

preferred method of take by a select group of anglers involves the use of excessively heavy weights and maximum hook sizes. The weight used by these anglers is typically 8 oz. to 1½ pounds in weight. It may vary in a small range by the depth and speed of the river. It must be stressed that the San Joaquin River is very narrow in this area. In much of the area, it is less than twenty-five yards wide. The weight is attached to the bottom of heavy line such as 200-pound test double braided fishing line. Located above the weight there are up to three hooks, indirectly and or directly attached to the line. The methodology in using this equipment requires the angler to closely attend their line. The fishing line is maintained in a very taut manner where the line has no bow or slack. This is why the weight must be so heavy. Moreover, because the river is so shallow, the line passes through the river at a very shallow angle, allowing the majority width of the river to have a line strung across it. As a sturgeon swims past the line, the fish will bump or scrape along the fishing line. Once the angler feels the bump on the taut line, they will pull back violently on the line and then run up the bank of the river dragging the weight and hooks through the water. The weight keeps the line and hooks firmly against the side, back or belly of the sturgeon. The hooks eventually travel to the body of the sturgeon and penetrate deeply into the fish. Since the fish has not voluntarily taken the hook by mouth, it is an illegally taken fish and must be released. Even if released, which the majority are not, the fish now has a deep gash in the body from the large hook. Unfortunately, many of the anglers using this technique fish in this section of the San Joaquin River for days and weeks at a time when the White Surgeon area moving up river to spawn. Closing the river completely to fishing would eliminate the ability of otherwise lawful angling activity by those who follow the law. By placing a gear restriction on this section of the river, it would eliminate the use of the heavy weights and large hook technique described above, yet allow for legal angling activity in the area. The proposed regulation change would help eliminate this type of angling activity and prevent numerous sturgeon from being snagged in this illegal manner.

Sturgeon report cards turned into the Department have shown that there has been green sturgeon caught in this general area of the San Joaquin River. One angler reports he caught a total of five green sturgeon in this area of the river during the combined 2009 and 2010 report card periods. It is not specifically known how often green sturgeon are snagged in this area using this type of illegal fishing.

It is recommended that Section 2.10, Title 14, CCR be amended to include subsection (d) - It is unlawful to place any hook or hooks directly or

indirectly above any weight that exceeds 4 ounces in the San Joaquin River located between State Highway 140 downstream to Airport Way Road. This regulation would have limited impact on other lawful fisheries or fishing activity and would give law enforcement the most effective tool in stopping this illegal fishing practice.

- (b) Authority and Reference Sections from Fish and Game Code for Regulation:

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

Reference: Section 200, 202, 205 and 220 Fish and Game Code.

- (c) Specific Technology or Equipment Required by Regulatory Change:

None

- (d) Identification of Reports or Documents Supporting Regulation Change:

None

- (e) Public Discussions of Proposed Regulations Prior to Notice Publication:

None

IV. Description of Reasonable Alternatives to Regulatory Action: None

- (a) Alternatives to Regulation Change:

No alternatives were identified.

- (b) No Change Alternative:

The no change alternative would allow the current illegal take of sturgeon by snagging.

- (c) Consideration of Alternatives:

In view of the information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed, or would be as effective as and less burdensome to affected private persons than the proposed regulation

V. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

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) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

(b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

None

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

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

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

None

(e) Nondiscretionary Costs/Savings to Local Agencies:

None

(f) Programs mandated on Local Agencies or School Districts:

None

(g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4:

None

(h) Effect on Housing Costs:

None

Informative Digest/Policy Statement Overview

Under current regulation Section 2.10(b)(2) of Title 14, CCR states "It is unlawful to use any hook which is directly or indirectly attached closer than 18 inches to any weight exceeding ½ ounce."

In the section of the San Joaquin River from State Highway 140 in Merced County downstream to Airport Way Road in San Joaquin County, there is an annual problem with the illegal take of White Sturgeon. The illegal method of take deals with anglers taking spawning sturgeon by impaling the fish with large hooks. The method of take is commonly referred to as snagging. The snagging activity occurs when the White Sturgeon migrate up the San Joaquin River between February to May of each year. The San Joaquin River located between State Highways 140 to Airport Way Road is shallow, narrow and slow moving. As a result of this, sturgeon is easy prey for illegal take. Restricting the type of gear used in this area will allow for legal and routine fishing while eliminating the techniques that are typically used to illegally take the sturgeon. The preferred method of take by a select group of anglers involves the use of excessively heavy weights and maximum hook sizes. The weight used by these anglers is typically 8 oz. to 1½ pounds in weight. It may vary in a small range by the depth and speed of the river. It must be stressed that the San Joaquin River is very narrow in this area. In much of the area, it is less than twenty-five yards wide. The weight is attached to the bottom of heavy line such as 200-pound test double braided fishing line. Located above the weight there are up to three hooks, indirectly and or directly attached to the line. The methodology in using this equipment requires the angler to closely attend their line. The fishing line is maintained in a very taut manner where the line has no bow or slack. This is why the weight must be so heavy. Moreover, because the river is so shallow, the line passes through the river at a very shallow angle, allowing the majority width of the river to have a line strung across it. As a sturgeon swims past the line, the fish will bump or scrape along the fishing line. Once the angler feels the bump on the taut line, they will pull back violently on the line and then run up the bank of the river dragging the weight and hooks through the water. The weight keeps the line and hooks firmly against the side, back or belly of the sturgeon. The hooks eventually travel to the body of the sturgeon and penetrate deeply into the fish. Since the fish has not voluntarily taken the hook by mouth, it is an illegally taken fish and must be released. Even if released, which the majority are not, the fish now has a deep gash in the body from the large hook. Unfortunately, many of the anglers using this technique fish in this section of the San Joaquin River for days and weeks at a time when the White Surgeon area moving up river to spawn. Closing the river would not deter the take of the sturgeon. In addition, it would restrict and eliminate the ability of otherwise lawful angling activity. By placing a gear restriction on this section of the river, it would eliminate the use of the heavy weights and large hook technique described above, yet allow for legal angling activity in the area. The proposed regulation change would help eliminate this type of angling activity and prevent numerous sturgeon from being snagged in this illegal manner.

Sturgeon report cards turned into the Department have shown that there has been green sturgeon caught in this general area of the San Joaquin River. One angler reports he caught a total of five green sturgeon in this area of the river during the combined 2009 and 2010 report card periods. It is not specifically known how often green sturgeon are snagged in this area using this type of illegal fishing.

By placing a gear restriction on this stretch of river, it will assist in limiting snagging activity as well as help protect both green and white sturgeon that spawn in the area.

Regulatory Language

Section 2.10, Title 14 CCR is amended to read:

§2.10. Hook and Weight Restrictions.

(a) Definition of Gap: For the purposes of this section, “gap” means the distance measured from the point of a hook to the shank.

(b) Maximum Gaps and Gear Rigging for Rivers and Streams unless otherwise provided (does not apply to lakes and reservoirs, the Sacramento-San Joaquin Delta (see Section 1.71 for definition of the Delta), and the Colorado River.

1. No person shall use any single hook with a gap greater than 1 inch or any multiple hook with a gap greater than 3/4 inch.

2. It is unlawful to use any hook which is directly or indirectly attached closer than 18 inches to any weight exceeding 1/2 ounce.

3. It is unlawful to use any multiple hook or more than one single hook on non-buoyant lures exceeding one ounce.

4. It is unlawful to use any weight directly attached below a hook.

(c) Maximum Gaps for the Sacramento-San Joaquin Delta (see Section 1.71 for definition of the Delta).

1. No person shall use any single hook with a gap greater than 1 inch or any multiple hook with a gap greater than 3/4 inch.

(d) San Joaquin River weight restriction: For the San Joaquin River area from the Highway 140 bridge in Merced County downstream to Airport Way Road in San Joaquin County, it is unlawful to use any hook or hooks, attached directly or indirectly to any fishing line above any weight that exceeds 4 ounces.

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

Reference: Sections 200, 202, 205 and 220, Fish and Game Code.