

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 20, 2011
- II. Date of Pre-adoption Statement of Reasons: March 21, 2012
- III. Date of Final Statement of Reasons: April 24, 2012
- IV. Dates and Locations of Scheduled Hearings:
  - (a) Notice Hearing: Date: February 2, 2012  
Location: Sacramento, CA
  - (b) Discussion Hearing Date: March 7, 2012  
Location: Riverside, CA
  - (c) Discussion Hearing: Date: April 11, 2012  
Location: Eureka, CA
  - (d) Adoption Hearing Date: April 18, 2012  
Location: Teleconference
- V. Update:

The Proposed changes from the Initial Statement of Reasons (ISOR) in response to the Pacific Fishery Management Council's (PFMC) 2012 salmon regulatory recommendations are:

- 1. The Klamath River Fall Chinook (KRFC) harvest quota range has been revised from [0 – 40,000] to [0 - 71,200] adult KRFC for the recreational fishery in the Klamath River System.
- 2. Sub-quotas for the four geographic sub-quota areas have been adjusted to reflect the appropriate percentage of the quota for the entire basin.
- 3. A daily bag limit range for adult KRFC was inadvertently omitting in the originally proposed regulatory language for subsections 7.50(b)(91.1)(E)2.a. and 7.50(b)(91.1)(E)2.b. The revised proposed regulations for these subsections include a daily bag limit range of [0 – 4] KRFC over 22 inches when the take of salmon over 22 inches is permitted.

4. The daily bag limit range has been revised from [0 – 3] to [0 – 4] for KRFC over 22 inches when the take of salmon over 22 inches is permitted.
5. The possession limit range has been revised from [0 – 6] to [0 – 8] KRFC over 22 inches when the take of salmon over 22 inches is permitted.
6. In subsection 7.50(b)(91.1)(E)6.e., 2102 is changed to 2012 to reflect the current year.

Reasons for Modification of Originally Proposed Language of the Initial Statement of Reasons:

Based on the 2012 KRFC stock forecast, the PFMC presented three season alternatives for 2012 Salmon Recreational Management Measures during their March, 2012 meeting. The PFMC recommended a harvest allocation (quota) range of 66,400 to 71,200 adult KRFC for the recreational fishery in the Klamath River System.

Based on the unprecedented range of KRFC harvest opportunity in 2012, the Department is proposing a daily bag limit of 4 KRFC, of which no more than 4 salmon over 22 inches may be taken when the take of salmon over 22 inches is allowed; and a possession limit of 8 KRFC, of which no more than 8 salmon over 22 inches may be possessed when the take of salmon over 22 inches is allowed.

The Department believes that the increased bag and possession limits for the take of adult KRFC will not significantly harm the resource for the following reasons: 1. The largest number of adult KRFC estimated taken in the Klamath basin in-river recreational fishery was 22,203 in 1988. 2. The in-river recreational fishery is based on a quota system that includes sub area quotas. Attainment of quotas in any sub area triggers a closure to the take of adult KRFC in the sub-area. 3. The projected KRFC natural adult spawner escapement under the range of alternatives is more than double the Klamath basin conservation floor escapement level of 40,700 fish.

**The Fish and Game Commission during its April 18, 2012 teleconference adopted the regulations as proposed by the Department, including the following KRFC sport fishing quota and bag and possession limits:**

1. **KRFC salmon quota of 67,600 adult fish (longer than 22 inches in total length).**
2. **A daily bag limit of 4 KRFC salmon, of which 4 may be over 22 inches total length when the take of adult KRFC salmon is allowed.**
3. **A possession limit of 8 fall Chinook salmon, of which 8 may be over 22 inches total length when the take of adult KRFC salmon is allowed.**

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

- (1) Ed Duggan, oral comments at the April 11, 2012 meeting:
- a. Supports the Department's proposed changes to Klamath basin fall Chinook salmon quota and bag and possession limits for the 2012 recreational in-river sport fishing season.

Response:

- a. Support noted.

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 Game  
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 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 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 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; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment:

The Commission does not anticipate any impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses or the expansion of businesses in California. The proposed regulations range from no salmon fishing on adult Chinook salmon (>22 inches) in 2012 to a normal Klamath River Basin salmon season; therefore, the potential impacts range from 0 to 47 jobs. However, due to the fact that sport fishing for Chinook salmon will be allowed for grilse fall Chinook salmon, impacts to businesses will be less severe than under a complete closure of 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 does not anticipate any non-monetary benefits to worker safety.

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.

(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.

### **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 2012 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 2011 allocation for the Klamath River System recreational harvest was 7,900 adult KRFC. Preseason stock projections of 2012 adult KRFC abundance will not be available from the PFMC until March 2012. The 2012 basin allocation will be recommended by the PFMC in April 2012 and presented to the Commission for adoption prior to its April 2012 meeting.

For public notice requirements, the Department recommends the Commission consider an allocation range of 0 – 40,000 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 sub-quota 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**

The Department is proposing the following changes to current regulations:

No changes are proposed for the general (KRSC) opening and closing season dates.

#### KRFC Season, Bag Limit, and Possession Limit

For public notice requirements, a range of KRFC bag and possession limits are proposed until the 2012 basin quota is adopted. As in previous years, no retention of adult KRFC salmon is proposed for the following areas, once the sub quota has been met.

The proposed open seasons and range of bag 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 - only [0-3] fish over 22 inches total length until sub quota is met, then 0 fish over 22 inches total length.

The possession limit is proposed as a range of [0-9] Chinook salmon of which [0–6] over 22 inches total length may be retained when the take of salmon over 22 inches total length is allowed.

The benefits of the proposed regulations are concurrence 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 Commission does not anticipate non-monetary benefits to the protection of public health and safety, worker safety, the prevention of discrimination, the promotion of fairness or social equity and the increase in openness and transparency in business and government.

The proposed regulations are neither inconsistent nor incompatible with existing State regulations. No other State agency has the authority to promulgate sport fishing regulations.

**The Pacific Fishery Management Council (PFMC) presented Recreational Salmon Management Alternatives and adopted a recommended harvest allocation range of 66,400 to 71,200 adult Klamath River Fall Chinook (KRFC) for the recreational fishery in the Klamath River System (Preseason Report II). The Department of Fish and Game (Department) concurs with this allocation range and recommends that the Fish and Game Commission (Commission) adopt the PFMC'S KRFC recreational harvest quota range and use 70,300 as the maximum adult KRFC for the basin quota, and based on this allocation maximum, adjust the sub quotas for the four geographic sub quota areas according to the percentages outlined in the original ISOR, adopt a daily bag limit of 4 salmon over 22 inches when the take of salmon over 22 inches is allowed, and adopt a possession limit of 8 salmon over 22 inches when the take of salmon over 22 inches is allowed.**

**In subsection 7.50(b)(91.1)(E)6.e., 2102 is changed to 2012 to reflect the current year.**

**No other changes to the originally proposed language are proposed.**

**The Fish and Game Commission during its April 18, 2012 teleconference adopted the regulations as proposed by the Department, including the following KRFC sport fishing quota and bag and possession limits:**

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