

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
FINAL STATEMENT OF REASONS FOR REGULATORY ACTION

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: January 6, 2010
- II. Date of Final Statement of Reasons: April 21, 2010
- III. Dates and Locations of Scheduled Hearings:
 - (a) Notice Hearing: Date: February 4, 2010
Location: Sacramento, CA
 - (b) Discussion Hearing Date: March 3, 2010
Location: Ontario, CA
 - (c) Discussion Hearing: Date: April 8, 2010
Location: Monterey, CA
 - (d) Adoption Hearing Date: April 21, 2010
Location: Teleconference

IV. Update:

On April 15, 2010, the Pacific Fishery Management Council (PFMC) adopted Recreational Salmon Management Measures and recommended a harvest allocation of 12,000 Klamath River Fall Chinook (KRFC) for the recreational fishery in the Klamath River System. The Department of Fish and Game (Department) concurs with this allocation and recommended that the Fish and Game Commission (Commission) adopt the PFMC'S KRFC recreational harvest quota allocations.

The Initial Statement of Reasons (ISOR) included proposed ranges for the bag and possession limits. At the April 21, 2010 teleconference, the Commission adopted the following seasons and limits:

The Commission adopted the open seasons and bag limits for KRFC salmon stocks as follows:

1. Klamath River - August 15 to December 31
2. Trinity River - September 1 to December 31
3. Bag Limit - **3** Chinook salmon - only **2** fish over 22 inches total length until sub quota is met, then 0 fish over 22 inches total length.

The Commission adopted a possession limit of **9** Chinook salmon of which no more than **6** Chinook salmon over 22 inches total length may be retained when the take of salmon over 22 inches total length is allowed.

During its April 21, 2010 teleconference call, the Commission adopted the above regulations recommended by the PFMC and all other changes as originally proposed.

V. Summary of Primary Considerations Raised in Support of or Opposition to the Proposed Actions and Reasons for Rejecting Those Considerations:

- (1) Thomas Weseloh, California Trout, comments received via letter dated February 28, 2010 and oral comments at the April 8, 2010 meeting:
- a. Supports expansion of waters open to angling on the South Fork Trinity River as proposed by the Department.
 - b. Proposes a selective harvest of marked hatchery coho salmon on the Trinity River.
 - c. Suggests a mass marking strategy for spring-run salmon produced at Trinity River Hatchery.
 - d. Asks the Commission to open that section of the Trinity River main stem upstream of Trinity Lake to angling from November 16 through the Friday proceeding the last Saturday in April with a proposed zero bag limit fishery restricted to the use of artificial lures with barbless hooks.

Response:

- a. Support noted.
 - b. This issue is outside of the scope of the proposed regulation.
 - c. This issue is outside of the scope of the proposed regulation.
 - d. This proposal is for non-anadromous waters of the Trinity River and therefore is outside of the scope of the proposed regulation; however this proposal may be considered during the next regulatory cycle for the general District angling regulations.
- (2) The following individuals voiced their support for recommendations outlined in the California Trout letter dated February 28, 2010. Daniel Doble via March 1, 2010 e-mail, Trinity Fly Shop via March 8, 2010 letter, Friends of the Trinity River via March 22, 2010 letter, Trinity River Guides Association via March 22, 2010 and April 8, 2010 letters, Joshua Seney via March 23, 2010 e-mail, EB Duggan, oral comments at the April 8, 2010 Commission meeting:
- a. Support expansion of waters open to angling on the South Fork Trinity River as proposed by the Department.
 - b. Propose a selective harvest of marked hatchery coho salmon on the Trinity River.
 - c. Suggest a mass marking strategy for spring-run salmon produced at

Trinity River Hatchery.

- d. Ask the Commission to open that section of the Trinity River main stem upstream of Trinity Lake to angling from November 16 through the Friday proceeding the last Saturday in April with a proposed zero bag limit fishery restricted to the use of artificial lures with barbless hooks.

Response:

- a. See response 1a.
- b. See response 1b.
- c. See response 1c.
- d. See response 1d.

(3) Calvin Schiefferly, angler, via March 14,2010 e-mail:

- a. Proposes a salmon harvest card with an annual limit of five salmon statewide.
- b. Proposes reinstatement of the delta stamp
- c. Proposes giving game wardens a raise.

Response:

- a. The Department requires anglers to possess a salmon harvest card for the take of Chinook salmon in the Klamath River basin recreational fishery. The card provides harvest metrics. The PFMC has allocated 12,000 adult Chinook salmon to this fishery based on an expected escapement of 40,700 adult Chinook salmon to natural spawning areas. Based on these criteria the Department has recommended prudent bag and possession limits.
- b. This proposal is outside the scope of the proposed regulation. The Legislature discontinued this stamp effective January 1, 2010.
- c. This proposal is outside the authority of the Fish and Game Commission.

(4) Petey Brucker, Klamath Forest Alliance via April18, 2010 letter:

- a. Proposes a September 1 annual opening date for the KRFC fishery in the Klamath River upstream of Weitchpec to provide protection for Klamath River spring-run Chinook salmon (KRSC).
- b. Proposes that the Department and PFMC develop a Fisheries Management Plan and Conservation Objectives for Klamath River and Trinity River KRSC emphasizing protection and conservation of wild Salmon River KRSC stocks.

Response:

- a. The Department has recommended an August 15 opening date for the KRFC fishery upstream of Weitchpec. By that date the majority of KRSC have migrated into coldwater tributaries and are not vulnerable to harvest in the KRFC fishery.
- b. The proposal is noted, however, it is outside of the scope of the

proposed regulation. The current KRFC recreational fishery is designed to impose minimal impacts on KRSC.

- (5) EB Duggan, Trinity River Guide Association, oral and written comments April 8, 2010.
- a. He requests that the Department reconsider how modeling is done.
 - b. He supports PFMC's Option 2.

Response:

- a. This request is outside the scope of the regulation.
- b. Support noted

- (6) Paul Weakland, oral comments April 21, 2010
- a. He stated that he does not believe that the terrible die-off on the Klamath River in recent years is due to high water temperatures or low water flows. He states that the detrimental effects of hatcheries have been pushed under the rug.

Response:

- a. Comment noted.

VI. Location and Index of Rulemaking File:

A rulemaking file with attached file index is maintained at:
California Fish and Game Commission
1416 Ninth Street
Sacramento, California 95814

VII. Location of Department Files:

Department of Fish and Game
1416 Ninth Street
Sacramento, California 95814

VIII. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulatory Action:

The use of more liberal regulations for bag limits, possession limits and fishing methods. For KRFC salmon more liberal regulations would be less desirable than those proposed because they could create risk of an intense fishery reaching or exceeding the quota in a very short time. Reaching the quota in a very short time could be damaging to the local economy. Exceeding allowable harvest could be damaging to KRFC stocks.

(b) No Change Alternative:

The change is necessary to continue appropriate harvest rates and an equitable distribution of the harvestable surplus.

(c) Consideration of Alternatives:

In view of 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 the affected private persons than the proposed regulation.

IX. 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 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. The proposed regulations are projected have an unknown impact on the net revenues to businesses servicing sport fishermen. This is not likely to affect the ability of California businesses to compete with businesses in other states. The preservation of Klamath River salmon stocks is necessary for the success of lower and upper Klamath River Basin businesses which provide goods and services related to fishing. The proposed changes are necessary for the continued preservation of the resource and therefore the prevention of adverse economic impacts.

(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.

Updated Informative Digest Policy Statement Overview

Please refer to the Initial Statement of Reason's Informative Digest for the original discussion.

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