

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: 2016 Klamath River Basin Sport Fishing Regulations

- I. Date of Initial Statement of Reasons: February 11, 2016
- II. Date of Final Statement of Reasons: April 26, 2016
- III. Dates and Locations of Scheduled Hearings:
  - (a) Discussion Hearing: Date: December 10, 2015  
Location: San Diego
  - (b) Notice Hearing: Date: February 11, 2016  
Location: Sacramento
  - (c) Adoption Hearing: Date: April 18, 2016  
Location: Teleconference

IV. Update:

At the April 18, 2016 teleconference, the Fish and Game Commission (Commission) adopted the following Klamath River Basin bag and possession limits, adult quota, and conservation measures:

- (1) A daily bag limit of 2 Klamath River fall-run Chinook (KRFC) salmon of which no more than 1 fish greater than 22 inches in length may be taken when the take of adults is allowed.
- (2) A possession limit of 6 KRFC salmon of which no more than 3 fish greater than 22 inches in length may be retained when the take of adults is allowed.
- (3) A basin quota of 1,110 adult (greater than 22 inches in length) KRFC salmon.
- (4) A reduction in the distance closed on the main stem Klamath River below the mouth of Blue Creek during the June 15 through September 14 closure period from ½ mile to 500 feet.

Sport fishing seasons for KRFC salmon 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 1,110 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.

V. 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."

VI. Location and Index of Rulemaking File: A rulemaking file with attached file index is maintained at:

California Fish and Game Commission  
1416 Ninth Street  
Sacramento, CA 95814

VII. Location of Department of Fish and Wildlife files:

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

VIII. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulatory Action:

- i. 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.
- ii. Base any closures of the main stem Klamath River around the mouth of Blue Creek on either flow or temperature criteria. Currently there are no public real time flow or temperature gauges in the Blue Creek area, nor has there been flow or temperature standards developed which could be used to trigger such closures. Additionally, closing a small section of the river based on these standards is not consistent with other California river management or the goal of simplifying State fishing regulations.
- iii. Remove All Existing Blue Creek Area Closures  
This alternative would remove all existing fishing closures on the main stem Klamath River near the mouth of Blue Creek. This alternative

would not provide maximum resource protection and ensure long term sustainability during a critical multi-year drought.

(b) No Change Alternative:

The No Change Alternative would leave the current 2015 daily bag and possession limit regulations in place and would not conform to the PFMC Klamath River Basin quota for 2016. The change is necessary to continue appropriate harvest rates and an equitable distribution of the harvestable surplus.

The No Change Alternative for Blue Creek would keep in place the existing fishing closures on the main stem Klamath River near the mouth of Blue Creek between June 15 and December 31.

(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.

IX. Impact of Regulatory Action:

The potential for significant Statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed regulations are projected to have minor impact on the net revenues to local businesses servicing sport fishermen. If the 2016 KRFC quota is reduced, visitor spending may correspondingly 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 adult salmon 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 45 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 steelhead and grilse KRFC salmon is permitted than under a 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, consequently promoting the 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 a healthy outdoor activity and the consumption of a nutritious food.

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

The Commission does not anticipate any benefits to worker safety because the proposed action does not affect working conditions.

- (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 sport, ocean commercial, river sport and tribal fisheries.

The Pacific Fishery Management Council (PFMC) is responsible for adopting recommendations for the management of sport 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 sport (inside three miles) and the Klamath River System sport 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 2016 KRFC in-river sport 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 sport fishery is managed by general basin seasons, daily bag limit, and possession limit regulations.

### **KRFC Allocation Management**

The PFMC 2015 allocation for the Klamath River System sport harvest was 14,133 adult KRFC. Preseason stock projections of 2016 adult KRFC abundance will not be available from the PFMC until March 2016. The 2016 Klamath River Basin allocation

will be recommended by the PFMC in April 2016 and presented to the Commission for adoption prior to its April 2016 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 in-river sport fishery.

### **Current Sport Fishery Management**

The KRFC in-river sport harvest allocation is divided into geographic areas and harvest is monitored under real time subquota management. KRSC in-river sport 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.

### **Blue Creek Area Management**

On April 17, 2015, the Commission adopted regulations to close the main stem Klamath River near the mouth of Blue Creek to reduce catch and release mortality in a thermal refuge area and protect late-fall-run Chinook salmon holding prior to entering Blue Creek. The Commission's action was a precautionary conservation measure to provide maximum resource protection and ensure long-term sustainability during a critical multi-year drought.

### **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 2016 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 may be retained until the subquota is met, then 0 fish over 22 inches total length.
4. Possession limit - [0-12] Chinook salmon of which [0-12] fish over 22 inches total length may be retained when the take of salmon over 22 inches total length is allowed.

## BLUE CREEK AREA MANAGEMENT

The following option is provided for public discussion, and Commission consideration and action.

### *Modify Existing Blue Creek Mouth Area Closure*

This option would modify the regulations for the existing fishing closure on the Klamath River during the June 15 through September 14 closure period by reducing the distance closed below the mouth of Blue Creek from ½ mile to 500 feet. The distance of the closure above the mouth of Blue Creek would remain at 500 feet. The regulations for the September 15 through December 31 fishing closure on the main stem Klamath River would not change. Local angling constituents and many fishing guides support this option with a closure distance of 500 feet.

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 salmonid resources, and promotion of businesses that rely on sport 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 sport fishing in the Lower Klamath River Basin.

**At the April 18, 2016 teleconference the Commission adopted the following Klamath River Basin bag and possession limits, adult quota, and conservation measures:**

- (1) A daily bag limit of 2 KRFC salmon of which no more than 1 fish greater than 22 inches in length may be taken when the take of adults is allowed.**
- (2) A possession limit of 6 KRFC salmon of which no more than 3 fish greater than 22 inches in length may be retained when the take of adults is allowed.**
- (3) A basin quota of 1,110 adult (greater than 22 inches in length) KRFC salmon.**
- (4) A reduction in the distance closed on the main stem Klamath River below the mouth of Blue Creek during the June 15 through September 14 closure period from ½ mile to 500 feet.**

**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, 1,100 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.**

**There have been no changes in applicable laws or to the effect of the proposed regulations from the laws and effects described in the Notice of Proposed Action.**