

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

Amend Subsections (b)(91.1) and (b)(195) of Section 7.50  
Title 14, California Code of Regulations  
RE: 2015 Klamath River Basin Sport Fishing Regulations

- I. Date of Initial Statement of Reasons: January 12, 2014
- II. Date of Pre-adoption Statement of Reasons: March 20, 2015
- III. Date of Final Statement of Reasons: May 4, 2015
- IV. Dates and Locations of Scheduled Hearings:
  - (a) Notice Hearing: Date: December 3, 2014  
Location: Van Nuys
  - (b) Discussion Hearing: Date: February 12, 2015  
Location: Sacramento
  - (c) Adoption Hearing: Date: April 17, 2015  
Location: Teleconference
- V. Update:

At the April 17, 2015 teleconference, the Fish and Game Commission (Commission) adopted the following Klamath Basin bag and possession limits, adult quota, and conservation measures:

- (1) A daily bag limit of 3 Chinook salmon of which no more than 2 fish greater than 22 inches in length may be taken when the take of adults is allowed.
- (2) A possession limit of 9 Chinook salmon of which no more than 6 fish greater than 22 inches in length may be retained when the take of adults is allowed.
- (3) A basin quota of 14,133 adult Chinook salmon greater than 22 inches in length.
- (4) A closure of the main stem Klamath River near the confluence of Blue Creek between June 15 and December 31. The main stem Klamath River will be closed to sport fishing from 500 feet upstream of the mouth of Blue Creek to ½ mile downstream from the mouth of Blue Creek from June 15 through September 14 and within 500 feet of the Blue Creek confluence from September 15 through December 31.
- (5) A mandatory retention of all legally hooked and landed Chinook salmon in

the spit area (mouth of the Klamath River). Additionally, once anglers have retained the adult component of the daily Chinook bag limit, they must cease fishing in the spit area. Anglers may continue to fish other areas of the Klamath River after leaving the spit if they have not retained their daily bag limit.

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 Klamath Basin quota of 14,133 adult KRFC aligns with federal regulations which provide guidance on allocations between ocean sport and commercial fisheries, inland sport fisheries, and recognized tribal fisheries.

The Commission adopted non-substantive changes for clarity and consistency.

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 Public Comments and Responses."

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, CA 95814

VIII. Location of Department of Fish and Wildlife files:

Department of Fish and Wildlife  
1416 Ninth Street  
Sacramento, CA 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, 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 stocks.

(b) No Change Alternative:

The No Change Alternative would leave the current 2014 regulations in place and would not conform to the Pacific Fishery Management Council Klamath River Basin quota for 2015, nor would it address the excessive catch and release mortality within the spit area. 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 **long-term sustainability and** success of lower and upper Klamath River Basin businesses **that** provide goods and services related to fishing. The proposed changes are necessary for the continued preservation of the resource and, **in the long-term**, 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 proposed regulations range from no fishing of KRFC in 2015 to a

normal Klamath River Basin salmon season. The Commission anticipates some impact on the creation or elimination of jobs in California. The potential employment impacts range from 0 to 23 jobs which are not expected to create, eliminate, or expand businesses in California. The Commission anticipates impacts on the creation, elimination, or expansion of businesses in California ranging from no impact to reduced revenues for approximately 30 businesses that serve sport fishing activities. However, the possibility of growth of businesses to serve substitute activities exists. Adverse impacts to jobs and/or businesses would be less if fishing of grilse KRFC is permitted than under the complete closure to all fishing. 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 outdoor recreational activity and consumption of a nutritious food.

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

The Commission does not anticipate any benefits to worker safety.

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

The Commission 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, 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.

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 2015 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 **River** 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 2014 allocation for the Klamath River System recreational harvest was 4,128 adult KRFC. Preseason stock projections of 2015 adult KRFC abundance will not be available from the PFMC until March 2015. The 2015 Klamath Basin allocation will be recommended by the PFMC in April 2015 and presented to the Commission for adoption prior to its April 2015 meeting.

For public notice requirements, the Department of Fish and Wildlife (Department) recommended 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.

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

## **Proposed Changes**

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 2015 Klamath Basin quota is adopted. As in previous years, no retention of adult KRFC 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 total adult KRFC quota has been taken downstream of the Highway 101 bridge.

In 2014, the Department also evaluated restrictive measures for the spit area which included a “no catch and release” regulation for Chinook salmon legally caught in the spit area to protect Chinook stocks from excessive catch and release mortality. The regulatory time frame did not allow for sufficient time to promulgate such a regulation change. The Department informed the Commission it would consider this change for the 2015 regulatory cycle.

The following options are being provided for Commission consideration:

### **Option 1: No catch and release fishing in spit area – Department Proposal**

After internal discussion and Yurok Tribal coordination, the Department is proposing the following change to the 2015 fall Chinook spit area regulations:

All legally caught Chinook salmon must be retained. Once the adult Chinook component of the daily bag has been retained, the angler must cease fishing in the spit area.

This regulatory proposal does not preclude anglers from leaving the spit area and fishing other areas once their adult daily bag has been taken. Anglers may fish other areas outside of the spit to fill the grilse (Chinook salmon  $\leq 22$  inches) component of their daily bag limit. This regulation also **does not** preclude anglers from filling a daily bag composed entirely of grilse salmon while fishing the spit area.

### **Option 2: All Chinook salmon must be kept in spit area with Blue Creek closure – Yurok Tribe Proposal**

The Yurok Tribe is proposing the following modifications to the Klamath River regulations in the spit area and on the main Klamath River below the confluence with Blue Creek:

- (1) No catch and release fishing allowed in the spit area to reduce pinniped predation on released fish, and
- (2) Conservation closure below the mouth of Blue Creek to reduce catch and release **mortality** in a thermal **refugia** area and protect late-fall Chinook holding prior to entering Blue Creek.

The first modification is to the spit area at the mouth of the Klamath River to allow no release of Chinook salmon, regardless of whether they are legally caught or foul hooked. This option provides an exception from the general snagging prohibitions in section 2.00. The second modification would add Blue Creek to the September 15 to December 31 stream mouth closures and add a new Klamath River main stem closure

from June 15 to September 14 from 500 feet above to ½ mile downstream around the mouth of Blue Creek.

### **Option 3: A possible combination of Options 1 and 2**

The Commission may combine Option 1's prohibition on catch and release fishing in the spit area with Option 2's Blue Creek conservation closure:

- (1) All legally caught Chinook salmon must be retained. Once the adult Chinook component of the daily bag has been retained, the angler must cease fishing in the spit area.
- (2) Conservation closure below the mouth of Blue Creek to reduce catch and release **mortality** in a thermal **refugia** area and protect late-fall Chinook holding prior to entering Blue Creek.

### ADDITIONAL PROPOSED CHANGES

The name of the road listed in subsection (b)(91.1)(B)(2) is proposed to be corrected from "Ishi Pishi Falls road" to "Ishi Pishi Road." Cross references are proposed to be corrected in subsection (b)(195) to reduce public confusion. Other changes are proposed for clarity and consistency.

### **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 of the 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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**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, 14,133 adult KRFC, aligns with federal regulations which provide guidance on allocations between ocean sport and commercial fisheries, inland sport fisheries, and recognized tribal fisheries.**

**The Commission adopted non-substantive changes for clarity and consistency.**