, with a maximum of two fish harvested per boat per day. Fishing was prohibited from January 1 through June 30 upstream of the Highway 50 bridge on the Sacramento River and the I-5 bridge on the San Joaquin River.

California Endangered Species Act Candidacy

On November 29, 2023, the Commission received a petition from San Francisco Baykeeper, The Bay Institute, Restore the Delta, and California Sportfishing Protection Alliance to list white sturgeon as threatened under the California Endangered Species Act (CESA). The petitioners argued that long term declines in the abundance of white sturgeon are due to 1) Central Valley water management infrastructure and operations, 2) overharvest in the recreational fishery, 3) Harmful Algal Blooms, and 4) other factors such as poaching, pollution, vessel strikes, and climate change. The Department returned an evaluation on March 15, 2024, determining that the petition provided sufficient scientific information to indicate that the petitioned action may be warranted. On June 19, the Commission voted that white sturgeon warranted candidacy under CESA and directed the Department to initiate a status review of white sturgeon.

Under CESA, candidate species receive full protection while a status review is conducted. This prohibition of take includes non-harvest “catch-and-release” angling; however, Fish and Game Code Section 2084 permits the Commission to authorize the take of candidate species of fish by hook and line for sport based on the best available scientific information. The petitioners themselves stated that “a catch-and-release fishery for California white sturgeon is consistent with conserving and restoring these fish as hooking mortality is extremely low” (CESA Petition, p. 40). This recommendation is in line with the position of the Department during the 2023 emergency fishing regulation process. Scientific studies of the effects of angling on white sturgeon in other populations indicate that the species is robust and tolerates catch-and-release angling well.

Studies from Idaho found that adult sturgeon in the C.J. Strike reservoir are hooked an average of 7.7 times, and landed 3.5 times, in a year (Kozfkay and Dillon 2010). These sturgeon experience a high level of catch-and-release every year without long term negative consequences. In studies of gear effects, it has been observed that metal tackle that has been ingested is processed and expelled quickly (Lamansky et al. 2018; Bowersox et al. 2016). Mortality as a result of angling was examined in the lower Fraser River, BC (Robichaud et al. 2006). Out of 25,219 angling events, no mortality was observed immediately upon capture and release. A subset of 96 angled fish were held in net pens for three days to evaluate delayed mortality. Two fish died by the end of the third day of the study (2.6% mortality); however, the authors indicated that the mortality was likely influenced by unsuitable conditions in the floating net pens (Robichaud et al. 2006). The best available science suggests that white sturgeon tolerate catch-and-release angling well. The Department believes that this activity could occur during the status review process without placing the remaining population at risk.

On May 28, 2024, the Nor-Cal Guides and Sportsmen's Association (NCGASA) submitted a petition to the Commission stating that candidacy "has the potential to cause irreparable damage to the business and recreational anglers who fish for white sturgeon in California's coastal, Delta, and inland waters" (NCGASA 2024) noting impacts to guides, charter boat captains, and angling-associated businesses. Industry representatives requested an exemption to permit a recreational sturgeon fishery that includes harvest to continue to operate; however, the petition did not propose any specific regulatory options, such as seasons, geographic range, or harvest bag and size range limits.

Protections under CESA during candidacy exist to protect the species until a comprehensive, peer-reviewed status review can be completed and informed decisions made about how to manage the species. While the best available science suggests that non-lethal take via a catch-and-release fishery would not harm the long-term viability of white Ssturgeon in California, the Department does not believe the evidence supports any level of harvest during candidacy for the following reasons:

- At this time, there is no abundance estimate dating from after the HAB associated fish kills occurred (2022, 2023) and no way to assess the impact those events had on the population. In May of this year, the Department initiated a new pilot survey program for white sturgeon. The program has been very successful thus far and it is hoped that the Department will be able to make abundance estimates in the future, but it may take several years before suitable data exist to make such an estimate or to understand current population trends.
- Amendments to 5.79, 5.80, 27.90 and 27.92 effective by emergency action on November 16, 2023 that permitted harvest of one sturgeon were a compromise that did not reflect the recommendation of the Department after the HAB, and were not based on scientific review or analysis. Further, these regulations were only been in place for less than a year, and the Department does not yet have any way to evaluate the effect those regulations have had on harvest rates. Sturgeon Report Cards operate on a calendar year schedule, so these data may not be analyzed until after report cards are returned by the January 30, 2025 deadline. To date there is no way to determine if the existing regulations sufficiently protect the species from over-exploitation.

- While the Department had been developing recommendations for new long-term fishing regulations that included harvest prior to receipt of the petition, these were predicated on setting an annual harvest quota that restricted take to below sustainable levels. The annual quota would have been determined based on annual abundance monitoring and would have included an option for zero harvest (catch-and-release only) when conditions warranted it or if reliable data were lacking. The existing regulations have no restrictions on the maximum number of fish that could be harvested in any given year, focus harvest on narrow age cohorts of fish, and run the risk of overexploiting the population during candidacy.

At its June 19, 2024, meeting, the Commission heard testimony from members of the sturgeon angling and business community requesting that the fishery remain open with some level of take. The concern expressed was that a complete closure of the fishery during CESA candidacy created substantial economic harm to businesses that rely on the white sturgeon fishery, including charter captains, guides, bait and tackle stores and suppliers, marinas, and related services. Such factors may be considered in authorizing some form of take under Section 2084 of the Fish and Game Code, which allows the Commission, based on the best available scientific information, to authorize the taking of any fish by hook and line for sport that is listed as an endangered, threatened, or candidate species. The potential for economic harm, coupled with the sudden nature of the protections that candidate species receive, constitutes an emergency that authorizes the Commission to address the matter through regulation. The Commission directed the Department to explore potential changes to the take prohibition granted with the June 19, 2024 decision on candidacy for the purpose of identifying potential fishing regulations that would mitigate economic impacts, while still providing protective regulatory measures to white sturgeon. At the August 15, 2024 FGC meeting, the Commission voted in support of an emergency action that permits a catch-and-release fishery for white sturgeon during the CESA candidacy/ status review period since it is expected to have minimal impact on the population, while providing recreational opportunities for anglers and mitigating adverse economic impacts to businesses that serve sturgeon angling.

Emergency Regulations in Effect

The emergency regulations effective on September 6, 2024 created two new sections under Title 14, CCR, that supersede but do not replace four existing sections addressing white sturgeon fishing and report card requirements. Section 5.78 combines most elements of existing sections 5.79 and 5.80, and defines seasons, closed areas, gear and handling restrictions, and report card requirements for catch-and-release fishing in inland waters. Section 27.93 combines 27.90 and 27.92 in the same manner for ocean waters. Regulations in 5.78 and 27.93 as the section 2084 catch-and-release authority supersede sections 5.79, 5.80, 27.90 and 27.92, which makes these latter four sections inoperative until CESA status review or candidacy is complete. The present emergency effective September 6, 2024 added a sentence at the beginning of sections 5.79, 5.80, 27.90 and 27.92 with a cross-reference to new sections 5.78 and 27.93.

The emergency amendments to sections 5.79, 5.80, 27.90, 27.92 from the November 16, 2023 action expired on November 13, 2024, so the [5.79](#), [5.80](#), [27.90](#), [27.92](#) inoperative text reverts back to the pre-November 16, 2023 version.

The proposed regulation for re-adoption is the same as the original emergency with the exception of a minor clarification on fish handling in sections 5.78(e) and 27.93(e) where the words “solely by the” will be added to read:

(e) Handling and removal from water: Any sturgeon greater than 60 inches fork length may not be removed from the water and shall be released immediately. Sturgeon of any size shall not be held out of water suspended by the gills, gill plates, mouth, or solely by the tail, and shall not be dragged across the ground, boat decks, or piers.

This added language is necessary because it clarifies the new regulatory changes regarding handling sturgeon. To minimize risk of injury to white sturgeon in a catch-and-release fishery, regulatory changes were made to restrict holding sturgeon in ways that could damage their gills, mouth, or spine. The new language was meant to prevent dangling the sturgeon vertically by the tail, which would put too much strain on the cartilage of the spine. However, holding the sturgeon horizontally with one hand holding the tail and one hand under the spine presents minimal risk and should be permitted. If this hold is too difficult, anglers should avoid picking up the sturgeon and should instead just release them in the water.

The goal of the emergency regulations is to permit a catch-and-release fishery for white sturgeon during the CESA status review process since it is expected to have minimal impact on the population, while providing recreational opportunities for anglers and mitigating adverse economic impacts to businesses that serve sturgeon angling. The emergency regulations contain the following major changes from the previous regulations:

- Removal of all language related to harvest, including bag limits, annual limits, and size limits.
- Change of the fishing season. Prior to candidacy, white sturgeon could be fished all year in the San Francisco Estuary and the Delta. As per the emergency regulations adopted on November 16, 2023, fishing was not permitted between January 1 and May 31 on the Sacramento River (upstream of the Hwy 50 bridge) and the San Joaquin River (upstream of the I-5 bridge) in order to protect the migration path and spawning habitat of white sturgeon. Additional existing regional closures also remained in effect (e.g. Yolo Bypass, North Coast District, Special Sierra and Valley District Sturgeon Closure).
- The emergency regulations instituted a fishing season of October 1 through June 30 in all waters downstream of the confluence of the Feather River on the Sacramento River and the I-5 Bridge on the San Joaquin River. No sturgeon fishing would be permitted in these areas between July 1 and September 30. These months experience the warmest air and water temperatures and pose the greatest risk of physiological stress to fish caught, played, and handled by anglers during that time. These months are also the least popular sturgeon fishing months based on both CDFW Sturgeon Report Card data and data collected by the fishing industry.
- Fishing upstream of the confluence of the Feather River (Sacramento River) and the I-5 bridge (San Joaquin River) is restricted to October 1 through December 31 to protect migration and spawning. This action expands the existing closure to include the warm summer months, as described above.

- Fishing for sturgeon is not permitted in tributaries of the Sacramento and San Joaquin rivers (including tributaries of those tributaries). The only reason white sturgeon enter these smaller rivers is to spawn and they do not reside there unless stranded by dropping flows. Federal Endangered Species Act (ESA) protected southern Distinct Population Segment (DPS) Green Sturgeon also enter these rivers and routinely stay over the summer or longer. Further, sturgeon in these rivers are restricted to small, deep holes and are more easily targeted by anglers. Any sturgeon present in these rivers would either be a spawning migrant or a protected Green Sturgeon and should not be the target of anglers.
- Addition of language describing permitted handling:
 - Due to their mouth shape and foraging habits, sturgeon rarely swallow tackle or suffer the types of deep hooking injuries that are common in other species. The most significant potential source of injury for sturgeon in a catch-and-release fishery will be related to how the fish are handled after catch. Sturgeon lack a rigid, bony skeleton and their skeletal frame mostly consists of cartilage with the exception of some heavy bones in the skull and pectoral girdle. Their structure has not evolved to support their heavy mass against gravity when in air and some care must be taken when handling them.
 - Prior to candidacy, the regulations required that fish greater than 68 inch FL could not be taken out of the water and had to be released immediately. This limit was set when the legal size for harvest was up to 60 inches FL and was designed to protect the largest, heaviest fish. Reducing this maximum out of water size to 60 inches protects most of the mature population but still allows catch-and-release anglers to take a trophy picture of their catch. Fish less than 60 inches FL are light enough that they are not likely to be injured due to gravity.
 - The most likely sources of injury come from anglers that attempt to 1) lift the fish off the ground by grabbing the gills or gill plates or by dangling them by their tail, or 2) drag fish over the ground or boat/pier surfaces. These handling restrictions are intended to limit the effects of rough handling on sturgeon survival. The Department will also need to write sturgeon handling guidelines that can be distributed online, at bait stores, and in the fishing regulations, as is done in Washington, Oregon, and British Columbia (e.g. https://www.env.gov.bc.ca/fw/docs/ws_guidelines.pdf)

II. Request for Approval of Readoption of Emergency Regulations

The current emergency rule effective on September 6, 2024, will expire after six months on March 5, 2025, unless the Commission approves submission of the re-adoption for an additional 90 days at its December 11-12, 2024 meeting. The continuation of the emergency action that permits a catch-and-release fishery for white sturgeon during the CESA status review is necessary to provide a recreational opportunity for anglers and mitigate adverse economic impacts to businesses 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 February 12-13, 2025 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 around October 2025.

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

The emergency action under Section 2084 allowed the white sturgeon season to open for catch-and-release on October 1, 2024, and it will continue until June 30 for most areas, or December 31 for rivers.

At this time, no new data related to the population of white sturgeon or to fishing efforts is available. Department scientists hope to provide new abundance estimates by the April 2025 Commission meeting.

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:

Candidate species under CESA receive full protection while the status review is conducted, including complete closure of the white sturgeon recreational fishery. In June 2024, sturgeon fishing industry representatives from the Northern California Guides and Sportsmen's Association submitted a petition to the Commission seeking an exemption for sturgeon angling during candidacy. The petitioners describe the fishing industry as comprised of:

- 5 Commercial Passenger Fishing Vessels; combined annual sturgeon revenue of \$300,000
- 24 captains operating 6-pack vessels full time; combined annual revenue of \$1.2 million dollars. Six-pack vessels are small charter boats limited to a maximum of six passengers.
- 16 captains operating 6-pack vessels part time; combined annual revenue of \$300,000
- Approximately 45 charter/guide services with \$1.8 million in total revenues
- 10,000 to 15,000 recreational boats whose economic impacts include launch fees, gas, bait, tackle, rods, reels, ice and more
- The supply chain of bait/suppliers/distributors with an estimated sturgeon revenue of \$1 million, including approximately 50 tackle stores

Department data show that Sturgeon Report Card sales averaged between 40,000 to 45,000 cards per year between 2013 (when fees were first charged) and 2022, the last full year before the HAB and emergency regulations. Sales in 2023 were approximately 35,000 cards but dropped significantly in 2024, with 14,975 cards sold as of July 9, 2024.

The existence of a crisis situation:

Total closure of the white sturgeon recreational fishery as a result of the species becoming a candidate species for CESA listing represents a financial crisis to Californians who rely on this fishery as part of their business. This includes boat captains, fishing guides, and businesses that rely on anglers such as bait and tackle stores and suppliers, marinas, and other boat services. Additionally, many of these businesses have already been impacted by other major fishery changes in the state, including two years of closure to the salmon fishery and changes to the halibut and rockfish fisheries.

Continuing to offer recreational white sturgeon fishing opportunities in ways that will not harm the viability of the population would help minimize financial impacts on sturgeon related businesses. Sturgeon catch-and-release fisheries are popular and lucrative in Oregon, Washington, Idaho, and British Columbia (B.C.), Canada. For example, a 2022 survey of the Fraser River (B.C.) catch-and-release white sturgeon fishery (Fisheries and Oceans Canada 2024) found that anglers spend an average of US\$628 per day compared to US\$129 in all other fisheries combined. This is also substantially higher than guided sturgeon trips in California, which average \$200 to 250 per angler. Higher B.C. average spending may be a reflection of the exceptionally large fish caught in the Fraser River that encourage a “trophy” fishery. Additionally, Fraser River anglers relied on paid guide services 46% of the time compared to 9% in all other fisheries. Per the report, “while accounting for only 1% of fishing days in 2022, white sturgeon fishing made up 6% of guided fishing days, 5% of total spending and 18% of spending on fishing packages.”

The immediacy of the need:

The candidacy decision and fishery closure occurred over a compressed time frame, with the CESA Petition delivered in late November 2023 and a decision by the Commission on June 19, 2024. Businesses received little warning and have not had much time to adjust inventory, staffing, and sales efforts to accommodate the loss of sturgeon-related revenue. These businesses have also already been significantly stressed by major closures and changes in other popular fisheries. The status review process will take at least 12 months to complete and the status of the fishery in the future is unknown. Offering catch-and-release fishing will provide immediate financial opportunities and allow the industry to continue to operate rather than face closure.

Failure to allow for catch-and-release under an emergency exemption may result in the loss of fishing businesses and the fishing infrastructure that supports the sturgeon fishery. Some of these businesses will likely not return to the sector if an exemption for catch-and-release fishing is not expedited. This loss of resources, including guiding opportunities and bait sources, as well as fishery knowledge, would negatively impact guides, their clients, and unaffiliated recreational anglers. As such, a delay in allowing catch-and-release angling would go against the Department’s Recruit, Retain, Reactivate (“R3”) principles.

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

The anticipation of harm is based on financial data voluntarily supplied by sturgeon fishing industry representatives.

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 with the exception of a minor clarification on fish handling in sections 5.78(e) and 27.93(e) where the words “solely by the” will be added to read:

(e) Handling and removal from water: Any sturgeon greater than 60 inches fork length may not be removed from the water and shall be released immediately. Sturgeon of any size shall not be held out of water suspended by the gills, gill plates, mouth, or solely by the tail, and shall not be dragged across the ground, boat decks, or piers.

This added language is necessary because it clarifies the new regulatory changes regarding handling sturgeon. To minimize risk of injury to white sturgeon in a catch-and-release fishery, regulatory changes were made to restrict holding sturgeon in ways that could damage their gills, mouth, or spine. The new language was meant to prevent dangling the sturgeon vertically by the tail, which would put too much strain on the cartilage of the spine. However, holding the sturgeon horizontally with one hand holding the tail and one hand under the spine presents minimal risk and should be permitted. If this hold is too difficult, anglers should avoid picking up the sturgeon and should instead just release them in the water.

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 February 12-13, 2025 meeting.

Proposed Action by the Commission

The Commission proposes the readoption of the emergency additions of sections 5.78 and 27.93 with minor language clarifications, and re-adoption of 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, if while under candidacy review, the Commission votes to allow for a catch-and-release fishery (under section 2084), then the Department anticipates a smaller decline in white sturgeon Report Cards sales revenue than would have occurred under a complete harvest and catch-and-release prohibition. The Department’s 2023 survey found that about 17 to 18% fished sturgeon for consumption, while the majority (~70%) stated their goal is catch-and-release fishing. A conservative estimate would be 18% fewer report cards sold amounting to a drop in revenue of approximately - \$20,000 in fiscal year 2024-2025. See the STD399 and Addendum for more explanation.

(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.

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

Bowersox, B. J., J. M. DuPont, R. Tucker, L. Barrett, and J. A. Lamansky. 2016. Determining the presence of hooks inside white sturgeon using metal detector and portable X-ray technology. *North American Journal of Fisheries Management* 36(5):1045-052.

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. Available at <https://fgc.ca.gov/Regulations/2023-New-and-Proposed#WS-E>

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. Available at <https://spo.nmfs.noaa.gov/sites/default/files/pdf-content/1996/944/chapman.pdf>

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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. Available at <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentId=26542>

Fisheries and Oceans Canada. 2024. Results of the British Columbia freshwater recreational fishing survey, 2022. Web infographic. Available at <https://www.pac.dfo-mpo.gc.ca/analyses-econom-analysis/analyses/rec-fresh-douce-2022-eng.html#sturgeon>

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- 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. Available at https://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/exhibits/docs/petitioners_exhibit/dwr/part2/DWR-1122%20Jackson_et_al_2016_white_sturgeon_spawning_SJR.pdf
- Kozfkay, J. R., and J. C. Dillon. 2010. Creel Survey Methods to Assess Catch, Loss, and Capture Frequency of White Sturgeon in the Snake River, Idaho. *North American Journal of Fisheries Management* 30(1):221–229.
- Lamansky, J. A., K. A. Meyer, B. J. Bowersox, J. M. DuPont, B. Bentz, and K. B. Lepla. 2018. Incidence, Types, and Shedding and Ingestion Times of Metallic Fishing Tackle in the Digestive Systems of White Sturgeon. *North American Journal of Fisheries Management* 38(5):1152–1159.
- Robichaud, D., K. K. English, R. C. Bocking, and T. C. Nelson. 2006. Direct and delayed mortality of white sturgeon caught in three gear-types in the lower Fraser River. Sidney, BC.
- 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.

VIII. Documents Providing Background Information

- 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. Available at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=216457&inline>
- Petition from San Francisco Baykeeper, The Bay Institute, Restore the Delta, and California Sportfishing Protection Alliance to list White sturgeon (*Acipenser transmontanus*) as threatened under the California Endangered Species Act. Available at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=218091&inline>
- Petition from Northern California Guides and Sportsmen’s Association to authorize a recreational fishery if a candidacy petition is approved for White sturgeon pursuant to statutory authorization in Fish and Game Code Section 2084.

IX. Authority and Reference

Section 5.78:

Authority cited: Sections 200, 205 ,265, 275, 399, and 2084, Fish and Game Code.

Reference: Sections 110, 200, 205, 265, and 2084 Fish and Game Code.

Section 27.93:

Authority: Sections 200, 202, 205, 220, 265, 399, and 2084 Fish and Game Code.

Reference: Sections 200, 205, 206, 265, and 2084 Fish and Game Code.

X. Fish and Game Code Section 399 Finding

Emergency re-adoption is necessary to continue a catch and release-only fishery for white sturgeon during CESA candidacy/ status review. Catch-and-release is expected to have minimal impact on the population, while providing recreational opportunities for anglers and mitigating adverse economic impacts to businesses that serve sturgeon angling.

Pursuant to Section 399 of the Fish and Game Code, the Commission finds that the adoption of this regulation is necessary for the immediate preservation of the public peace, health and safety, or general welfare.

Informative Digest/Policy Statement Overview

White sturgeon (*Acipenser transmontanus*) is an anadromous species of fish that resides primarily in the San Francisco Bay Delta (SF Bay) 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 reaching maturity by approximately 14 to 19 years, spawning every two to four years once mature. Successful recruitment of juveniles is infrequent, occurring approximately every six to seven years, highly correlated with above-normal water years. Considerable declines in both relative and absolute abundance have been measured by the Department. The most recent Department estimate was approximately 33,000 fish.

White sturgeon have been the focus of a recreational fishery since 1954. Until recently, recreational anglers could keep one white sturgeon per day, and a combined total of three per year with a slot limit of 40 and 60 inches (in.) fork length (FL; 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. In 2022, a Harmful Algal Bloom (HAB) of the marine phytoflagellate *Heterosigma akashiwo* resulted in the largest fish kill in the recorded history of the region. Many species were impacted during this event including white sturgeon. Due to cessation of funding for the historical abundance monitoring program, it has not been possible to make a white sturgeon abundance estimate since the HAB events.

On November 29, 2023, the Commission received a petition from San Francisco Baykeeper, The Bay Institute, Restore the Delta, and California Sportfishing Protection Alliance to list white sturgeon as threatened under the California Endangered Species Act (CESA). The Department returned an evaluation on March 15, 2024, determining that the petition provided sufficient scientific information to indicate that the petitioned action may be warranted. On June 19, the Commission voted that white sturgeon warranted candidacy under CESA and directed the Department to initiate a status review of white sturgeon. Under CESA, candidate species receive full protection while a status review is conducted. This prohibition of take includes non-harvest “catch-and-release” angling; however, Fish and Game Code Section 2084 permits the Commission to authorize the take of candidate species of fish by hook and line for sport based on the best available scientific information. Scientific studies of the effects of angling on white sturgeon in other populations indicate that the species is robust and tolerates catch-and-release angling well. The Department believes that this activity could occur during the status review process without placing the remaining population at risk.

On May 28, 2024, the Nor-Cal Guides and Sportsmen’s Association (NCGASA) submitted a petition to the Commission stating that candidacy “has the potential to cause irreparable damage to the business and recreational anglers who fish for white sturgeon in California’s coastal, Delta, and inland waters” (NCGASA 2024) noting impacts to guides, charter boat captains, and angling-associated businesses. Industry representatives requested an exemption to permit a recreational sturgeon fishery that includes harvest to continue to operate.

Protections under CESA during candidacy exist to protect the species until a comprehensive, peer-reviewed status review can be completed and informed decisions made about how to manage the species. While the best available science suggests that non-lethal take via a catch-

and-release fishery would not harm the long-term viability of white sturgeon in California, the Department does not believe the evidence supports any level of harvest during candidacy.

At its August 15, 2024 meeting, the Commission approved an emergency rulemaking adding sections 5.78 and 27.93 and amending sections 5.79, 5.80, 27.90, and 27.92, Title 14, CCR, which describe white sturgeon sport fishing during CESA candidacy.

The emergency regulation created two new sections under Title 14, CCR, that supersede but do not replace four existing sections addressing white sturgeon fishing and report card requirements. Section 5.78 combines most elements of existing sections 5.79 and 5.80, and defines seasons, closed areas, gear and handling restrictions, and report card requirements for catch-and-release fishing in inland waters. Section 27.93 combines 27.90 and 29.72 in the same manner for ocean waters. The existing sections (5.79, 5.80, 27.90, 27.92) will remain in Title 14 but will be inoperative, with an added sentence at the beginning of the section with a cross-reference to the new sections. The proposed regulation for re-adoption is the same as the original emergency with the exception of a minor clarification on fish handling in sections 5.78(e) and 27.93(e) where the words “solely by the” will be added to read:

(e) Handling and removal from water: Any sturgeon greater than 60 inches fork length may not be removed from the water and shall be released immediately. Sturgeon of any size shall not be held out of water suspended by the gills, gill plates, mouth, or solely by the tail, and shall not be dragged across the ground, boat decks, or piers.

This added language is necessary because it clarifies the new regulatory changes regarding handling sturgeon. To minimize risk of injury to white sturgeon in a catch-and-release fishery, regulatory changes were made to restrict holding sturgeon in ways that could damage their gills, mouth, or spine. The new language was meant to prevent dangling the sturgeon vertically by the tail, which would put too much strain on the cartilage of the spine. However, holding the sturgeon horizontally with one hand holding the tail and one hand under the spine presents minimal risk and should be permitted. If this hold is too difficult, anglers should avoid picking up the sturgeon and should instead just release them in the water.

The goal of these emergency regulations is to permit a catch-and-release fishery for white sturgeon during the CESA status review process since it is expected to have minimal impact on the population, while providing recreational opportunities for anglers and mitigating adverse economic impacts to businesses that serve sturgeon angling.

Benefits of the Regulation:

The status of the existing white sturgeon population and the impacts of recent Harmful Algal Blooms are currently not known and will be the subject of a comprehensive species status review. Maintaining catch-and-release angling during this period will protect the remaining population while the status review is completed while still permitting angling and business opportunities. Evidence from successful recreational fisheries on other rivers indicate that the species tolerates catch-and-release angling well and can coexist with a financially lucrative fishery.

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, 315, 316.5 and 2084). 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.

Proposed Emergency Regulatory Language

Section 5.78, Title 14, CCR, is amended as follows:

§ 5.78. White Sturgeon Catch and Release Sport Fishing for Inland Waters

Notwithstanding Sections 5.79 and 5.80 of these regulations, White Sturgeon may not be taken in inland waters statewide except as authorized below.

(a) Open season:

(1) From October 1 through June 30: from the west Carquinez Bridge east to downstream of the confluence of the Feather River on the Sacramento River and downstream of the I-5 bridge on the San Joaquin River.

(2) From October 1 through December 31: upstream of the confluence of the Feather River to the Highway 162 Bridge on the Sacramento River and upstream of the I-5 bridge on the San Joaquin River.

(b) Daily limit: zero fish

(c) Annual bag limit: zero fish per calendar year statewide.

(d) Methods of take: Only one single point, single shank, barbless hook shall 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.

(e) Handling and removal from water: Any sturgeon greater than 60 inches fork length may not be removed from the water and shall be released immediately. Sturgeon of any size shall not be held out of water suspended by the gills, gill plates, mouth, or solely by the tail, and shall not be dragged across the ground, boat decks, or piers.

(f) Sturgeon Fishing Report Card Required. All anglers must have a valid Sturgeon Fishing Report Card in their possession while fishing for White Sturgeon. Cardholders must complete and return the card pursuant to regulations in this Section and in Section 1.74, Title 14, CCR.

(g) 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 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.

(h) The annual fee for the Sturgeon Fishing Report Card is specified in Section 701(c).

(i) 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.

(j) 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.

(k) 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.

(l) For regulations on take and possession of sturgeon in ocean waters as defined in Section 27.00, see Sections 27.93 and 27.95.

NOTE: Authority cited: Sections 200, 205, 265, 275, 399, and 2084, Fish and Game Code.

Reference: Sections 110, 200, 205, 265, and 2084 Fish and Game Code.

Proposed Emergency Regulatory Language

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

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

See sections 5.78 and 27.93 for white sturgeon fishing regulations during California Endangered Species Act Candidacy.

- (a) Sturgeon Fishing Report Card Required. All anglers must have a valid Sturgeon Fishing Report Card in their possession while fishing for or taking White Sturgeon. Cardholders must complete and return the card pursuant to regulations in this Section and in Section 1.74.

...

[No changes to (b) through (e)]

...

NOTE: Authority cited: Sections 200, 205, 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, was amended to read as follows:

§ 5.80. White Sturgeon.

See sections 5.78 and 27.93 for white sturgeon fishing regulations during California Endangered Species Act Candidacy.

(a) Open season:

...

[No changes to (a)(1) through (l)]

...

NOTE: Authority cited: Sections 200, 205, 265, 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, was amended to read as follows:

§ 27.90. White Sturgeon.

See sections 5.78 and 27.93 for white sturgeon fishing regulations during California Endangered Species Act Candidacy.

(a) Open season: All year except as described in Section 27.95 of these regulations.

...

[No changes to (b) through (j)]

...

NOTE: Authority cited: Sections 200, 205, 265, 275, and 399, Fish and Game Code.
Reference: Sections 110, 200, and 205, Fish and Game Code.

Proposed Emergency Regulatory Language

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

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

See sections 5.78 and 27.93 for white sturgeon fishing regulations during California Endangered Species Act Candidacy.

- (a) Sturgeon Fishing Report Card Required. All anglers must have a valid Sturgeon Fishing Report Card in their possession while fishing for or taking White Sturgeon. Cardholders must complete and return the card pursuant to regulations in this Section and in Section 1.74.

...

[No changes to (b) through (e)]

...

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

Proposed Emergency Regulatory Language

Section 27.93, Title 14, CCR, is amended as follows:

§ 27.93. White Sturgeon Catch and Release Sport Fishing for Ocean Waters

Notwithstanding Sections 27.90 and 27.92 of these regulations, White Sturgeon may not be taken in ocean waters statewide except as authorized below.

- (a) Open season: From October 1 through June 30 except as described in Section 27.95 of these regulations.
- (b) Daily limit: zero fish per day.
- (c) Annual bag limit: zero fish per calendar year statewide.
- (d) Methods of take: Only one single point, single shank, barbless hook shall 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.

- (e) Handling and removal from water: Any sturgeon greater than 60 inches fork length may not be removed from the water and shall be released immediately. Sturgeon of any size shall not be held out of water suspended by the gills, gill plates, mouth, or solely by the tail, and shall not be dragged across the ground, boat decks, or piers.

- (f) Sturgeon Fishing Report Card Required. All anglers must have a valid Sturgeon Fishing Report Card in their possession while fishing for White Sturgeon. Cardholders must complete and return the card pursuant to regulations in this Section and in Section 1.74, Title 14, CCR.

- (g) 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 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.

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

(i) For regulations on take and possession of sturgeon in inland waters as defined in Section 1.53, see Section 5.78.

Authority: Sections 200, 202, 205, 220, 265, 399, and 2084 Fish and Game Code.

Reference: Sections 200, 205, 206, 265, and 2084 Fish and Game Code.

ECONOMIC IMPACT STATEMENT

DEPARTMENT NAME California 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 Emergency: Add Sections 5.78 and 27.93, Title 14, CCR, Regarding White Sturgeon Catch and Release			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 is required, only a fiscal impact assessment required (California Government Code Section 11346.1)

*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.*

California 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 NOExplain: _____
_____**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 change, resulting in an estimated \$20,000 decline in CDFW revenue for fiscal year 2024-25. See Addendum.

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

STD 399 Addendum

Readoption of Emergency Action to Add Sections 5.78 and 27.93, and Amend Sections 5.79, 5.80, 27.90, and 27.92, Title 14, California Code of Regulations, Related to White Sturgeon Catch and Release Emergency

Economic Impact Statement

Background

At its June 19-20, 2024, meeting, the California Fish and Game Commission (Commission) accepted for consideration the petition submitted to list white sturgeon as threatened under the California Endangered Species Act (CESA), initiating the Department's one-year status review of white sturgeon. Under CESA, candidate species receive full protection while a status review is conducted. Full protection is the prohibition of take, which includes non-harvest "catch-and-release" angling; however, California Fish and Game Code Section 2084 permits the Commission to authorize limited take of candidate species of fish by hook and line for sport, based on the best available scientific information.

At the June 2024 meeting, the Commission heard testimony from members of the sturgeon angling and business community requesting that the fishery remain open with some level of take. The speakers expressed concern that a complete closure of the fishery during CESA candidacy would create substantial economic harm to businesses that rely on the white sturgeon fishery, including charter captains, guides, bait and tackle stores and suppliers, marinas, and related services. Such factors may be considered in authorizing some form of take under Section 2084 of the Fish and Game Code, which allows the Commission, based on the best available scientific information, to authorize the take of any fish by hook and line for sport that is listed as an endangered, threatened, or candidate species.

At its August 15, 2024, meeting, the Commission approved an emergency rulemaking adding sections 5.78 and 27.93, Title 14, CCR which provide the provisions of white sturgeon sport fishing during CESA candidacy. The emergency amendments to sections 5.79, 5.80, 27.90, 27.92 from the November 16, 2023 action expired on November 13, 2024, so the 5.79, 5.80, 27.90, 27.92 inoperative text reverts back to the pre-November 16, 2023 version. Regulations in 5.78 and 27.93 as the section 2084 catch-and-release authority supersede sections 5.79, 5.80, 27.90 and 27.92, which makes these latter four sections inoperative until CESA status review or candidacy is complete. The present emergency effective September 6, 2024 added a sentence at the beginning of sections 5.79, 5.80, 27.90 and 27.92 with a cross-reference to new sections 5.78 and 27.93. The current emergency rule would expire after six months, on March 5, 2025, unless the Commission re-adopts the emergency regulations for an additional 90 days at its December 11-12, 2024, meeting.

This proposed emergency re-adoption action is necessary to maintain current and future recreational fishing's economic and cultural benefits, while minimizing additional impact to the white sturgeon population.

A. Estimated Private Sector Cost Impacts

1. Answer: h. None of the above.

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

Fiscal Impact Statement

A. Fiscal Effect on Local Government

Answer: 5. No fiscal impact.

The proposed regulations to add sections 5.78 and 27.93, 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 Commission anticipates the proposed emergency action will not introduce new costs or savings for state agencies. The California Department of Fish and Wildlife’s (Department) existing level of monitoring and enforcement activities is expected to be unchanged by this emergency action.

However, the Commission anticipates that the proposed easing of take limits during CESA candidacy may result in changes to sturgeon report cards sales. The current emergency action that has been in effect since November 6, 2023, limits harvest to one white sturgeon per day, with a vessel limit of two fish per day. The annual bag limit per angler was reduced from three to one white sturgeon. Additionally, seasonal and geographic closures of specific tributaries were implemented to protect critical migrating and spawning behavior. The emergency action was implemented during slower months for the fishery and resulted in an approximately 6% drop in sturgeon reports cards sold.

While white sturgeon is a candidate species under CESA (effective July 2024), no harvest or catch-and-release fishing will be allowed during the period white sturgeon remains a candidate unless these emergency regulations are readopted. If the proposed Fish and Game Code Section 2084 regulation is readopted to allow catch-and-release fishing to continue, sturgeon report cards would remain available for purchase under the emergency regulations for an additional 90 days.

A 2023 Department survey of white sturgeon fishery participants showed that over 67% report the main reason to fish for white sturgeon is recreational pursuit and 70% state that their goal is only or mostly catch-and-release. The survey results support the expectation that a majority of white sturgeon fishers will continue to fish if catch-and-release is permitted. On the other hand, 17 to 18% stated their primary goal is to fish for food, so those fishers may decline to fish if it is catch-and-release only.

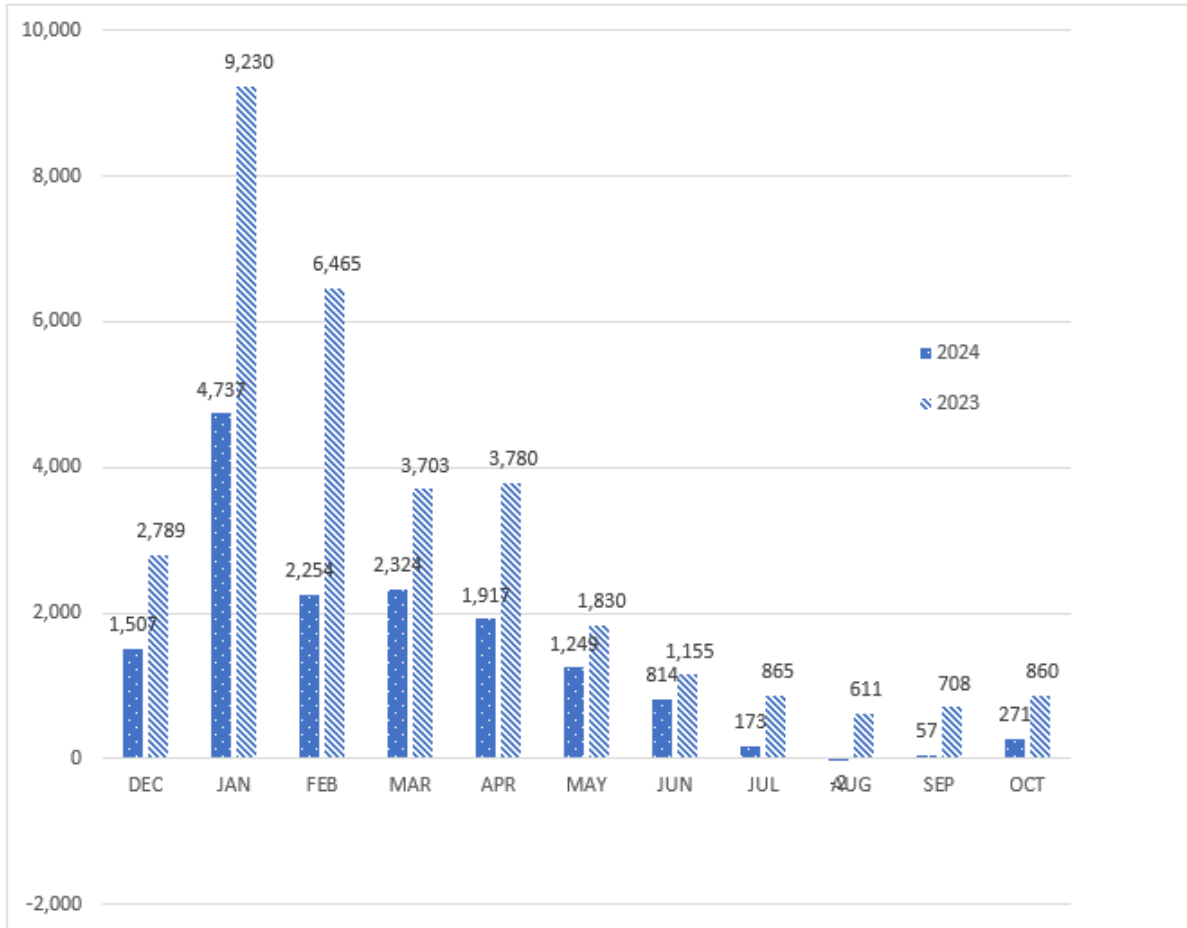
With these considerations, the Department anticipates about 18% fewer sturgeon report cards to be sold than in 2023 for the months in which the proposed section 2084 action would be in effect (fiscal year 2024-2025). The total number of cards sold from December 1, 2023, to October 24, 2024, was 15,301, or 52% less than the previous year. Assuming that the 2024 total sold will continue to be 52% less than in 2023, an additional 18% reduction will result in about 1,910 fewer cards sold. At the 2024 price of \$10.30, the Department projects a \$19,673 decline in revenue for the 2024-25 fiscal year. However, given remaining uncertainty about fisher’s choices, and a number of unknown influences such as weather, fuel prices, opportunities in alternative fisheries, and so on, reporting a rounded figure of approximately (\$20,000) is reasonable.

Table 1. Sturgeon Report Card Price 2024

2024 Base Fee	ALDS 3% Surcharge	2024 Revenue per Card
\$10.00	\$0.30	\$10.30

Broader trends show that the total sales of 34,529 sturgeon report cards in 2023 is about 20% lower than the 43,000 pre-pandemic average. The downturn may be influenced by white sturgeon population declines, but also the 365-day sportfish license implemented in 2022, and closures of salmon fisheries. Many other states with 365-day licenses experienced absolute declines in license sales, and for some sport fishers, lack of salmon opportunity induces them to forego all fishing trips for any other fish. Thus, acknowledging the multiple probable influences on report card sales, if the recommended 2084 action is adopted, renewed incentive for the majority to participate in the fishery is expected. However, another 18% that usually fish for consumption may opt out of a catch-and-release only fishery.

Figure 1. Sturgeon Report Card Sales, December-October 2023 and 2024



Source: California Department of Fish and Wildlife, License and Revenue Branch, sales data extract October 24, 2024.

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.

From: Joshua Russo [redacted]

Sent: Thursday, November 14, 2024 10:25 AM

To: Miller-Henson, Melissa [redacted] Rowan, Jay [redacted]
[redacted]

Cc: Kelly, John [redacted] Cornman, Ari [redacted]

Subject: Re: white sturgeon regulations

This just got way more confrontational than I expected. Jay, I appreciate the work the department staff are putting into this and the timeline. The e-mail I got, (screenshot attached) said the department was not proceeding with the rulemaking currently in process because the commission was going to a new rule making to adopt the emergency catch and release. My thought was to add a sunset date to the catch and release regulation so that if the candidate does not make listing, the reg will simply expire and go back to the original regulation. I don't think this will affect anything you have in the works for future regulations. I will try calling you, please don't take this as an attack on the departments efforts.

Josh



California Fish and Game Commission
Wildlife Heritage and Conservation Since 1870

Update to Notice of Decision Not to Proceed

Greetings,

This message is to clarify Friday's notice regarding a white sturgeon rulemaking that is not proceeding.

The Commission acted at its June 2024 meeting to make white sturgeon a candidate species under the California Endangered Species Act (CESA). Subsequently, the Commission adopted an emergency regulation that allows catch-and-release take of white sturgeon.

The rulemaking that is not proceeding is now unnecessary since the Commission intends to consider adopting through a regular rulemaking the emergency catch-and-release regulation.

For additional questions regarding the Commission's white sturgeon rulemakings, please contact Commission Wildlife Advisor Ari Cornman at fgc@fgc.ca.gov.

Jenn Bacon
California Fish and Game Commission

[Click here to visit our regulations page](#)

On Thursday, November 14, 2024 at 09:41:10 AM PST, Rowan, Jay wrote:

Thank you for that Melissa.

There are a lot of questions that we would need to sit down and hash out, not in an email thread. In my view figuring out how to add a sunset date and running through the scenarios of potential complications and consequences that may result is going to slow the cert of compliance process down, which we can't afford to do given the hard timelines for emergency expiration, and it's going to create a bunch of unnecessary for department and FGC staff that are already overwhelmed.

The department has been working on an alternative regulation package for the better part of 2 years prior to the listing petition being submitted. That package offers a great deal of flexibility and allows for annual management of harvest based on strength of the population and has options for how to control that harvest that the FGC can select from, one of which is preferred by the Department and one of which seems to be preferred by the guide community. That is the path the department has been planning to go down once we know the FGC's decision on listing. We have made that commitment to the anglers, and we intend on keeping it.

We have limited staff resources, and we need to focus them on the priority tasks at hand which is status review, monitoring, and what we need to do at the FGC to keep anglers fishing without negatively impacting the resource during and after the status review period. The department has established, and I hope clearly articulated our preferred pathway for dealing with the issue of reconsidering harvest after the listing decision is made by the FGC. With that, I'm closing discussion on adding a sunset date recommendation for the upcoming cert. of compliance from the department's side.

Josh, you and others are of course free to submit a petition to the FGC or make your arguments for this or any other idea at the FGC meetings.

From: Miller-Henson, Melissa
Sent: Wednesday, November 13, 2024 11:49 PM
To: Rowan, Jay
Cc: Kelly, John; Cornman, Ari; Joshua Russo <

Subject: RE: white sturgeon regulations

The simplest way is to incorporate a sunset date into the COC rulemaking; we just need to have justification for the suggested time frame.

From: Rowan, Jay
Sent: Wednesday, November 13, 2024 1:02 PM
To: Joshua Russo ; Miller-Henson, Melissa; FGC <FGC@fgc.ca.gov>; Kelly, John; Cornman, Ari

Subject: RE: white sturgeon regulations

I'm not aware of a legal mechanism that would allow including a "sunset date" in a fishing regulation. The only way I know of to allow an emergency regulation to do something like a "sunset" would be to not file the certificate of compliance and allow the emergency regulation to expire. However, if we were to do that while the fish is still in candidacy at the end of one year which we expect to be the case, and/or the FGC lists the fish as threatened, the default regulation would be closed. If the fish were not listed, the default would go back to the 3 fish limit. The only way to change that would be a normal 3 meeting process.

Neither of those are options the Department is comfortable with so as I said we will bring forward the certificate of compliance for C&R for the FGC to consider and reevaluate the next steps once we know the listing status.

From: Joshua Russo

Sent: Wednesday, November 13, 2024 11:49 AM

To: Miller-Henson, Melissa>; FGC <FGC@fgc.ca.gov>; Rowan, Jay; Kelly, John; Cornman, Ari

Subject: Re: white sturgeon regulations

Fishermen would prefer to use a sunset date, same as we are doing with abalone. We compromised when the department said there may be an issue and we proposed going to one tag. The petition to list is seen as a vengeful act from anti fishing interests that should have seen the voluntary reduction to 1 tag as a win but they didn't. If you change the regulation to catch and release we are going to have to fight them to get our tags back. I'd suggest and prefer that we go to catch and release for the 2026 and 2027 calendar years. Include 2028 if you have to. This gives you almost two years to determine if they make listing and time to go to a rule making if they do, or if populations are low and you just want to be more restrictive. This also gives the public a better vision of how long the process will take and gives people confidence that our ability to retain fish will not be taken away if it is not warranted.

I've been trying to contact John Kelly on the research team to get information on how it's going. I can't get him to reply to my emails but from my information there were many times more sturgeon caught than expected by the research team so far. Steve Nicholas reported that in a few weeks, his one boat caught over 500 sturgeon with only 4 recaptures and that the other 3 boats had similar numbers.

You guys know how hard it's going to be to get any tags back. Please use the sunset date to allow us to keep what we can.

Josh

On Wednesday, November 13, 2024 at 10:57:54 AM PST, Rowan, Jay> wrote:

Hi Josh.

Not sure if that was an old email you received or a new one but I can check in. The sturgeon work group was suspended almost a year ago when we received the petition.

Because white sturgeon are a candidate species the default is closed. This is why we did the emergency regulation to allow C&R under F&G code 2084. We are going to bring extensions (we can do 2 of them) to extend that C&R regulation under 2084 to a full year. That is as long as we can legally extend an Emergency regulation.

We expect the status review process is going to take longer than 1 year to complete and get back in front of the FGC for a decision. To ensure anglers can continue to C&R we are going to put forward a certificate of compliance using the same regulatory language as the Emergency 2084. This will make that C&R regulation under Section 2084 permanent. If we do not do the certificate of compliance the regulations will default to closed after that 1 year period when the Emergency regulation expires and we would need to go through a full 3 meeting process to open it back up to C&R.

Our plan is to see how the listing process goes at the FGC meeting, then reevaluate potential for harvest. That will require going through a full 3 meeting process.

From: Joshua Russo

Sent: Wednesday, November 13, 2024 9:09 AM

To: Rowan, Jay; Miller-Henson, Melissa; FGC <FGC@fgc.ca.gov>

Subject: white sturgeon regulations

I received an update from the department that you are suspending the workgroup for white sturgeon regulations but I'm confused about the reason.

Are you going to change the regulation to make it catch and release, or are you saying it's already catch and release while it's being considered?

If you're going to change the regulation I'd like to add a sunset date so if it doesn't make listing we would go back to the original regulation.

Josh Russo