

**State of California
Office of Administrative Law**

In re:
Fish and Game Commission

Regulatory Action:

Title 14, California Code of Regulations

Adopt sections:
Amend sections: 7.50
Repeal sections:

**NOTICE OF APPROVAL OF EMERGENCY
REGULATORY ACTION**

**Government Code Sections 11346.1 and
11349.6**

OAL Matter Number: 2019-0219-03

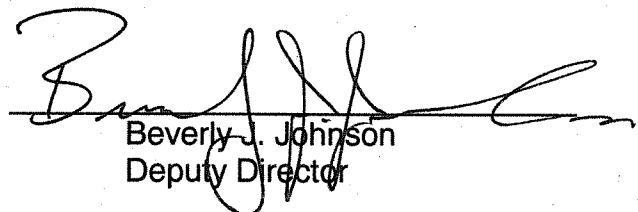
OAL Matter Type: Emergency (E)

This emergency rulemaking action by the Fish and Game Commission amends the Klamath River Basin regulations to protect spring Chinook Salmon from take. The spring Chinook Salmon is currently under consideration for listing as endangered under the California Endangered Species Act.

OAL approves this emergency regulatory action pursuant to sections 11346.1 and 11349.6 of the Government Code.

This emergency regulatory action is effective on 2/28/2019 and will expire on 8/28/2019. The Certificate of Compliance for this action is due no later than 8/27/2019.

Date: February 28, 2019


Beverly J. Johnson
Deputy Director

For: Debra M. Cornez
Director

Original: Valerie Termini, Executive
Director
Copy: Sherrie Fonbuena

EMERGENCY

STATE OF CALIFORNIA—OFFICE OF ADMINISTRATIVE LAW

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER	EMERGENCY NUMBER 2019-0219-03E
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	
AGENCY WITH RULEMAKING AUTHORITY Fish and Game Commission			AGENCY FILE NUMBER (if any)

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

FEB 28 2019

1:59 PM

2019 FEB 19 P 1:02

OFFICE OF
ADMINISTRATIVE LAW

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	ACTION ON PROPOSED NOTICE	NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Klamath River Basin Spring Chinook Salmon Sport Fishing	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT
	AMEND 7.50
TITLE(S) 14	REPEAL
3. TYPE OF FILING	
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))
<input checked="" type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)
<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)	<input type="checkbox"/> File & Print
<input type="checkbox"/> Print Only	<input type="checkbox"/> Other (Specify) _____
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)	
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)	
<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input checked="" type="checkbox"/> Effective on filing with Secretary of State
<input type="checkbox"/> \$100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify) _____
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY	
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission
<input type="checkbox"/> Other (Specify) _____	<input type="checkbox"/> State Fire Marshal
7. CONTACT PERSON Sherrie Fonbuena	TELEPHONE NUMBER (916) 654-9866
FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) Sherrie.Fonbuena@fgc.ca.gov

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>H. Thesell</i>	DATE February 19, 2019
TYPED NAME AND TITLE OF SIGNATORY David Thesell, Program Manager	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

FEB 28 2019

Office of Administrative Law

Proposed Emergency Regulatory Language

Subsection (b)(91.1) of Section 7.50, Title 14, CCR is amended to read as follows:

§ 7.50. Alphabetical List of Waters with Special Fishing Regulations.

... [No changes to subsections (a) through (b)(91)]

(91.1) Anadromous Waters of the Klamath River Basin Downstream of Iron Gate and Lewiston dams. The regulations in this subsection apply only to waters of the Klamath River Basin which are accessible to anadromous salmonids. They do not apply to waters of the Klamath River Basin which are inaccessible to anadromous salmon and trout, portions of the Klamath River system upstream of Iron Gate Dam, portions of the Trinity River system upstream of Lewiston Dam, and the Shasta River and tributaries upstream of Dwinell Dam. Fishing in these waters is governed by the General Regulations for non-anadromous waters of the North Coast District (see Section 7.00, subsection (a)(4)).

(A) Hook and Weight Restrictions.

1. Only barbless hooks may be used. (For definitions regarding legal hook types, hook gaps and rigging see Chapter 2, Article 1, Section 2.10.)
2. During closures to the take of adult salmon, it shall be unlawful to remove any adult Chinook Salmon from the water by any means.

(B) General Area Closures.

1. No fishing is allowed within 750 feet of any Department of Fish and Wildlife fish-counting weir.
2. No fishing is allowed from the Ishi Pishi Road bridge upstream to and including Ishi Pishi Falls from August 15 through December 31. EXCEPTION: members of the Karuk Indian Tribe listed on the current Karuk Tribal Roll may fish at Ishi Pishi Falls using hand-held dip nets.
3. No fishing is allowed from September 15 through December 31 in the Klamath River within 500 feet of the mouths of the Salmon, the Shasta and the Scott rivers and Blue Creek.
4. No fishing is allowed from June 15 through September 14 in the Klamath River from 500 feet above the mouth of Blue Creek to 500 feet downstream of the mouth of Blue Creek.

(C) Klamath River Basin Possession Limits.

1. Trout Possession Limits.

- a. The Brown Trout possession limit is 10.
- b. The hatchery trout or hatchery steelhead possession limits are as follows:
 - (i) Klamath River - 4 hatchery trout or hatchery steelhead.
 - (ii) Trinity River - 4 hatchery trout or hatchery steelhead.

2. Chinook Salmon Possession Limits.

- a. Klamath River downstream of the Highway 96 bridge at Weitchpec from January 1 ~~to August 14: Closed to salmon fishing. No take or possession of Chinook Salmon.~~ [OAL will insert effective date] to August 14: Closed to salmon fishing. No take or possession of Chinook Salmon. and the Trinity River downstream of the Old Lewiston Bridge to the confluence of the South Fork Trinity River from January 1 to August 31: 2 Chinook Salmon.

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b. ~~Klamath River from August 15 to December 31 and Trinity River from September 1 to December 31: 6 Chinook Salmon. No more than 3 Chinook Salmon over 22 inches total length may be retained when the take of salmon over 22 inches total length is allowed.~~

c. Trinity River downstream of the Old Lewiston Bridge to the Highway 299 West bridge at Cedar Flat from ~~[OAL will insert effective date]~~ to October 15: Closed to salmon fishing. No take or possession of Chinook Salmon.

d. Trinity River downstream of the Old Lewiston Bridge to the Highway 299 West Bridge at Cedar Flat from October 16 to December 31: 6 Chinook Salmon. No more than 3 Chinook Salmon over 22 inches total length may be retained when the take of salmon over 22 inches total length is allowed.

e. Trinity River downstream of the Highway 299 West bridge at Cedar Flat from ~~[OAL will insert effective date]~~ to August 31: Closed to salmon fishing. No take or possession of Chinook Salmon.

f. Trinity River downstream of the Highway 299 West Bridge at Cedar Flat from September 1 to December 31: 6 Chinook Salmon. No more than 3 Chinook Salmon over 22 inches total length may be retained when the take of salmon over 22 inches total length is allowed.

(D) Klamath River Basin Chinook Salmon Quotas.

The Klamath River fall-run Chinook Salmon take is regulated using quotas. Accounting of the tribal and non-tribal harvest is closely monitored from August 15 through December 31 each year. These quota areas are noted in subsection (b)(91.1)(E) with "Fall Run Quota" in the *Open Season and Special Regulations* column.

1. Quota for Entire Basin.

The 2018 Klamath River Basin quota is 3,490 Klamath River fall-run Chinook Salmon over 22 inches total length. The department shall inform the Commission, and the public via the news media, prior to any implementation of restrictions triggered by the quotas. (NOTE: A department status report on progress toward the quotas for the various river sections is updated weekly, and available at 1-800-564-6479.)

2. Subquota Percentages.

a. The subquota for the Klamath River upstream of the Highway 96 bridge at Weitchpec and the Trinity River is 50% of the total Klamath River Basin quota.

(i) The subquota for the Klamath River from 3,500 feet downstream of the Iron Gate Dam to the Highway 96 bridge at Weitchpec is 17% of the total Klamath River Basin quota.

(ii) The subquota for the Trinity River main stem downstream of the Old Lewiston Bridge to the Highway 299 West bridge at Cedar Flat is 16.5% of the total Klamath River Basin quota.

(iii) The subquota for the Trinity River main stem downstream of the Denny Road bridge at Hawkins Bar to the confluence with the Klamath River is 16.5% of the total Klamath River Basin quota.

b. The subquota for the lower Klamath River downstream of the Highway 96 bridge at Weitchpec is 50% of the total Klamath River Basin quota.

(i) The Spit Area (within 100 yards of the channel through the sand spit formed at the Klamath River mouth) will close when 15% of the total Klamath River Basin quota is taken downstream of the Highway 101 bridge.

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(E) Klamath River Basin Open Seasons and Bag Limits.
 All anadromous waters of the Klamath River Basin are closed to all fishing for all year except those areas listed in the following table. Bag limits are for trout and Chinook Salmon in combination unless otherwise specified.

Body of Water	Open Season and Special Regulations	Daily Bag Limit
1. Bogus Creek and tributaries.	Fourth Saturday in May through August 31. Only artificial lures with barbless hooks may be used.	2 hatchery trout or hatchery steelhead**
2. Klamath River main stem from 3,500 feet downstream of Iron Gate Dam to the mouth.		
a. Klamath River from 3,500 feet downstream of the Iron Gate Dam to the Highway 96 bridge at Weitchpec.	January 1 [OAL will insert effective date] to August 14. ¹ <i>Per agency request February 28, 2019 Bjt</i>	0 <u>Closed to salmon fishing. No take of Chinook Salmon</u> 2 hatchery trout or hatchery steelhead**
	^{2/28/19 Bjt} Fall Run Quota 593 Chinook Salmon August 15 to December 31, 2018.	2 Chinook Salmon – no more than 1 fish over 22 inches total length until subquota is met, then 0 fish over 22 inches total length. 2 hatchery trout or hatchery steelhead**
Fall Run Quota Exception: Chinook Salmon over 22 inches total length may be retained from 3,500 feet downstream of Iron Gate Dam to the Interstate 5 bridge when the department determines that the adult fall-run Chinook Salmon spawning escapement at Iron Gate Hatchery exceeds 8,000 fish. Daily bag and possession limits specified for fall-run Chinook Salmon apply during this exception.		
b. Klamath River downstream of the Highway 96 bridge at Weitchpec.	January 1 [OAL will insert effective date] to August 14. ¹ <i>Per agency request February 28, 2019 Bjt</i>	2 <u>Closed to salmon fishing. No take of Chinook Salmon</u> 2 hatchery trout or hatchery steelhead**
	^{2/28/19 Bjt} Fall Run Quota 1,745 Chinook Salmon August 15 to December 31, 2018.	2 Chinook Salmon – no more than 1 fish over 22 inches total length until subquota is met, then 0 fish over 22 inches total length.

		2 hatchery trout or hatchery steelhead**
	<p>Fall Run Quota Exception: Spit Area (within 100 yards of the channel through the sand spit formed at the Klamath River mouth). This area will be closed to all fishing after 15% of the Total Klamath River Basin Quota has been taken.</p> <p>All legally caught Chinook Salmon must be retained. Once the adult (greater than 22 inches) component of the total daily bag limit has been retained anglers must cease fishing in the spit area.</p>	
3. Salmon River main stem, main stem of North Fork downstream of Sawyer's Bar bridge, and main stem of South Fork downstream of the confluence of the East Fork of the South Fork.	November 1 through February 28.	2 hatchery trout or hatchery steelhead**
4. Scott River main stem downstream of the Fort Jones-Greenview bridge to the confluence with the Klamath River.	Fourth Saturday in May through February 28.	2 hatchery trout or hatchery steelhead**
5. Shasta River main stem downstream of the Interstate 5 bridge north of Yreka to the confluence with the Klamath River.	Fourth Saturday in May through August 31 and November 16 through February 28.	2 hatchery trout or hatchery steelhead**
6. Trinity River and tributaries.		
a. Trinity River main stem from 250 feet downstream of Lewiston Dam to the Old Lewiston Bridge.	April 1 through September 15. Only artificial flies with barbless hooks may be used.	2 hatchery trout or hatchery steelhead**

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b. Trinity River main stem downstream of the Old Lewiston Bridge to the Highway 299 West bridge at Cedar Flat.	January 1 [OAL will insert effective date] to August 31 October 15 .	<u>2</u> Closed to salmon fishing. No take of Chinook Salmon 5 Brown Trout 2 hatchery trout or hatchery steelhead**
	Fall Run Quota 576 Chinook Salmon September 1 through December 31, 2018.	2 Chinook Salmon – no more than 1 fish over 22 inches total length until subquota is met, then 0 fish over 22 inches total length. 5 Brown Trout 2 hatchery trout or hatchery steelhead**
	Fall Run Quota Exception: Chinook Salmon over 22 inches total length may be retained downstream of the Old Lewiston Bridge to the mouth of Indian Creek when the department determines that the adult fall-run Chinook Salmon spawning escapement at Trinity River Hatchery exceeds 4,800 fish. Daily bag and possession limits specified for fall-run Chinook Salmon apply during this exception.	
c. Trinity River main stem downstream of the Highway 299 West bridge at Cedar Flat to the Denny Road bridge at Hawkins Bar.	January 1 [OAL will insert effective date] through August 31.) Btl. February 28, 2019 Per agency request 2/28/19	<u>2</u> Closed to salmon fishing. No take of Chinook Salmon 5 Brown Trout 2 hatchery trout or hatchery steelhead**
	September 1 through December 31.	Closed to all fishing.
d. New River main stem downstream of the confluence of the East Fork to the confluence with the Trinity River.	September 15 through November 15. Only artificial lures with barbless hooks may be used.	2 hatchery trout or hatchery steelhead**
e. Trinity River main stem downstream of the Denny Road bridge at Hawkins Bar to the mouth of the South Fork Trinity River.	January 1 [OAL will insert effective date] to August 31.) Btl. February 28, 2019 Per agency request 2/28/19	<u>2</u> Closed to salmon fishing. No take of Chinook Salmon 5 Brown Trout 2 hatchery trout or hatchery steelhead**
	Fall Run Quota 576 Chinook Salmon September 1 through December 31, 2018.	2 Chinook Salmon – no more than 1 fish over 22 inches total length until subquota is met,

	This is the cumulative quota for subsections 6.e. and 6.f. of this table.	then 0 fish over 22 inches total length. 5 Brown Trout 2 hatchery trout or hatchery steelhead**
f. Trinity River main stem downstream of the mouth of the South Fork Trinity River to the confluence with the Klamath River.	January 1 [OAL will insert effective date] to August 31. ^{8/1} <i>February 28, 2019</i> <i>Per agency request 2/28/19</i>	0 <u>Closed to salmon fishing. No take of Chinook Salmon</u> 5 Brown Trout 2 hatchery trout or hatchery steelhead**
	Fall Run Quota 576 Chinook Salmon September 1 through December 31, 2018. This is the cumulative quota for subsections 6.e. and 6.f. of this table.	2 Chinook Salmon – no more than 1 fish over 22 inches total length until subquota is met, then 0 fish over 22 inches total length. 5 Brown Trout 2 hatchery trout or hatchery steelhead**
g. Hayfork Creek main stem downstream of the Highway 3 bridge in Hayfork to the confluence with the South Fork Trinity River.	November 1 through March 31. Only artificial lures with barbless hooks may be used.	2 hatchery trout or hatchery steelhead**
h. South Fork Trinity River downstream of the confluence with the East Fork of the South Fork Trinity River to the South Fork Trinity River bridge at Hyampom.	November 1 through March 31. Only artificial lures with barbless hooks may be used.	2 hatchery trout or hatchery steelhead**
i. South Fork Trinity River downstream of the South Fork Trinity River bridge at Hyampom to the confluence with the Trinity River.	November 1 through March 31.	0 Chinook Salmon. 2 hatchery trout or hatchery steelhead**

... [No changes subsections 7.50(b)(92) through (b)(212)]

* Wild Chinook Salmon are those not showing a healed adipose fin clip and not showing a healed left ventral fin clip.

**Hatchery trout or steelhead in anadromous waters are those showing a healed adipose fin clip (adipose fin is absent). Unless otherwise provided, all other trout and steelhead must be immediately released. Wild trout or steelhead are those not showing a healed adipose fin clip (adipose fin is present).

Note: Authority cited: Sections 200, 205, 265, 270, 315, 316.5 and 399, Fish and Game Code. Reference: Sections 200, 205, 265, 270 and 316.5, Fish and Game Code.