

State of California
Fish and Game Commission
Initial Statement of Reasons for Regulatory Action

Amend Subsection (b)(50) of Section 7.40
Title 14, California Code of Regulations
Re: Klamath River Basin Sport Fishing

I. Date of Initial Statement of Reasons: December 11, 2020

II. Dates and Locations of Scheduled Hearings

(a) Notice Hearing

Date: December 10, 2020

Location: Webinar/Teleconference

(b) Discussion Hearing

Date: April 14, 2021

Location: Webinar/Teleconference

(c) Adoption Hearing

Date: May 11, 2021

Location: Webinar/Teleconference

III. Description of Regulatory Action

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

Unless otherwise specified, all section references in this document are to Title 14 of the California Code of Regulations (CCR). The baseline regulatory language is presented under Section 7.40, Title 14, CCR, in accordance with the regulatory re-numbering proposed for the subject streams and rivers for this rulemaking with Office of Administrative Law (OAL) file 2020-1204-02s (Simplification of Statewide Inland Sport Fishing Regulations).

The Klamath River Basin, which consists of the Klamath River and Trinity River systems, is managed for fall-run Chinook Salmon (*Oncorhynchus tshawytscha*) 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 (in-river) sport fisheries, which are consistent with federal fishery management goals.

Tribal entities within the Klamath River Basin 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 tribes.

Klamath River Fall-Run Chinook Salmon

Adult Klamath River fall-run Chinook Salmon (KRFC) harvest allocations and natural spawning escapement goals are established by 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 Klamath River Basin in-river sport salmon fishery is managed using adult quotas. For the purpose of implementing PFMC adult allocation and California Department of Fish and Wildlife (Department) salmon fishery harvest assessment, within the Klamath River Basin, the Department currently considers 23 inches total length as a provisional cutoff. Salmon greater than 23 inches total length are defined as adult salmon (ages 3-5), and salmon less than or equal to 23 inches total length are defined as grilse salmon (age-two).

PFMC Overfishing Review

KRFC stocks have been designated as “overfished” by PFMC. This designation is the result of not meeting conservation objectives for this stock. Management objectives and criteria for KRFC are defined in the PFMC Salmon Fishery Management Plan (FMP). The threshold for overfished status of KRFC is a three-year geometric mean less than or equal to 30,525 natural area adult spawners. This overfished-threshold was met for KRFC during the 2015-2017 period. The 30,525 KRFC natural area adult spawners is considered the minimum stock size threshold, per the FMP. The KRFC adult natural area spawning escapement for 2019 was 20,245 natural area adult spawners, which is below the one-year conservation threshold of 40,700 natural area adult spawners. The most recent three-year geometric mean of 30,834 is still less than the required 40,700 natural area adult spawners conservation threshold, therefore the KRFC are still considered as an “overfished” stock.

Accordingly, the FMP outlines a process for preparing a “rebuilding plan” that includes assessment of the factors that led to the decline of the stock, including fishing, environmental factors, model errors, etc. The rebuilding plan includes recommendations to address conservation of KRFC, with the goal of achieving rebuilt status. Rebuilt status requires meeting a three-year geometric mean of 40,700 adult natural area KRFC spawner escapement. The plan developed by representatives of NMFS, PFMC, U.S. Fish and Wildlife Service, the Department, and tribal entities, was submitted to PFMC in February 2019, adopted by PFMC in June 2019, and submitted to NMFS in August 2019. Forthcoming recommendations from the rebuilding plan may alter how KRFC are managed in the future, including changing the in-river allocation number, and/or allocating less than the normal target number.

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 PFMC. This in-river sport fishery is managed by general basin seasons, daily bag limit, and possession limit regulations. KRSC harvest is monitored on the Klamath River below the Highway 96 bridge at Weitchpec to the mouth of the Klamath River by creel survey. The upper Trinity River, upstream of Junction City, is monitored using tag returns from anglers. When needed, KRSC regulations are amended in a separate rulemaking.

KRFC Allocation Management

The PFMC 2020 allocation for the Klamath River Basin sport harvest was 1,296 adult KRFC. Preseason stock projections of 2021 adult KRFC abundance will not be available from PFMC until March 2021. The 2021 basin allocation will be recommended by PFMC in April 2021 and presented to the Commission for adoption as a quota for the in-river sport harvest at its May 2021 teleconference meeting.

The Commission may modify the KRFC in-river sport harvest quota, which is normally a minimum of 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 FMP.

The annual KRFC in-river sport harvest quota is specified in subsection 7.40(b)(50)(D)1. The quota is split between four geographic areas with a subquota for each area, expressed as a percentage of the total in-river quota, specified in subsection 7.40(b)(50)(D)2. For angler convenience, the subquotas, expressed as the number of fish, are listed for the affected river segments in subsection 7.40(b)(50)(E). The in-river sport subquota percentages are shown in Figure 1, and are as follows:

1. 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 in-river sport quota;
2. Main stem Klamath River downstream of the Highway 96 bridge at Weitchpec to the mouth -- 50 percent of the in-river sport quota;
3. Main stem Trinity River downstream of the Old Lewiston Bridge to the Highway 299 West bridge at Cedar Flat -- 16.5 percent of the in-river sport quota; and
4. Main stem Trinity River downstream of the Denny Road bridge at Hawkins Bar to the confluence with the Klamath River -- 16.5 percent of the in-river sport fishery quota.

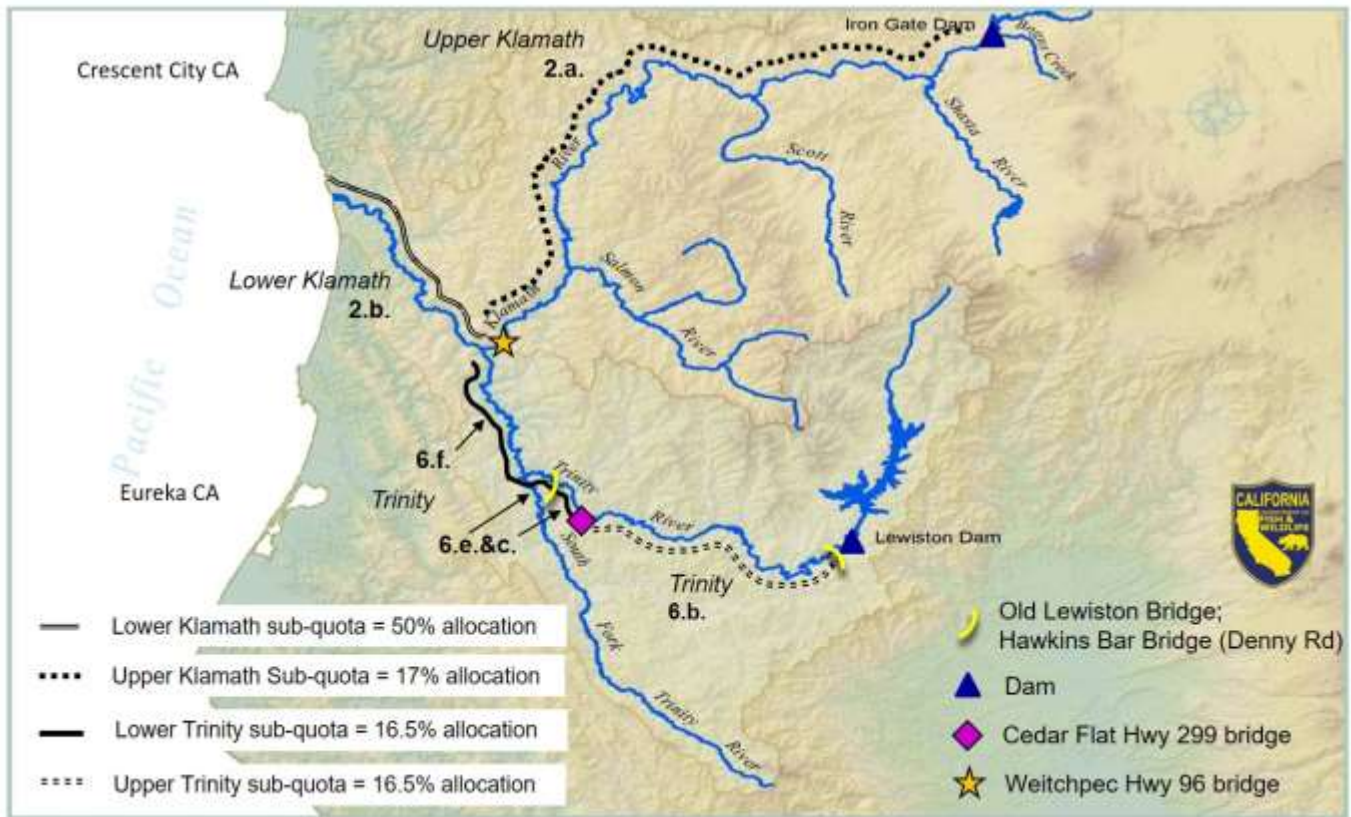


Figure 1. Map of the Klamath River Basin, showing the subquotas by reach of Trinity and Klamath rivers, and the associated subsections of 7.40(b)(50)(E).

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 to ensure equitable harvest of adult KRFC in the Klamath River and Trinity River. The subquota system requires the Department to monitor or assess angler harvest of adult KRFC in each geographic area. All areas are 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 does not currently conduct real time harvest monitoring in the Klamath River upstream of Weitchpec and in the Trinity River. The Department has developed Harvest Predictor Models (HPM), which incorporate 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. Each HPM is driven by the positive relationship between KRFC harvested in the respective lower and upper subquota areas of the Klamath River and the Trinity River. The HPMs will be used by the Department to implement fishing closures to ensure that anglers do not exceed established subquota targets. Using this method, the upper Klamath River subquota area generally closes between 28-30 days after the lower Klamath River subquota is reached. Similarly, the upper Trinity River subquota area generally closes 28-30 days after the lower Trinity River subquota has been met. The Department also takes into consideration several other factors when implementing closure dates for subquota areas, including angler effort,

KRFC run timing, weir counts, and ongoing recreational creel surveys performed by the Hoopa Valley Tribe in the lower Trinity River below Willow Creek.

Sport Fishery Management

The KRFC in-river sport harvest quota is divided into geographic areas, and harvest is monitored under real time subquota management. The KRSC in-river sport harvest is managed by general season, daily bag limit, and possession limit regulations.

The Department presently differentiates the two stocks by the following sport fish season in each sub-area:

Klamath River

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 of the Highway 96 bridge at Weitchpec to the mouth.

August 15 to December 31 – KRFC quota management.

Trinity River

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.

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. Current regulations in subsections 7.40(b)(50)(E)2.a. and b. specify bag limits for KRFC stocks in the Klamath River. Current regulations in subsections 7.40(b)(50)(E)6.b., e., and f. specify bag limits for KRFC stocks in the Trinity River. Current regulations in subsection 7.40(b)(50)(C)2.b. specify KRFC possession limits.

Proposed Changes

Key to Proposed Regulatory Changes:

Because the PFMC recommendations are not known at this time, ranges are shown in [brackets] in the proposed regulatory text below of bag and possession limits which encompass historical quotas. All are proposed for the 2021 KRFC fishery in the Klamath and Trinity rivers.

The final KRFC bag and possession limits will align with the final federal regulations to meet biological and fishery allocation goals specified in law, or established in the FMP.

KRFC ADULT STOCKS (SPORT FISHERY QUOTA MANAGEMENT):

Quota: For public notice requirements, the Department recommends the Commission consider a quota range of 0–67,600 adult KRFC in the Klamath River Basin for the in-river sport fishery. This recommended range encompasses the historical range of the Klamath River Basin allocations and allows PFMC and Commission to make adjustments during the 2021 regulatory cycle.

Subquotas: The proposed subquotas for KRFC stocks are as follows:

- 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 total quota equates to [0-11,492];
- Main stem Klamath River downstream of the Highway 96 bridge at Weitchpec to the mouth -- 50 percent of the total quota equates to [0-33,800];
- Main stem Trinity River downstream of the Old Lewiston Bridge to the Highway 299 West bridge at Cedar Flat -- 16.5 percent of the total quota equates to [0-11,154]; and
- Main stem Trinity River downstream of the Denny Road bridge at Hawkins Bar to the confluence with the Klamath River -- 16.5 percent of the total quota equates to [0-11,154].

Seasons: No changes are proposed for the Klamath River and Trinity River KRFC seasons:

- Klamath River - August 15 to December 31
- Trinity River - September 1 to December 31

Bag and Possession Limits: As in previous years, no retention of adult KRFC is proposed once the subquota has been met.

The range of proposed bag and possession limits for KRFC stocks are as follows:

- Bag Limit - [0-4] Chinook Salmon – of which no more than [0-4] fish over 23 inches total length may be retained until the subquota is met, then 0 fish over 23 inches total length.
- Possession limit - [0-12] Chinook Salmon of which no more than [0–4] fish over 23 inches total length may be retained when the take of salmon over 23 inches total length is allowed.

KRSC SPORT FISHERY:

No regulatory changes are proposed in this rulemaking for the general KRSC opening and closing season dates, and bag, possession, and size limits.

OTHER CHANGES

The Department is proposing additional changes for clarity and consistency, as follows:

1. Throughout the regulatory text in subsection 7.40(b)(50), update the year from 2020 to 2021 for the upcoming season.
2. In the first paragraph of subsection 7.40(b)(50), delete “Fishing in these waters is governed by the non-anadromous waters of the District General Regulations (see Section 7.00, subsection (a))” for consistency with amendments made to Section 7.00 in OAL file 2020-1204-02s (Simplification of Statewide Inland Sport Fishing Regulations).

(b) Goals and Benefits of the Regulation

It is the policy of this State to encourage the conservation, maintenance, and utilization of the living resources of the ocean and other waters under the jurisdiction and influence of the State for the benefit of all the citizens of the State and to promote the development of local fisheries and distant water fisheries based in California in harmony with international law, respecting fishing and the conservation of the living resources of the ocean and other 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 consistency with federal fishery management goals, sustainable management of Klamath River Basin fish resources, health and welfare of California residents, and promotion of businesses that rely on salmon sport fishing in the Klamath River Basin.

(c) Authority and Reference Sections from Fish and Game Code for Regulation

Authority: Sections 200, 205, 265, 270, 315, 316.5, 399, and 2084, Fish and Game Code

Reference: Sections 200, 205, 265, 270, 316.5, and 2084, Fish and Game Code

(d) Specific Technology or Equipment Required by Regulatory Change

None.

(e) Identification of Reports or Documents Supporting Regulation Change

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

(f) Public Discussions of Proposed Regulations Prior to Notice Publication

The Department discussed the proposed amendments to the annual Klamath River Basin regulations at the Commission's Wildlife Resources Committee meeting on September 17, 2020. At this meeting, the Committee recommended to move this rulemaking package to the full Commission for notice in December 2020 for the usual quota adjustment.

IV. Description of Reasonable Alternatives to Regulatory Action

(a) Alternatives to Regulation Change

KRFC Adult Stocks

The use of more liberal regulations for KRFC bag limits, possession limits, and minimum adult salmon size (Alternative 1 in the STD 399; Economic and Fiscal Impact Statement) 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 and exceeding the allowable harvest could damage the KRFC stocks.

KRSC Stocks

No changes are proposed for KRSC stocks in this rulemaking; however, should changes be necessary, they would be considered in a separate rulemaking.

Other Changes for Clarity

No alternatives were identified by or brought to the attention of Commission staff concerning amendments for clarity that would have the same desired regulatory effect.

(b) No Change Alternative

KRFC Adult Stocks

The No Change Alternative (Alternative 2 in the STD 399; Economic and Fiscal Impact Statement) would leave the current 2020 daily bag and possession limit regulations in place and would not allow flexibility to develop bag and possession limits based on 2021 PFMC allocations. The proposed regulatory change for 2021 is necessary to continue appropriate harvest rates and an equitable distribution of the harvestable surplus.

Other Changes for Clarity

The No Change Alternative for including amendments for clarity would leave the existing 2020 regulations in place. Additionally, the No Change Alternative would mean that the year for 2020 would not be updated for the 2021 season, which could cause confusion for anglers on the validity of the regulations.

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 range from minor to no impact on the net revenues to local businesses servicing sport fishermen. If the 2021 KRFC quota is reduced, visitor spending may correspondingly be reduced, and in the absence of alternative visitor activities, the drop in spending could induce some business contraction. If the 2021 KRFC quota remains similar to the KRFC quotas allocated in previous years, then local economic impacts are expected to be unchanged. Neither scenario is expected to directly affect the ability of California businesses to compete with businesses in other states.

(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

An estimated 30-50 businesses that serve sport fishing activities are expected to be directly and/or indirectly affected depending on the final KRFC quota. The impacts range from no impact (Projection 1 under the Economic Impact Assessment (EIA), below) to small adverse impacts (Projection 3, EIA, below).

Depending on the final KRFC quota, the Commission anticipates the potential for some impact on the creation or elimination of jobs in California. The potential adverse employment impacts range from no impact to the loss of 23 jobs. Under all alternatives, due to the limited time period of this regulation's impact, the Commission anticipates no impact on the creation of new businesses, the elimination of existing businesses, or the expansion of businesses in California.

For all of the proposed scenarios, the possibility of growth of businesses to serve alternative recreational activities exists. Adverse impacts to jobs and/or businesses would be less if fishing of other species and grilse KRFC is permitted, than the impacts to jobs and/or businesses 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 regulatory action is to increase sustainability in fishable salmon stocks and, consequently, promote 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.

VII. Economic Impact Assessment

The proposed regulatory amendments of subsection 7.40(b)(50) under consideration will set the 2021 Klamath River Basin salmon sport fishing regulations to conform to the PFMC KRFC allocation. The Klamath River Basin is anticipated to be open for salmon sport fishing at levels similar to the levels in the 2019 sport fishing season; however, the possibility of marine fishery area closures still exists. The baseline year used is 2019 because it is the most recent full year of salmon fishing creel survey data and represents a year not impacted by health or other emergency closures. Ocean closures may in turn result in PFMC recommendations for Klamath River Basin salmon sport fishery closures for the take of adult KRFC. Adverse or positive impacts to jobs and businesses will depend on the 2021 KRFC allocation ultimately adopted by PFMC, and the specific regulations adopted by the Commission.

The proposed quota of 0 to 67,600 adult KRFC in 2021 represents a range from 0 percent or no salmon fishing on adult KRFC to greater than 100 percent of the 2019 Klamath River Basin KRFC quota. Under all scenarios, sportfishing may be allowed for other sportfish species and most likely for grilse KRFC, regardless of PFMC allocation. Thus, any adverse impacts to businesses could be less severe than under a complete closure of fishing.

Grilse salmon are salmon that spend two years in the ocean before returning to their natal streams to spawn. These fish are generally smaller in size and contribute less to the overall salmon population than adult salmon, which typically spend three to five years in the ocean before returning to freshwater to spawn. In years when the adult quota is met, angling is still allowed for grilse KRFC under the current regulations.

The preservation of Klamath River salmon stocks is vital for the ongoing success of Klamath River Basin businesses that provide goods and services related to sport fishing. Scientifically-based KRFC allocations are necessary for the continued preservation of the resource, and therefore the prevention of adverse economic impacts.

A 2011 NMFS report (*In-River Sport Fishing Economics Technical Report*), reports that non-resident (outside the immediate locale) salmon or steelhead angler average expenditures are estimated to be \$113.69 (2020\$) per angler day (for lodging, food, gasoline, fishing gear, boat fuel, and guide fees). The projections do not distinguish between spring and fall runs, however, the report states that the in-river harvest is almost exclusively fall-run. The NMFS report also excluded the Trinity River, the largest tributary to the Klamath. Since the Trinity River is allocated 33 percent of the KRFC total quota, this share is used to expand salmon and steelhead angler effort, and thus impacts on associated businesses that support anglers.

In a normal year, the total non-resident angler contribution to the entire Klamath River Basin (including the Trinity River) is estimated to be about \$4,792,080 (2020\$) in direct expenditures, resulting in about \$5,795,476 (2020\$) in total economic output that supports an estimated 70

jobs throughout the State. This is a conservative estimate of total economic impact as it counts only non-resident angler expenditures. The total impact of non-resident angler direct expenditures on labor income, total economic output, and jobs are shown in Table 1.

Table 1. Klamath Anglers Total Economic Output 2019* (2020\$)

Klamath Sportfishing	Salmon	Steelhead	Total Impact
Expenditures	\$3,573,799	\$1,218,281	\$4,792,080
Labor Income	\$1,999,779	\$681,710	\$2,681,489
Total Economic Impact	\$4,322,104	\$1,473,372	\$5,795,476
Total Jobs Impact	45	25	70

Note: *2019 is the most recent full year of Klamath fishing creel survey data and represents a year not impacted by health emergency closures. Sources: CDFW Fisheries Branch Creel surveys, *In-River Sport Fishing Economics Technical Report*, National Oceanographic and Atmospheric Administration, National Marine Fisheries Service, September 2011.

Local resident average expenditures per angler day are estimated to be 60 percent less (markedly reduced lodging, gasoline, and food expenditures), which yields an estimate of \$68.21 per angler-day. Any decreases to expenditures by resident anglers associated with changes in fishing opportunities may be offset by increased expenditures on other locally purchased goods and services – with no net change in local economic activity. Thus, the economic impact analysis focuses on non-resident angler expenditures which represent new money whose injection serves to stimulate the local economy.

Northern Region creel surveys reveal that local resident (Eureka/Crescent City) anglers comprise about 30 percent of Klamath River Basin anglers, with a majority (70%) of anglers coming from outside the immediate locale, as shown in Figure 2.

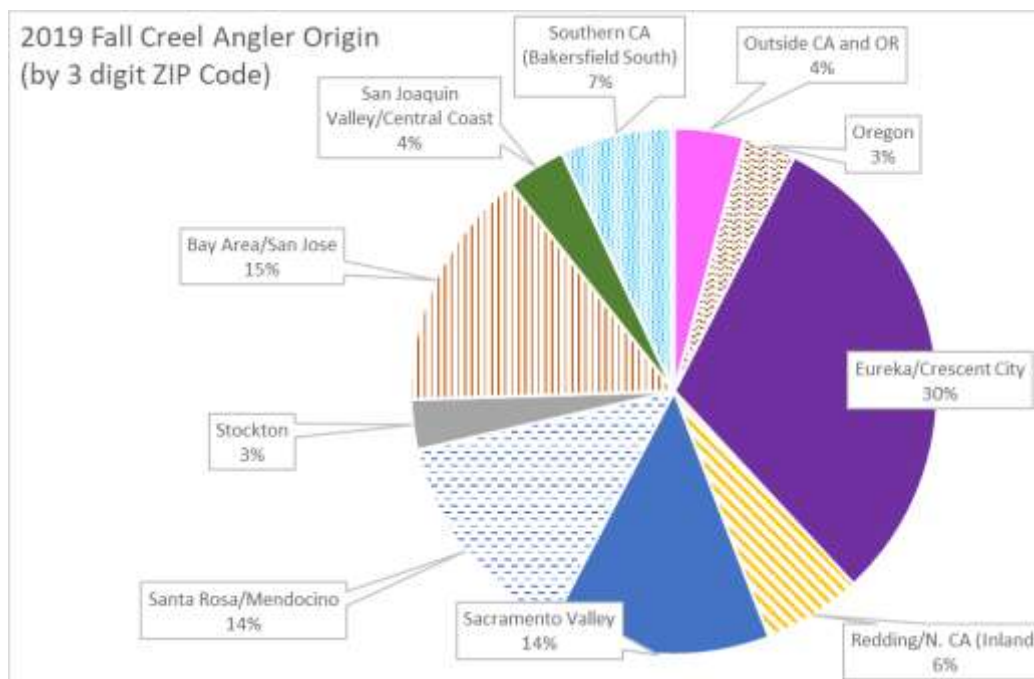


Figure 2. Klamath Basin Anglers Area of Origin: 2019. Source: CDFW Fisheries Branch creel surveys 2019.

Economic Impact Projections

To demonstrate the potential economic impacts that may result from a quota anywhere within the range of 0 - 67,600 KRFC, three adult salmon catch projections are as follows: 100 percent of the 2019 adult KRFC catch limit; 50 percent of the 2019 adult KRFC catch limit; and 0 percent of the 2019 adult KRFC catch limit.

(a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State

Projection 1: 100 percent of the 2019 adult KRFC 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.

Projection 2: 50 percent of the 2019 adult KRFC catch limit: The Commission anticipates some impact on the creation or elimination of jobs, which may be partially offset by the potential for continued sport fishing allowed for other sportfish and grilse KRFC. A 50 percent salmon catch reduction will likely reduce visitor spending by slightly less than 50 percent, 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 percent reduction in the adult KRFC catch limit are expected to be less than half of the 45 estimated total jobs supported by salmon angler visits (i.e. fewer than 23 jobs).

Projection 3: 0 percent of the 2019 adult KRFC catch limit: In the event of fisheries closures for adult KRFC in some or all Klamath River Basin areas, the Commission anticipates less than 50 percent reduction in fishery-related jobs. As mentioned above, sport fishing for other species and grilse KRFC may still be allowed, thus mitigating potential job losses.

A closure on the take of all KRFC was instituted in 2017, and only grilse could be legally harvested during the fall season. The 2017 closure resulted in a nearly 50 percent drop in angler days. However, job creation or elimination tends to lag in response to short-term changes in consumer demand. Thus, the potential impacts of a 2021 closure on the take of adult KRFC are estimated to result in the loss of less than 23 jobs due to adjustment lags, and the continued sport fishing allowed for other species and potentially for grilse KRFC.

(b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State

Projection 1: 100 percent of the 2019 adult KRFC 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 percent of the 2019 adult KRFC catch limit: The Commission anticipates a decline in visits to the fishery areas of less than 50 percent due to the continued sport fishing allowed for other species and grilse KRFC. This may result in some decline in business activity, but the Commission does not anticipate any impacts on the creation of new businesses or the elimination of existing businesses directly related to fishing activities.

However, with less effort being expended on salmon fishing, the possibility of alternative sportfishing activities and the growth of businesses to serve those activities exists.

Projection 3: 0 percent of the 2019 adult KRFC catch limit: In the event of salmon fisheries closures for adult KRFC in some or all Klamath River Basin areas, the Commission anticipates a decline in regional spending and thus reduced revenues to the approximately 30 to 50 businesses that directly and indirectly serve sport fishing activities with unknown impacts on the creation of new business or the elimination of existing businesses. However, adverse impacts may be mitigated by the continued opportunity to harvest other sportfish and the potential for take of grilse KRFC. Additionally, the long-term intent of the proposed regulatory action is to increase sustainability in fishable salmon stocks and, consequently, promote the long-term viability of these same small businesses.

(c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State

Projection 1: 100 percent of the 2019 adult KRFC 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 percent of the 2019 adult KRFC catch limit: The Commission does not anticipate any impacts on the expansion of businesses currently doing business within the State. 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 percent of the 2019 adult KRFC catch limit: In the event of salmon fisheries closures for adult KRFC 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 anglers pursue other sport fish, potentially including grilse KRFC, or the substitution of salmon fishing with other recreational activities.

(d) Benefits of the Regulation to the Health and Welfare of California Residents

Under all projections, the Commission anticipates benefits to the health and welfare of California residents. Providing opportunities for a Klamath River Basin salmon sport fishery and other sport fisheries encourages a healthy outdoor activity and the consumption of a nutritious food. Sport fishing also contributes to increased mental health of its practitioners, as fishing is a hobby and form of relaxation for many. 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.

(e) Benefits of the Regulation to Worker Safety

Under all projections, the Commission does not anticipate benefits to worker safety because the proposed regulations will not impact working conditions.

(f) Benefits of the Regulation to the State's Environment

Under all projections, the Commission anticipates benefits to the environment in the sustainable management of Klamath River Basin salmonid resources. It is the policy of this State to encourage the conservation, maintenance, and utilization of the living resources of the ocean and other waters under the jurisdiction and influence of the State for the benefit of all the citizens of the State and to promote the development of local fisheries and distant water fisheries based in California in harmony with international law, respecting fishing and the conservation of the living resources of the ocean and other 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.

(g) Other Benefits of the Regulation

Consistency with Federal Fishery Management Goals: California's salmon sport fishing regulations need to align with the new Federal regulations to achieve optimum yield in California. 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 FMP. These recommendations coordinate west coast management of sport and commercial ocean salmon fisheries off the coasts of Washington, Oregon, and California, and California inland salmon sport fisheries. These recommendations are subsequently implemented as ocean fishing regulations by NMFS, and as salmon sport regulations for State marine and inland waters by the Commission.

Informative Digest/Policy Statement Overview

Unless otherwise specified, all section references in this document are to Title 14 of the California Code of Regulations (CCR).

The Klamath River Basin, which consists of the Klamath River and Trinity River systems, is managed for fall-run Chinook Salmon (*Oncorhynchus tshawytscha*) 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 (in-river) sport fisheries, which are consistent with federal fishery management goals.

Tribal entities within the Klamath River Basin 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 tribes.

Klamath River Fall-Run Chinook Salmon

Adult Klamath River fall-run Chinook Salmon (KRFC) harvest allocations and natural spawning escapement goals are established by PFMC. The Klamath River Basin in-river sport salmon fishery is managed using adult quotas.

The KRFC harvest allocation between tribal and non-tribal fisheries is based on court decisions and allocation agreements between the various fishery representatives.

For the purpose of implementing PFMC adult allocation and California Department of Fish and Wildlife (Department) salmon fishery harvest assessment, within the Klamath River Basin the Department currently considers 23 inches total length as a provisional cutoff. Salmon greater than 23 inches total length are defined as adult salmon (ages 3-5) and salmon less than or equal to 23 inches total length are defined as grilse salmon (age-two).

PFMC Overfishing Review

KRFC stocks have been designated as “overfished” by PFMC. This designation is the result of not meeting conservation objectives for this stock. Management objectives and criteria for KRFC are defined in the PFMC Salmon Fishery Management Plan (FMP). The threshold for overfished status of KRFC is a three-year geometric mean less than or equal to 30,525 natural area adult spawners. This overfished-threshold was met for KRFC during the 2015-2017 period. The 30,525 KRFC natural area adult spawners is considered the minimum stock size threshold, per the FMP. The KRFC adult natural area spawning escapement for 2019 was 20,245 natural area adult spawners, which is below the one-year conservation threshold of 40,700 natural area adult spawners. The most-recent three-

year geometric mean is still less than the required 40,700 natural area adult spawners, therefore the KRFC are still considered as an “overfished” stock.

Accordingly, the FMP outlines a process for preparing a “rebuilding plan” that includes assessment of the factors that led to the decline of the stock, including fishing, environmental factors, model errors, etc. The rebuilding plan includes recommendations to address conservation of KRFC, with the goal of achieving rebuilt status. Rebuilt status requires meeting a three-year geometric mean of 40,700 adult natural area KRFC spawner escapement. The plan developed by representatives of NMFS, PFMC, U.S. Fish and Wildlife Service, California Department of Fish and Wildlife (Department), and tribal entities, was submitted to PFMC in February 2019, adopted by PFMC in June 2019 and submitted to NMFS in August 2019. Forthcoming recommendations from the rebuilding plan may alter how KRFC are managed in the future, including changing the in-river allocation number, and/or allocating less than the normal target number.

KRFC Allocation Management

The PFMC 2020 allocation for the Klamath River Basin sport harvest was 1,296 adult KRFC. Preseason stock projections of 2021 adult KRFC abundance will not be available from PFMC until March 2021. The 2021 basin allocation will be recommended by PFMC in April 2021 and presented to the Commission for adoption as a quota for the in-river sport harvest at its May 2021 teleconference meeting.

The Commission may modify the KRFC in-river sport harvest quota, which is normally a minimum of 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 FMP.

The annual KRFC in-river sport harvest quota is specified in subsection 7.40(b)(50)(D)1. The quota is split between four geographic areas with a subquota for each area, expressed as a percentage of the total in-river quota, specified in subsection 7.40(b)(50)(D)2. For angler convenience, the subquotas, expressed as the number of fish, are listed for the affected river segments in subsection 7.40(b)(50)(E). The in-river sport subquota percentages 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 in-river sport quota;
2. for the main stem Klamath River downstream of the Highway 96 bridge at Weitchpec to the mouth -- 50 percent of the in-river sport quota;
3. for the main stem Trinity River downstream of the Old Lewiston Bridge to the Highway 299 West bridge at Cedar Flat -- 16.5 percent of the in-river sport quota; and
4. for the main stem Trinity River downstream of the Denny Road bridge at Hawkins Bar to the confluence with the Klamath River -- 16.5 percent of the in-river sport fishery quota.

Proposed Changes

Because the PFMC recommendations are not known at this time, ranges are shown in [brackets] in the proposed regulatory text below of bag and possession limits which encompass historical quotas. All are proposed for the 2021 KRFC fishery in the Klamath and Trinity rivers.

The final KRFC bag and possession limits will align with the final federal regulations to meet biological and fishery allocation goals specified in law, or established in the FMP.

KRFC SPORT FISHERY (QUOTA MANAGEMENT):

Quota: For public notice requirements, the Department recommends the Commission consider a quota range of 0–67,600 adult KRFC in the Klamath River Basin for the in-river sport fishery. This recommended range encompasses the historical range of the Klamath River Basin allocations and allows PFMC and Commission to make adjustments during the 2021 regulatory cycle.

Subquotas: The proposed subquotas for KRFC stocks are as follows:

- 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 total quota equates to [0-11,492];
- Main stem Klamath River downstream of the Highway 96 bridge at Weitchpec to the mouth -- 50 percent of the total quota equates to [0-33,800];
- Main stem Trinity River downstream of the Old Lewiston Bridge to the Highway 299 West bridge at Cedar Flat -- 16.5 percent of the total quota equates to [0-11,154]; and
- Main stem Trinity River downstream of the Denny Road bridge at Hawkins Bar to the confluence with the Klamath River -- 16.5 percent of the total quota equates to [0-11,154].

Seasons: No changes are proposed for the Klamath River and Trinity River KRFC seasons:

- Klamath River - August 15 to December 31
- Trinity River - September 1 to December 31

Bag and Possession Limits: As in previous years, no retention of adult KRFC is proposed once the subquota has been met.

- Bag Limit - [0-4] Chinook Salmon – of which no more than [0-4] fish over 23 inches total length may be retained until the subquota is met, then 0 fish over 23 inches total length.
- Possession limit - [0-12] Chinook Salmon of which no more than [0–4] fish over 23 inches total length may be retained when the take of salmon over 23 inches total length is allowed.

KRSC SPORT FISHERY:

The Klamath River Basin also supports Klamath River spring-run Chinook Salmon (KRSC). Presently, KRSC stocks are not managed or allocated by PFMC. No regulatory changes are proposed for the general KRSC opening and closing season dates, and bag, possession and size limits.

OTHER CHANGES FOR CLARITY

The Department is proposing additional changes for clarity and consistency, as follows:

1. Throughout the regulatory text in subsection 7.40(b)(50), update the year from 2020 to 2021.
2. In the first paragraph of subsection 7.40(b)(50), delete cross reference to Section 7.00, subsection (a) for consistency with amendments made to Section 7.00 in OAL file 2020-1204-02s (Simplification of Statewide Inland Sport Fishing Regulations).

Benefits of the Proposed Regulations

The Commission anticipates benefits to the environment in the sustainable management of Klamath River Basin salmonid resources.

Other benefits of the proposed regulations are conformance with federal fishery management goals, health and welfare of California residents and promotion of businesses that rely on salmon sport fishing in the Klamath River Basin.

Consistency and Compatibility with Existing Regulations

Article IV, Section 20 of the State Constitution specifies that the Legislature may delegate to the Fish and Game Commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit. The Legislature has delegated authority to the Commission to promulgate sport fishing regulations (Fish and Game Code sections 200, 205, 315, and 316.5). The Commission has reviewed its own regulations and finds that the proposed regulations are neither inconsistent nor incompatible with existing State regulations. Commission staff has searched the California Code of Regulations and has found no other State regulations related to sport fishing in the Klamath River Basin.