

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: December 31, 2013
- II. Date of Pre-adoption Statement of Reasons: March 20, 2014
- III. Date of Final Statement of Reasons: April 30, 2014
- IV. 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

V. Update:

At the April 16, 2014 meeting in Ventura, CA, the Commission adopted the following Klamath Basin bag and possession limits and adult quota for Klamath River fall-run Chinook salmon (KRFC):

- (1) Spit Fishery Option 1 – The spit fishery will close after 15 percent of the total Klamath River Basin quota is taken downstream of the Highway 101 bridge.
- (2) A daily bag limit of 3 Chinook salmon of which no more than 1 fish greater than 22 inches in length may be taken when the take of adults is allowed.
- (3) A possession limit of 9 Chinook salmon of which no more than 3 fish greater than 22 inches in length may be retained when the take of adults is allowed.
- (4) A basin quota of 4,128 adult Chinook salmon greater than 22 inches in length.

Sport fishing seasons for KRFC remain unchanged and are as follows:

- (1) Klamath River- August 15 through December 31.
- (2) Trinity River- September 1 through December 31.

The Basin quota, 4,128 adult KRFC, aligns with Federal regulations which provide guidance on allocations between ocean sport and commercial fisheries, inland sport fisheries, and recognized tribal fisheries.

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

See Attachment 1, titled "*Summary of Primary Considerations Raised in Support of or Opposition to the Proposed Actions and Reasons for Rejecting Those Considerations.*"

VII. 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

VIII. Location of Department Files:

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

IX. 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 the allowable harvest could be damaging to the KRFC salmon stocks.

(b) No Change Alternative:

The No Change Alternative would leave the current 2013 regulations in place and would not conform to the Pacific Fishery Management Council (PFMC) Klamath River Basin quota for 2014. Nor would it address the enforcement issues that arise at the spit area when the river breaches the spit at the south end of the bar. 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 purpose for which the regulation is proposed, would be as effective and less burdensome to affected private persons than the adopted regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

X. 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 to have some impact on the net revenues to local businesses servicing sport fishermen. Visitor spending may be reduced and in the absence of the emergence of alternative visitor activities, the drop in spending could induce business contraction. However, this will not likely 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; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment:

The Commission anticipates some impact on the creation or elimination of jobs in California. The Commission does not anticipate any impacts on the creation, elimination or expansion of businesses in California. The proposed regulations range from the closure of the spit area to fishing of all sizes for the entire year; to no fishing of adult KRFC salmon in 2014; to a normal Klamath River Basin salmon season. The potential employment impacts range from 0 to 28 jobs which are not expected to create, eliminate or expand businesses in California. Adverse impacts to jobs and/or businesses would be less for the option that permits fishing of grilse KRFC salmon than under the complete closure to all fishing in the spit area. The impacted businesses are generally small businesses

employing few individuals and, like all small businesses, are subject to failure for a variety of causes. Additionally, the long-term intent of the proposed action is to increase sustainability in fishable salmon stocks and, subsequently, the promotion and long-term viability of these same small businesses.

The Commission anticipates benefits to the health and welfare of California residents. Providing opportunities for a salmon sport fishery encourages consumption of a nutritious food.

The Commission anticipates benefits to the environment by the sustainable management of California's salmon resources.

(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 regarding KRFC quota management (seasons, bag and possession limits. However options under consideration to close the spit area to fishing are anticipated to reduce visitor spending and revenue to area businesses. Spit Area Option 1 could reduce direct spending by \$132,000; Spit Area Option 2 could reduce direct spending by \$210,000; and Spit Area Option 3 could reduce spending by \$279,000 compared to an average year from 1999 to 2013. Revenue losses are expected to be shared by an estimated 30 businesses that support angler activities.

(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, Government Code:

None.

(h) Effect on Housing Costs:

None.

Updated Informative Digest/Policy Statement Overview

The Klamath River System, which consists of the Klamath River and Trinity River basins, is managed through a cooperative system of State, federal, and tribal management agencies. Salmonid regulations are designed to meet natural and hatchery escapement needs for salmonid stocks, while providing equitable harvest opportunities for ocean recreational, ocean commercial, river recreational and tribal fisheries.

The Pacific Fishery Management Council (PFMC) is responsible for adopting recommendations for the management of recreational and commercial ocean salmon fisheries in the Exclusive Economic Zone (three to 200 miles offshore) off the coasts of Washington, Oregon, and California. When approved by the Secretary of Commerce, these recommendations are implemented as ocean salmon fishing regulations by the National Marine Fisheries Service (NMFS).

The California Fish and Game Commission (Commission) adopts regulations for the ocean salmon recreational (inside three miles) and the Klamath River System recreational fisheries which are consistent with federal fishery management goals.

For the purpose of PFMC mixed-stock fishery modeling and salmon stock assessment, salmon greater than 22 inches are defined as adult salmon (ages 3-5) and salmon less than or equal to 22 inches are defined as grilse salmon (age 2).

Klamath River Fall-Run Chinook

Klamath River fall-run Chinook salmon (KRFC) harvest allocations and natural spawning escapement goals are established by the PFMC. The KRFC harvest allocation between tribal and non-tribal fisheries is based on court decisions and allocation agreements between the various fishery representatives.

The 2014 KRFC in-river recreational fishery allocation recommended by the PFMC is currently unknown. All proposed closures for adult KRFC are designed to ensure sufficient spawning escapement in the Klamath Basin and equitably distribute harvest while operating within annual allocations.

Klamath River Spring-Run Chinook

The Klamath River System also supports Klamath River spring-run Chinook salmon (KRSC). Naturally produced KRSC are both temporally and spatially separated from KRFC in most cases.

Presently, KRSC stocks are not managed or allocated by the PFMC. The in-river recreational fishery is managed by general basin seasons, daily bag limit, and possession limit regulations.

KRFC Allocation Management

The PFMC 2013 allocation for the Klamath River System recreational harvest was 40,006 adult KRFC. Preseason stock projections of 2014 adult KRFC abundance will not be available from the PFMC until March 2014. The 2014 Klamath Basin allocation

will be recommended by the PFMC in April 2014 and presented to the Commission for adoption prior to its April 2014 meeting.

For public notice requirements, the Department of Fish and Wildlife (Department) recommends the Commission consider an allocation range of 0 – 67,600 adult KRFC in the Klamath River Basin for the river recreational fishery.

Current Recreational Fishery Management

The KRFC in-river recreational harvest allocation is divided into geographic areas and harvest is monitored under real time subquota management. KRSC in-river recreational harvest is managed by general season, daily bag limit, and possession limit regulations.

The daily bag and possession limits apply to both stocks within the same sub-area and time period.

Proposed Changes

No changes are proposed for the general (KRSC) opening and closing season dates, and bag, possession and size limits.

The following changes to current regulations are proposed:

KRFC QUOTA MANAGEMENT: Seasons, Bag and Possession Limits

For public notice requirements, a range of KRFC bag and possession limits are proposed until the 2014 Klamath Basin quota is adopted. As in previous years, no retention of adult KRFC salmon is proposed for the following areas, once the subquota has been met.

The proposed open seasons and range of bag and possession limits for KRFC salmon stocks are as follows:

1. Klamath River - August 15 to December 31
2. Trinity River - September 1 to December 31
3. Bag Limit - [0-4] Chinook salmon of which no more than [0-4] fish over 22 inches total length until subquota is met, then 0 fish over 22 inches total length.
4. Possession limit - [0-12] Chinook salmon of which [0–12] over 22 inches total length may be retained when the take of salmon over 22 inches total length is allowed.

SPIT AREA MANAGEMENT

Current regulations specify that the spit area (within 100 yards of the channel through the sand spit formed at the Klamath River mouth) closes to all fishing after 15 percent of the Lower Klamath River subquota has been taken downstream of the Highway 101 bridge. This provision only applies if the Department projects that the total Klamath River System recreational fishery allocation will be met.

The following three options are provided for Commission consideration.

Option 1 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 provision that the spit area will close only if the Department projects that the total Klamath River System recreational fishery allocation will be met.

Option 2 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 provision that the spit area will close only if the Department projects that the total Klamath River System recreational fishery allocation will be met.

Option 3 will close the spit area to all fishing all year.

Benefits of the Proposed Regulations

The benefits of the proposed regulations are in conformance with Federal law, sustainable management of Klamath River Basin salmon resources, and promotion of businesses that rely on recreational salmon fishing in the Klamath River Basin.

The proposed regulations are neither inconsistent nor incompatible with existing State regulations. The Legislature has delegated authority to the Commission to promulgate sport fishing regulations (sections 200, 202, 205, 315, and 316.5, Fish and Game Code). Commission staff has searched the California Code of Regulations and has found no other State regulations related to the recreational take of Chinook salmon in the Lower Klamath River Basin.

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