

STATE OF CALIFORNIA  
FISH AND GAME COMMISSION  
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION  
(Pre-publication of Notice Statement)

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

I. Date of Initial Statement of Reasons: January 12, 2015

II. 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

III. Description of Regulatory Action:

(a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

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.

Two tribal entities within the Klamath River System, the Hoopa Valley Tribe and the Yurok Tribe, maintain fishing rights for ceremonial,

subsistence and commercial fisheries that are managed consistent with federal fishery management goals. Tribal fishing regulations are promulgated by the Hoopa and Yurok tribes.

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. KRSC harvest will be monitored on the Lower Klamath River in 2015 and ensuing years by creel survey.

### **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 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) recommends the Commission consider an allocation range of 0 – 67,600 adult KRFC in the Klamath River Basin for the river recreational fishery. This recommended range encompasses the historical range of the Klamath River Basin allocations and allows the PFMC and Commission to make adjustments during the 2015 regulatory cycle.

The Commission may modify the KRFC in-river recreational salmon harvest allocation which is normally 15 percent of the non-tribal PFMC harvest allocation. Commission modifications need to meet biological and fishery allocation goals specified in law or established in the PFMC Salmon Fishery Management Plan otherwise harvest opportunities may be reduced in the California ocean fisheries.

The annual KRFC in-river harvest allocation is split into 4 geographic areas with subquotas assigned to each. They are as follows:

1. for the main stem Klamath River from 3,500 feet downstream of the Iron Gate Dam to the Highway 96 bridge at Weitchpec -- 17 percent of the recreational fishery allocation;
2. for the main stem Klamath River from downstream of the Highway 96 bridge at Weitchpec to the mouth -- 50 percent of the recreational fishery allocation;
3. for the Trinity River downstream of the Old Lewiston Bridge to the Highway 299 West bridge at Cedar Flat -- 16.5 percent of the recreational fishery allocation; and
4. for the Trinity River downstream from the Denny Road bridge at Hawkins Bar to the confluence with the Klamath River -- 16.5 percent of the recreational fishery allocation.

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 Klamath River Basin quota has been taken downstream of the Highway 101 bridge.

These geographic areas are based upon the historical distribution of angler effort and ensure equitable harvest of adult KRFC in the upper Klamath River and Trinity River. The subquota system requires the Department to monitor angler harvest of adult KRFC in each geographic area. All areas will be monitored on a real time basis except for the following:

Klamath River upstream of Weitchpec and the Trinity River: Due to funding and personnel reductions, the Department will be unable to deploy adequate personnel to conduct harvest monitoring in the Klamath River upstream of Weitchpec and in the Trinity River for the 2015 season. The Department has reviewed salmon harvest and run-timing data for these areas. Based on this review, the Department has developed a Harvest Predictor Model (HPM) which incorporates historic creel survey data from the Klamath River downstream of Iron Gate Dam to the confluence with the Pacific Ocean and the Trinity River downstream of Lewiston Dam to the confluence with the Klamath River. The HPM is driven by the positive relationship between KRFC harvested in the Lower and Upper Klamath River. The HPM will be used by the Department to implement fishing

closures to ensure that anglers do not exceed established subquota targets.

### **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 Department presently differentiates the two stocks by the following dates:

#### **Klamath River**

1. January 1 through August 14 - General Season KRSC.  
For purposes of clarity, daily bag and possession limits apply to that section of the Klamath River downstream the Highway 96 bridge at Weitchpec to the mouth.
2. August 15 to December 31 - KRFC quota management.

#### **Trinity River**

1. January 1 through August 31 – General Season KRSC.  
For purposes of clarity, daily bag and possession limits apply to that section of the Trinity River downstream of the Old Lewiston Bridge to the confluence with the South Fork Trinity River.
2. September 1 through December 31 – KRFC quota management.

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 2015 Klamath River 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:

Regulations adopted in 2014 specify the spit area (within 100 yards of the channel through the sand spit formed at the Klamath River mouth) will close to all fishing after 15 percent of the total Klamath River Basin quota has been taken downstream of the Highway 101 bridge. At the same time, the Commission removed language (special note in the regulations for the spit fishery) that allowed the Department to keep the spit fishery open if the Department projected the Klamath River Basin adult fall Chinook would not be met.

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 that it would consider this change for the 2015 regulatory cycle.

At issue is the perception of mortality associated with Chinook salmon which are caught and released by anglers trying to fill their daily grilse bag limit. Typically the fall Chinook bag limit is composed of an adult portion and grilse portion. In 2014 the daily fall Chinook bag limit was three fish, no more than one adult. Thus, anglers fishing the spit area would often catch and keep their one adult and continue fishing for the grilse portion of their daily bag. Some anglers would catch multiple adult fall Chinook and have to release these fish since they already had retained their one adult. Some released Chinook were observed floating downstream, thus becoming easy prey for the marine mammals that congregate in this area.

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 salmon 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 <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 Proposal

The Yurok tribe approached the Commission at the notice hearing for additional proposed modifications to the Klamath River regulations in the spit area and the main Klamath River below the confluence with Blue Creek. The Commission directed the Department to add a regulatory option to allow further consideration of the Yurok proposal:

- 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 in a thermal refuge area and protect late-fall Chinook holding to 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. This revision would add a new subarea on the spit area by adding a new subsection (b)(91.1)(E) for the spit area.

The difference between the Yurok Tribe's proposed regulation and the Department's proposal is that the Tribal proposal requires the retention of all fish caught, regardless of whether they are caught legally or foul hooked. The proposed regulations therefore provide, in this one instance, an exception from the snagging prohibitions in subsections (b) and (c) of Section 2.00. The rationale for this is that a substantial proportion of fish caught in this area are foul hooked due to the nature of the fishery. Given that these fish are exhausted when released, and there is a relatively large presence of sea lions and seals that feed upon these released fish, the Tribe recommends that all fish caught (even those foul hooked) be retained and counted toward an angler's daily bag limit.

The second modification would expand subsection (b)(91.1)(B)3. to 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.

This proposed conservation area has two purposes, depending on the time of year:

- 1) Mid-June to mid-September: The intent of this closure to fishing is to protect the large numbers of adult summer steelhead, as well as spring

and fall-run Chinook salmon (thousands during some years), that are seeking thermal respite from the excessively warm Klamath River main stem temperatures. The intent is to prevent these fish from being caught by anglers, played for an extended period of time in the ambient river conditions that are several degrees warmer (sometimes near lethal levels) than the thermal refuge, and then eventually released. Forcing fish to go through such abrupt temperature changes, while putting them through excessive stress, results in physiological trauma that can lead to death.

2) Mid-September through December: The intent of this closure is to protect the genetically unique late-fall run chinook salmon that hold at the mouth of Blue Creek prior migrating upstream to spawn in Blue Creek, similar to the protections that are currently given at the mouths of the Salmon, Scott and Shasta Rivers.

### 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 in a thermal refuge 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**

It is the policy of this State to encourage the conservation, maintenance, and utilization of the living resources of the ocean and inland waters under the jurisdiction and influence of the State for the benefit of all the citizens of the State. In addition, it is the policy of this State to promote the development of local California fisheries in harmony with federal law respecting fishing and the conservation of the living resources of the ocean and inland waters under the jurisdiction and influence of the State. The objectives of this policy include, but are not limited to, the maintenance of sufficient populations of all species of aquatic organisms to ensure their continued existence and the maintenance of a sufficient resource to support a reasonable sport use. Adoption of scientifically-based Klamath River Basin salmon seasons, size limits, and bag and possession limits provides for the maintenance of sufficient populations of salmon to ensure their continued existence.

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.

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

Authority: Sections 200, 202, 205, 215, 220, 240, 315 and 316.5, Fish and Game Code.

Reference: Sections 200, 202, 205, 215 and 316.5, Fish and Game Code.

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

None.

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

*In-River Sport Fishing Economics Technical Report*, National Oceanographic and Atmospheric Administration, National Marine Fisheries Service (NMFS), September 2011.

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

No public meetings are being held prior to the notice publication. The 45-day comment period provides adequate time for review of the proposed amendments.

#### IV. Description of Reasonable Alternatives to Regulatory Action:

- (a) Alternatives to Regulation Change:

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 2014 regulations in place and would not conform to the PFMC 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 proposed regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

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. 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 proposed regulations range from no fishing of KRFC salmon 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 to 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 salmon 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 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 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, Government Code:

None.

(h) Effect on Housing Costs:

None.

VI. Economic Impact Assessment:

The regulatory amendments of subsections of Section 7.50 under consideration will set the 2014 Klamath River Basin salmon sport fishing regulations to conform to Pacific Fishery Management Council (PFMC) Fall Chinook allocation guidelines. The Klamath River Basin is anticipated to be open for sport salmon fishing at levels similar to the 2014 quotas; however the possibility of marine fishery area closures still exists. Ocean closures may in turn result in PFMC recommendations for Klamath River Basin sport salmon fishery closures for the take of adult salmon. Adverse or positive impacts to jobs and businesses will depend on the exact regulations ultimately adopted by PFMC and the Fish and Game Commission (Commission).

The Commission is considering proposed changes to Klamath River Fall Chinook (KRFC) quota management and the management of the Klamath River Basin spit area which is the area within 100 yards of the channel through the sand spit formed at the Klamath River mouth:

1) KRFC QUOTA MANAGEMENT

The proposed regulations range from 100% of last year's Klamath River Basin salmon season to 0% or no salmon fishing on adult Chinook salmon (greater than 22 inches) in 2015. Under all scenarios sport fishing will be allowed for grilse fall-run Chinook salmon (2 year-old salmon 22 inches or less) regardless of PFMC regulations, thus any adverse impacts to businesses would be less severe than under a complete closure of fishing.

The projections evaluated here are as follows: 100% of the 2014 Klamath River Basin catch limit; 50% of the 2014 basin catch limit; and 0% of the 2014 basin catch limit.

A. Effects of the Regulation on the Creation or Elimination of Jobs

Projection 1. 100% catch limit: The Commission does not anticipate any adverse impacts on the creation or elimination of jobs, as the quotas would not decrease effort nor curtail the number of visitors and thus probable visitor expenditures in the fisheries areas.

Based on a 2011 NOAA National Marine Fisheries Service (NMFS) report on In-River Sport Fishing Economics of the Klamath River, under a normal season non-resident Klamath River sport salmon anglers contribute about \$2,037,424 (2013\$) in total economic output to California businesses. This revenue supports about 35 jobs in the state.

An assumption of the NMFS report is that increases in expenditures by resident anglers associated with expanded fishing opportunities would be accommodated by reduced expenditures on other locally purchased goods and services – with

no net change in local economic activity. For non-resident anglers, however, increases in local expenditures associated with increases in local fishing opportunities would be accomplished by diverting money that they would otherwise spend outside the local area. Thus the economic impact analysis focuses on non-resident angler expenditures, which represent 'new money' whose injection serves to stimulate the local economy.

The NMFS study excluded the Trinity River, the largest tributary to the Klamath. The Trinity River is allocated 33% of the Klamath Basin fall-run Chinook salmon total allocation. Using the Trinity allocation as a measure of angler effort, and thus impacts on associated businesses that support anglers, the total non-resident angler contribution to the entire Klamath Basin (including the Trinity River) is estimated to be \$2,709,774 (2013\$) in total economic output. This revenue, again using a 33% increase to account for the Trinity River, provides an estimated total of 47 jobs in the state (assuming that personnel costs also rise with inflation). This is a conservative estimate of total economic impact as it counts only non-resident angler expenditures. Non-resident average expenditures are estimated to be \$106.43 (2013\$) per angler day (for lodging, food, gasoline, fishing gear, boat fuel, and guide fees) based on a NMFS sponsored survey. Resident average expenditures per angler day are estimated to be 60% less (markedly reduced lodging, gasoline and food expenditures) which yields an estimate of \$42.60 per angler day. Resident anglers comprise about 36% of Klamath Basin anglers.

Projection 2. 50% catch limit: The Commission anticipates some impact on the creation or elimination of jobs. A 50% catch reduction will likely reduce visitor spending by slightly less than 50%, given price elasticities of demand for salmon fishing activity of less than one. As the "price" of fishing per unit catch increases the demand for fishing trips declines by a lesser extent, particularly in the short-run. While difficult to predict, job losses associated with a 50% reduction in the catch limit are expected to be less than half of the estimated total jobs supported by angler visits (i.e. fewer than 23 jobs).

Projection 3. 0% catch limit: In the event of fisheries closures in some or all Klamath River basin areas, the Commission anticipates less than 50% reduction in fishery-related jobs. As mentioned earlier, sport fishing for grilse fall-run Chinook salmon (2-year-old salmon less than 22 inches) will still be allowed, thus lessening any job losses. A closure on the take of adult Chinook salmon was instituted in 2006 and only grilse salmon could be legally harvested that year. The effect of the 2006 closure, as measured by angler days on the Klamath River, resulted in an approximate 50% drop in angler days, compared to the 2000- 2005 average (12,000 angler days vs. 23,300 angler days). Job creation or elimination is assumed to lag in adjustment to changes in consumer demand as is characteristic of the labor market. Thus, the potential impacts of a closure on the take of adult Chinook are estimated to result in the loss of fewer than 23 jobs.

**B. Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses**

Projection 1: 100% catch limit: The Commission does not anticipate any impacts on the creation of new business or the elimination of existing businesses, as the quotas would not decrease effort nor curtail the number of visitors and thus probable visitor expenditures in the fisheries areas.

Projection 2. 50% catch limit: The Commission anticipates a decline in visits to the fishery areas of less than 50%. This may result in some decline in business activity and no business creation for businesses directly related to fishing activities. However, with less effort being expended on fishing, the possibility of substitute activities and the growth of businesses to serve those activities exists.

Projection 3. 0% catch limit: In the event of fisheries closures in some or all Klamath River basin areas, the Commission anticipates a decline in regional spending and thus reduced revenues to the approximately 30 businesses that serve sport fishing activities. However adverse impacts will be mitigated by the continued opportunity to harvest grilse salmon. Additionally, the long-term intent of the proposed action is to increase sustainability in fishable salmon stocks and, subsequently, the long-term viability of these same small businesses.

#### C. Effects of the Regulation on the Expansion of Businesses in California

Projection 1. 100% catch limit: The Commission does not anticipate any impacts on the expansion of businesses in California as the quotas would not increase effort nor increase the number of visitors and thus probable visitor expenditures in the fisheries areas.

Projection 2. 50% catch limit: The Commission does not anticipate any impacts on the expansion of businesses in California. Decreases in expenditures by resident anglers associated with reduced fishing opportunities may be offset by increased expenditures on other locally purchased goods and services – with no net change in local economic activity. For non-resident anglers, however, decreases in local expenditures associated with decreases in local fishing opportunities may result in increases in other expenditures outside the Klamath River basin area.

Projection 3. 0% catch limit: In the event of fisheries closures in some or all Klamath River basin areas, the Commission does not anticipate any expansion of businesses in California. Decreases in expenditures by anglers associated with reduced fishing opportunities may be partially offset by increased expenditures on other locally purchased goods and services as visitors substitute salmon fishing with other recreational pursuits.

#### D. Benefits of the Regulation

Concurrence with Federal Law:

California's sport fishing regulations need to conform to the new Federal regulations to achieve optimum yield in California. The PFMC annually reviews the status of west coast salmon populations. As part of that process, it

recommends west coast adult salmon fisheries regulations aimed at meeting biological and fishery allocation goals specified in law or established in the Salmon Fishery Management Plan. These recommendations coordinate west coast management of sport and commercial ocean salmon fisheries off the coasts of Washington, Oregon, and California and California inland sport salmon fisheries. These recommendations are subsequently implemented as ocean fishing regulations by the NMFS and as sport salmon regulations for state marine and inland waters by the Commission.

Promotion of businesses that rely on Klamath River basin sport salmon fishing. Adoption of scientifically-based inland and ocean salmon seasons, size limits, and bag and possession limits provides for the maintenance of sufficient populations of salmon to ensure their continued existence and future salmon sport fishing opportunities, and subsequently the long-term viability of businesses that rely on Klamath River Basin sport fishing. Under a normal season, Klamath River Basin (including the Trinity River) sport salmon anglers contribute about \$2,709,774 (2013\$) in total economic output to the State's business sector. This is based on a 2011 NOAA National Marine Fisheries Service (NMFS) report on In-River Sport Fishing Economics of the Klamath River Basin. This revenue provides for about 47 jobs in the state.

Benefits to the environment: sustainable management of Klamath River basin salmon resources

Projection 1. 100% catch limit: The Commission anticipates benefits to the environment. It is the policy of this state to encourage the conservation, maintenance, and utilization of the living resources of the ocean and inland waters under the jurisdiction and influence of the state for the benefit of all the citizens of the state. In addition, it is the policy of this state to promote the development of local California fisheries in harmony with federal law respecting fishing and the conservation of the living resources of the ocean and inland waters under the jurisdiction and influence of the state. The objectives of this policy include, but are not limited to, the maintenance of sufficient populations of all species of aquatic organisms to ensure their continued existence and the maintenance of a sufficient resource to support a reasonable sport use. Adoption of scientifically-based Klamath River Basin salmon seasons, size limits, and bag and possession limits provides for the maintenance of sufficient populations of salmon to ensure their continued existence.

Projection 2. The Commission anticipates benefits to the environment similar to as stated in Projection 1.

Projection 3. The Commission anticipates benefits to the environment similar to as stated in Projection 1.

Benefits to the health and welfare of California residents

Projection 1. The Commission anticipates benefits to the health and welfare of California residents through the protection of aquatic and riparian habitats and

the fish and wildlife resources that depend upon them. Providing opportunities for a Klamath River Basin sport salmon fishery encourages consumption of a nutritious food. Salmon sport fishing also contributes to increased mental health of its practitioners as fishing is a hobby and form of relaxation for many. Salmon sport fishing also provides opportunities for multi-generational family activities and promotes respect for California's environment by the future stewards of California's natural resources.

Projection 2. The Commission anticipates benefits to the health and welfare of California residents similar to as stated in Projection 1.

Projection 3. The Commission anticipates benefits to the health and welfare of California residents similar to as stated in Projection 1.

#### Benefits to worker safety

Projection 1. The Commission does not anticipate benefits to worker safety because the proposed regulations will not impact worker conditions.

Projection 2. The Commission does not anticipate benefits to worker safety as stated in Projection 1.

Projection 3. The Commission does not anticipate benefits to worker safety as stated in Projection 1.

## **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 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 River 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) 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 2015 Klamath River 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 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 that 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 <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 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 in a thermal refuge 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 in a thermal refuge 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, 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.