

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

Amend Subsections (b)(91.1) of Section 7.50  
Title 14, California Code of Regulations  
RE: 2017 Klamath River Basin Sport Fishing Regulations

- I. Date of Initial Statement of Reasons: September 7, 2016
- II. Date of Amended Statement of Reasons: April 17, 2017
- III. Date of Final Statement of Reasons: May 15, 2017
- IV. Dates and Locations of Scheduled Hearings:
  - (a) Discussion Hearing: Date: December 8, 2016  
Location: San Diego
  - (b) Notice Hearing: Date: February 8, 2017  
Location: Rohnert Park
  - (c) Adoption Hearing: Date: April 13, 2017  
Location: Teleconference

V. Update:

At the April 13, 2017 teleconference, the Fish and Game Commission (Commission) adopted the following Klamath fall-run Chinook Salmon (KRFC) bag and possession limits, adult quota, and conservation measures:

- 1. The 2017 KRFC Quota was set at zero (0) and all KRFC Management Areas are closed to salmon fishing with no take of Chinook Salmon allowed for the following dates:  
  
Klamath River - August 15 to December 31  
Trinity River - September 1 to December 31
- 2. The spit area (within 100 yards of the channel through the sand spit formed at the Klamath River mouth), subsection (D)2.b.(i), will close to all fishing from August 15, 2017 to December 31, 2017.

Necessity: This change eliminates all fishing and potential catch and release impacts in this known area of high hook and release mortality to maximize KRFC survival and escapement.

3. Additional Changes
  - a. The reference to adult fish was removed from subsection (A)2. to make it clear that this regulation applies to all salmon when the area is closed.
  - b. Subsection (C)2.b. was revised to remove the KRFC possession limit and clarify the KRFC fishing closure.
  - c. Subsection (D)1. was revised to set the KRFC quota at zero and clarify the KRFC fishing closure.
  - d. The "Fall Run Quota Exceptions" in subsections (E)2.a., (E)2.b. and (E)6.b., were removed because they no longer apply under the KRFC fishing closure.
  - e. Subsection (E)2.i. was split into two rows to separate the KRFC and Klamath River spring-run Chinook Salmon (KRSC) fishery seasons in order to close the area to KRFC fishing prior to January 1 because salmon taken prior to this date would be KRFC.

The Commission adopted other 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:

1. Comments by Mike Coopman, oral testimony received at April 13, 2017 teleconference:
  - a. Supports the Department of Fish and Wildlife (Department) recommendation.
  - b. Asks that the Department support/facilitate state or federal disaster funding for small businesses.

Response:

- a. Support of the Department's recommendation noted. The Commission adopted the Department's recommendation.
  - b. Request noted. State and/or federal disaster funding is outside the scope of the regulation.
2. Comment by Eileen Cooper, oral testimony received at April 13, 2017 teleconference: Supports the Department recommendation.

Response: See response 1a.

3. Comment by Janet Gibson, oral testimony received at April 13, 2017 teleconference: Supports the Department recommendation.

Response: See response 1a.

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, Room 1320

Sacramento, CA 95814

VIII. Location of Department of Fish and Wildlife files:

Department of Fish and Wildlife  
1416 Ninth Street, Room 1342-A  
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. **More liberal regulations would be less desirable than those adopted because they would result in exceeding the allowable harvest, which could be damaging to the long-term viability of KRFC salmon stocks.**

(b) No Change Alternative:

The No Change Alternative would leave the current 2016 daily bag and possession limit regulations in place and would not conform to the PFMC Klamath River Basin quota for 2017. The change is necessary to continue appropriate harvest rates.

(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.

(d) Description of Alternatives That Would Lessen Adverse Impact on Small Business:

No alternatives were identified by or brought to the attention of Commission staff that would lessen the adverse impact on small businesses and be equally effective in implementing the preferred practice of conformance to the PFMC Klamath River Basin quota for 2017.

X. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from this 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:

This regulatory action is not anticipated to have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The **adopted** regulations are projected to have temporary impact on the net revenues to local businesses servicing sport fishermen. With the reduction of the KRFC quota to zero, 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 Klamath River Basin businesses which provide goods and services related to fishing. The **adopted** changes are necessary for the continued preservation of the resource and therefore the prevention of long-term 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 **adopted** regulations will close all fishing for KRFC during the Klamath River Basin fall salmon season. The Commission anticipates some impact on the creation or elimination of jobs in California. The potential employment impacts may be a loss of up to 42 jobs within the State. While locally important, this loss is insufficient to induce the creation, elimination or expansion of the businesses in California. However, the possibility of growth of businesses to serve substitute activities exists. Adverse impacts to jobs and/or businesses would be lessened with the continued allowance of steelhead and KRSC fishing as compared to 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 **adopted regulations** 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. Closure of this year's KRFC fishery to ensure the long-term viability of the fishery promotes respect for California's environment by the future stewards of California's natural resources.

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 **adopted regulations do 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 **adopted regulations**.

- (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 Basin, which consists of the Klamath River and Trinity River systems, 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 Basin sport fisheries which are consistent with federal fishery management goals.

Two tribal entities within the Klamath River Basin, 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 Salmon**

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.

All **closures** for KRFC are designed to ensure sufficient spawning escapement in the Klamath River Basin.

### **Klamath River Spring-Run Chinook Salmon**

The Klamath River **Basin** 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. KRSC harvest will be monitored on the lower Klamath River in 2017 and ensuing years by creel survey.

## **KRFC Allocation Management**

**The PFMC 2016 allocation for the Klamath River Basin sport harvest was 1,110 adult KRFC.**

### PFMC Update from April 2017 Meeting:

The final 2017 KRFC stock projections developed by the PFMC are the lowest on record. The normal PFMC escapement goal for the Klamath River Basin (Basin) is 40,700 natural area adult KRFC spawners. This year's projected return to the Basin, absent any fishing, is only 12,383 natural area adult KRFC spawners.

As a result, the KRFC stock is now classified under the PFMC Salmon Fishery Management Plan as "approaching an overfished condition." Given the poor return of KRFC adults to the Basin the past two years, coupled with projected KRFC returns that are expected to remain critically low, the KRFC stock is expected to be classified as "overfished" in 2018.

### Department April 2017 Recommendation:

In the Initial Statement of Reasons dated September 7, 2016, the Department of Fish and Wildlife (Department) recommended the Commission consider an allocation range of 0 – 67,600 adult KRFC in the Basin for the river sport fishery. **This range** encompasses the historical range of the Klamath River Basin allocations. The Commission **has the authority to** modify the KRFC in-river sport 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.

In view of the PFMC's historically low stock projections, the Department, at the Commission's April 13, 2017 teleconference meeting, recommended a full closure of the 2017 KRFC fishery in the Klamath and Trinity rivers as follows:

- 1) Reduce the adult KRFC quota to zero which closes the adult KRFC fishery (salmon 22 inches or greater),
- 2) Close the KRFC grilse fishery (salmon less than 22 inches),
- 3) Eliminate all catch and release fishing on salmon during the KRFC quota management period, and
- 4) Keep open the KRSC and steelhead fisheries under normal seasons and bag and possession limits.

The PFMC approved a historically low 129 adult KRFC quota for in-river sport harvest allocation for 2017. The Department's recommendation applied this minimal adult KRFC quota to escapement as the low adult quota allocation likely would have resulted in just a 1 day season in the lower Klamath River.

## **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.

### **Proposed Changes**

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

No changes **were** proposed for steelhead fishing.

No changes **were** proposed for the Blue Creek area.

### KRFC QUOTA MANAGEMENT: Seasons, Bag and Possession Limits

The Commission adopted the Department recommendations on April 13, 2017, as follows:

1. The 2017 KRFC Quota was set at zero (0) and all KRFC Management Areas are closed to salmon fishing with no take of Chinook Salmon allowed for the following dates:  
  
Klamath River - August 15 to December 31  
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  - a. The reference to adult fish was removed from subsection (A)2. to make it clear that this regulation applies to all salmon when the area is closed.
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  - e. Subsection (E)2.i. was split into two rows to separate the KRFC and KRSC fishery seasons in order to close the area to KRFC fishing prior to January 1 because salmon taken prior to this date would be KRFC.

### OTHER

Other changes **were adopted** for clarity and consistency.

### **Benefits of the Proposed Regulations**

It is the objective 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 objective 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 practice 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 fish resources, and the long-term viability of businesses that rely on sport fishing in the Klamath River Basin.

### **Consistency and Compatibility with Existing Regulations**

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, 205, 265, 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 **Klamath** River Basin.