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Memorandum

Date: ^{Apr. 1} March 25, 2014

To: Sonke Mastrup
Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director



Subject: **Agenda Item for the April 16, 2014 Fish and Game Commission Meeting**
Re: Pre-adoption Statement for Subsection (b)(91.1) of Section 7.50, Title 14, CCR, Klamath River Basin Sport Fishing Regulations

Please find attached the Pre-adoption Statement of Reasons for the 2014 Klamath basin sport fishing regulations with the following Department recommendations:

1. Option 1 – Spit Area will close after 15 percent of the total Klamath River Basin Quota is taken downstream of the Highway 101 Bridge,
2. Daily bag of 3 salmon, no more than 1 adult greater than 22 inches total length, and
3. Possession limit of 9 salmon, no more than 3 adults greater than 22 inches total length.

If you have any questions or need additional information, please contact Stafford Lehr, Chief of Fisheries Branch, at (916) 327-8840 or at Stafford.Lehr@wildlife.ca.gov.

Attachments

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STATE OF CALIFORNIA
FISH AND GAME COMMISSION
STATEMENT OF REASONS FOR REGULATORY ACTION
(Pre-adoption Statement of Reasons)

Amend Subsection (b)(91.1) of Section 7.50
Title 14, California Code of Regulations
Re: Klamath River Sport Fishing Regulations

- I. Date of Initial Statement of Reasons: December 31, 2013
- II. Date of Pre-adoption Statement of Reasons: March 20, 2014
- III. Dates and Locations of Scheduled Hearings:
 - (a) Notice Hearing: Date: December 11, 2013
Location: San Diego
 - (b) Discussion Hearing: Date: February 5, 2014
Location: Sacramento
 - (c) Adoption Hearing: Date: April 16, 2014
Location: Ventura
- IV. Description of Modification of Originally Proposed Language of Initial Statement of Reasons:

No changes have been made to the originally proposed regulatory language. The originally proposed regulatory language provided bag and possession limit ranges and provided three options for fishing in the spit area. The Department recommends the following regulatory measures, which are within the scope of the original proposed regulatory language, for 2014:

- 1. Option 1 – Spit Area will close after 15 percent of the total Klamath River Basin Quota is taken downstream of the Highway 101 Bridge,
- 2. Daily bag of 3 salmon, no more than 1 adult greater than 22 inches total length, and
- 3. Possession limit of 9 salmon, no more than 3 adults greater than 22 inches total length.

- V. Reasons for Modification of Originally Proposed Language of Initial Statement of Reasons:

The Pacific Fishery Management Council (PFMC) developed the following public review alternatives on March 13, 2014 for adult Klamath River Fall Chinook (KRFC) in-river sport allocations:

Alternative 1: total Klamath River Basin quota of 4,145 KRFC

Alternative 2: total Klamath River Basin quota of 4,109 KRFC

Alternative 3: total Klamath River Basin quota of 4,204 KRFC

The final 2014 PFMC recommendation will be made on April 10, 2014.

The Lower Klamath River subquota area would be allocated 50 percent of the total or 2,073, 2,055 and 2,102 adult KRFC salmon, respectively for the three PFMC alternatives. The following discussion addresses the spit area allocation within the Lower Klamath River subquota under the “no change” and three proposed options in the ISOR.

No Change Option – Spit area will close after 15 percent of the Lower Klamath River subquota is taken downstream of the Highway 101 Bridge. (Note: This provision only applies if the Department projects that the total Klamath River Basin quota will be met.)

This regulation gives the Department flexibility to allow for maximum fishing opportunity in years of high in-river sport KRFC quotas. In low KRFC quota years, the Department closes the spit area to protect the resource and to allow equitable distribution of harvest within the Lower Klamath River subquota area.

Due to the low 2014 adult KRFC quota range, the Department expects that the total Klamath River Basin will be met in 2014, and therefore the spit area will close according to the special note provision.

The spit area would close to fishing after 15 percent of the lower Klamath Basin subquota is taken downstream of the Highway 101 bridge. This equates to 311, 308, and 315 adult KRFC salmon taken downstream of the Highway 101 bridge.

Option 1 – Spit Area will close after 15 percent of the total Klamath River Basin Quota is taken downstream of the Highway 101 Bridge.

This option will close the spit area to all fishing after 15 percent of the **total** Klamath River Basin quota has been taken (instead of after 15 percent of the Lower Klamath River subquota has been taken) downstream of the Highway 101 bridge. This option also removes the special note provision.

This option will keep open fishing access while achieving a balance between maintaining historical fishing opportunities for shore based anglers and increasing protection of salmon migrating out of the open ocean into the Klamath River estuary.

The spit area would close to fishing after 15 percent of the **total** Klamath Basin quota (30 percent of the lower Klamath Basin subquota area) has been taken downstream of the Highway 101 bridge. This equates to 622, 616, and 630 adult KRFC salmon taken downstream of the Highway 101 bridge.

Option 2 – Spit Area will close after 15 percent of the Lower Klamath River subquota is taken downstream of the Highway 101 Bridge

This option will retain the language specifying that the spit area will close after 15 percent of the Lower Klamath River subquota has been taken downstream of the Highway 101 bridge, but will remove the special note provision.

The option is similar to the “No Change” Option but will reduce current fishing opportunities for shore based anglers during high quota years to increase protection of salmon migrating out of the open ocean into the Klamath River estuary.

The spit area would close to fishing after 15 percent of the lower Klamath Basin subquota is taken downstream of Highway 101 Bridge. This equates to 311, 308, and 315 adult KRFC salmon taken downstream of the Highway 101 bridge.

Option 3 – Spit Area will remain closed to all fishing all year.

This option will close the spit area to all fishing year round to provide protection of KRFC, Klamath River Spring Chinook, and Coho salmon migrating out of the open ocean into the Klamath River estuary; however, it eliminates a historical fishing opportunity for shore based anglers.

This option allows for the angler harvest outside of the spit area in the Lower Klamath River area, but eliminates all shore angler fishing opportunities in the spit area for salmonids and other fish species.

This option keeps the spit area closed to fishing year round.

VI. Summary of Primary Considerations Raised in Opposition and in Support:

(1) Steve Huber, fishing guide, oral and written comment at Commission 12/11/13 meeting

- a. Requests the projected Klamath forecast be adjusted downward to increase resource protection.
- b. Request a fishing closure of the spit area after 15 percent of the Lower Klamath River subquota is taken downstream of the Highway 101 Bridge.
- c. Requests the spit area close to all shore based anglers once the quota is reached.
- d. Requests to have fish samplers and wardens on the spit area every day.
- e. Requests the bag limit be set at 2 adults and one jack regardless of the projections.

Response:

- a. This request is outside the scope of the proposed regulations. The projected forecast is made by the PFMFC.
- b. Support of Option 2 noted.

- c. The Department does not support excluding a specific user group but acknowledges that the majority of spit fishermen are shore based anglers.
- d. This comment is outside the scope of the proposed regulations.
- e. This recommendation is unnecessarily restrictive as it would not allow for the maximization of sport fishing opportunities to the extent supported by science.

(2) Darrel Cardiff, email dated 2/2/14

- a. Supports Option 1.

Response:

- a. Support noted for Option 1.

(3) Dave Hillemeier, Yurok Tribe, oral and written comment at Commission 2/5/14 meeting

- a. Requests that catch and release fishing be prohibited in the spit area.
- b. Request a fishing closure at the mouth of Blue Creek

Response:

- a. In order to have the regulations effective in time for the fall season, the Department cannot accommodate further modification to 2014 Klamath regulatory options at this time. See attached memo for more information.
- b. Comment noted. The Department plans to evaluate this recommendation for the 2015 Klamath River regulatory cycle.

(4) J.D. Richey, Klamath Guide, oral comment at Commission 2/5/14 meeting

- a. Supports Option 1.
- b. Requests that catch and release fishing be prohibited in the spit area.

Response:

- a. Support noted for Option 1.
- b. See Response 3a.

(5) The Department held an informational meeting on the proposed Klamath regulatory options in Eureka on March 3, 2014.

- a. The majority of the attendees support keeping the spit area open to fishing for 2014. The meeting notes are attached.

Response:

- a. Comment noted.

(6) Roger Gitlin, Del Norte County Supervisor, email dated 3/4/14

- a. Opposed to Option 3.

Response:

- a. Opposition to Option 3 noted.

(7) JM Berger, three emails dated 3/6/14

- a. Recommends closing the spit area to the guides.

Response:

- a. The Department does not support excluding a specific user group from fishing access.

(8) Kathryn Montes Morgan, Tejon Indian Tribe, letter received 3/6/14.

- a. Not opposed to the proposed regulations.

Response

- a. Comment noted.