

Notice of Exemption

Appendix E

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

County Clerk, County of: None

From: California Fish and Game Commission
P.O. Box 944209
Sacramento, CA 94244-2090

Project Title: Emergency Regulatory Action to Amend Sections 5.79, 5.80, 27.90 and 27.92, Title 14, California Code of Regulations (CCR), Regarding White Sturgeon Sport Fishing. Second readoption in accordance with California Government Code subsection 11346.1(h) for 90 days.

Project Applicant: N/A

Project Location - Specific: Sacramento-San Joaquin Delta and San Francisco Bay

Project Location - City: Multiple

Project Location - County: Multiple

Description of Nature, Purpose and Beneficiaries of Project:

Readoption of emergency regulations amended sections 5.79, 5.80, 27.90 and 27.92, Title 14, CCR, to reduce the annual bag limit for white sturgeon from three fish to one fish, reduce the slot limit from 40 to 60 inches to 42 to 48 inches, institute a per-day vessel limit, and close fishing in migrating and spawning reaches of the Sacramento and San Joaquin rivers from January 1 through May 31.

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

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

Exempt Status (check one):

- Ministerial (Sec. 21080(b)(1); 15268)
- Declared Emergency (Sec. 21080(b)(3); 15269(a))
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c))
- Categorical Exemption. Class 7 and 8, California Code of Regulations, Title 14, Sections 15307 and 15308
- Statutory Exemptions. Public Resources Code Section 21080(b)(4) and CEQA Guidelines, Title 14, Section 15269(c)

Reasons why project is exempt: See attachment for full description

Lead Agency: California Fish and Game Commission, P.O Box 944209, Sacramento, CA 94244-2090

Contact Person: Melissa Miller-Henson

Area Code/Telephone/Extension: (916) 653-4899

If filed by applicant:

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

Signature:  Date: July 2, 2024

Title: Executive Director

Signed by Lead Agency

Signed by Applicant.

Date Received for filing at OPR:

Attachment to Notice of Exemption

Regulatory Action to Amend Sections 5.79, 5.80, 27.90 and 27.92, Title 14, California Code of Regulations, Regarding White Sturgeon Sport Fishing Regular Rulemaking to Second Readoption of Emergency Regulations

On October 11, 2023, the California Fish and Game Commission (Commission) took final action under the California Fish and Game Code and the Administrative Procedure Act (California Government Code Section 11340 et seq.) with respect to emergency regulations for white sturgeon sport fishing. Specifically, the Commission noticed and adopted an emergency amendment of sections 5.79, 5.80, 27.90 and 27.92 of Title 14, California Code of Regulations (CCR). The Commission took action to extend the emergency regulations an additional 90 days on April 15, 2024.

On June 19, 2024, the Commission took final action under Fish and Game Code and the Administrative Procedure Act to readopt the emergency regulations in accordance with subsection 11346.1(h) of California Government Code for an additional 90 days.

In compliance with the California Environmental Quality Act (CEQA; Public Resources Code Section 21000 et seq.), the Commission adopted the regulations relying on the statutory exemption for specific actions necessary to prevent or mitigate an emergency (CEQA Guidelines Subsection 15269(c) of Title 14, CCR) and categorical exemptions to protect natural resources and the environment (CEQA Guidelines, sections 15307 and 15308, Title 14, CCR). Each exemption is discussed in this document. Categorically exempt projects are classes of projects that the California Natural Resources Agency has determined not to have a significant effect on the environment; therefore, these projects are exempt from the requirement to prepare environmental documents (Section 15300, et seq.).

Statutory Exemption for Specific Actions Necessary to Prevent or Mitigate an Emergency

In compliance with CEQA, the Commission adopted the regulations relying on a statutory exemption contained in Public Resources Code Section 21080. The exemption applies to agency actions to prevent or mitigate an emergency.

White sturgeon is an anadromous species of fish that resides primarily in the Sacramento-San Joaquin Delta and San Francisco Bay and migrates as an adult into the major rivers of the Central Valley to spawn. White sturgeon is long lived, potentially in excess of 100 years. Successful recruitment to the adult population is uncommon, occurring approximately every 6-7 years, highly correlated with above-normal water years. The abundance of legal-sized white sturgeon has declined considerably since the 1980s, when abundance was estimated to be approximately 175,000 fish. The most recent California Department of Fish and Wildlife (Department) population estimate was approximately 33,000 fish.

At present, anglers can take 1 white sturgeon per day and a total of 3 per year. Fishing pressure for white sturgeon has remained stable at an estimated 40,000 to 45,000 anglers per year since at least 2013. Based on report card returns, the number of fish harvested by anglers has remained relatively stable, but the number of fish released has declined

precipitously, indicating that fewer fish overall are being caught. The exploitation rate of white sturgeon is estimated to be very high, ranging from 8.0 to 29.6% since 2007. It is suggested that the highest exploitation rate that a white sturgeon population can sustain is approximately 5 to 10%. For comparison, Washington and Oregon target an exploitation rate of less than 4%.

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

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

The emergency action to readopt amendments to sections 5.79, 5.80, 27.90 and 27.92, Title 14, CCR will continue the existing 1-fish per year bag limit, 42–48-inch slot limit, seasonal and geographical closures, and per day boat limits established by emergency regulation.

Categorical Exemption, Class 7. Actions by Regulatory Agencies for protection of Natural Resources

Class 7 of the CEQA Guidelines (Section 15307, Title 14, CCR), consists of actions taken by regulatory agencies as authorized by state law or local ordinance to assure the maintenance, restoration, or enhancement of a natural resource where the regulatory process involves procedures for protection of the environment. Examples include but are not limited to wildlife conservation activities of the Department.

Readoption of emergency regulations amending sections 5.79, 5.80, 27.90 and 27.92, Title 14, CCR will continue through November 11, 2024 the existing 1 fish per year bag limit, 42 to 48-inch slot limit, seasonal and geographical closures, and per day boat limits established by emergency regulation. Readoption of the emergency regulation is necessary to protect the white sturgeon population until a regular regulation can be implemented.

During July and August 2022, the San Francisco Bay region experienced a major HAB that resulted in significant mortality of fishes, including sturgeon. The Department recorded over 850 sturgeon carcasses, the majority legal-sized or larger (J. Hobbs, CDFW Region 3, unpublished data). Based on carcass studies and fish kills of other species of sturgeon, it is thought that only a small percentage of the fish killed floated long enough to be detected (Fox et al. 2020). The absolute magnitude of this impact on the white sturgeon population is unknown, but is thought to be significant. Readoption of the emergency regulation is necessary to significantly reduce the fishery exploitation rate of White Sturgeon to sustainable levels and to minimize harassment and handling, in order to protect the surviving population and maintain a recreational fishery in the future.

Categorical Exemption, Class 8. Actions by Regulatory Agencies for Protection of the Environment

Class 8 of the CEQA Guidelines (Section 15308, Title 14, CCR), consists of actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment.

The emergency action to readopt amendments to sections 5.79, 5.80, 27.90 and 27.92, Title 14, CCR will reduce harvest of white sturgeon effective immediately. The Commission routinely adopts regulations for inland sport fish management. During July and August 2022, the San Francisco Bay region experienced a major HAB that resulted in significant mortality of fishes, including sturgeon. The Department recorded over 850 sturgeon carcasses, the majority legal-sized or larger. Based on carcass studies and fish kills of other species of sturgeon, it is thought that only a small percentage of the fish killed floated long enough to be detected. The absolute magnitude of this impact on the white sturgeon population is unknown, but is thought to be significant.

White sturgeon are long lived, potentially in excess of 100 years, with most reaching maturity by approximately 14-15 years. Successful recruitment to the adult population is uncommon, occurring approximately every 6-7 years, highly correlated with above normal water years. The abundance of legal-sized white sturgeon has declined considerably since the 1980s. Readoption of the emergency regulations is necessary to significantly reduce the fishery exploitation rate of white sturgeon to sustainable levels and to minimize harassment and handling in order to protect the surviving population, which is part of the Sacramento-San Joaquin Delta's biodiverse environment.