

State of California
Fish and Game Commission
Finding of Emergency and Statement of Proposed Emergency Regulatory Action

Emergency Action to Amend Subsection (b)(50) of Section 7.40,
Title 14, California Code of Regulations
Re: Chinook Salmon Sport Fishing Closures in the Klamath and Trinity Rivers for 2024

Date of Statement: May 9, 2024

I. Statement of Facts Constituting the Need for Emergency Regulatory Action

Background

Chinook Salmon Sport Fishing

On April 10, 2024, the Pacific Fishery Management Council (PFMC) acted unanimously to recommend closure of California’s commercial and recreational ocean salmon fisheries through the end of the year, mirroring recommendations made last year to close the fisheries in 2023. Consecutive years of drought, habitat compression in the ocean, and associated changes in ocean forage assemblages have created substantially difficult conditions for Chinook Salmon in the southern range of its distribution. In particular, California stocks continue to experience decline for the two pillars of the California west coast fishery, Sacramento River and Klamath River fall-run Chinook Salmon (SRFC and KRFC, respectively). Low ocean abundance forecasts paired with low 2023 returns suggest significant decline for SRFC and KRFC, leading agencies to completely close California ocean and river fisheries for 2023, and a similar situation is being contemplated for 2024. The PFMC’s recommendations will be forwarded to the National Marine Fisheries Service for approval by May 16, 2024.

The California Fish and Game Commission (Commission) generally adopts sport fishing regulations for SRFC (on the American, Feather, Mokelumne, and Sacramento rivers; collectively, the “Central Valley” fishery for SRFC) and KRFC on an annual basis, informed by Department of Fish and Wildlife (Department) recommendations intended to align state regulations with federal fishery management objectives set by the PFMC. The proposed regulatory packages for the Central Valley fishery ([Office of Administrative Law \(OAL\) notice ID. #Z2024-0223-01](#)) and KRFC ([OAL notice ID. #Z2024-0223-02](#)) presented intentionally broad options for the fisheries given the unknowns to allow flexibility during Commission adoption based on the harvest projections identified by PFMC at its April 2024 meeting, including options for partial or full closures to salmon fishing.

In addition to the annual rulemaking for KRFC, regulatory changes associated with the decommissioning and deconstruction of the four dams on the main stem of the Klamath River prohibit the take and possession of Chinook Salmon on the Klamath River from the California-Oregon state line to the Copco Road bridge at Copco from November 1 through February 28 and from the fourth Saturday in May through August 31 (subsection 7.40(b)(50)(E)2.a.); prohibit the take of salmon on the Klamath River from the Lakeview Road bridge near Iron Gate Dam to the I-5 bridge from January 1 to August 14 but allow catch and release of salmon in this river segment from August 15 to December 31 (subsection 7.40(b)(50)(E)2.a.); and close several Klamath River

tributaries for all fishing all year (subsection 7.40(b)(50)(E)1., 2.a.(i), 2.b., 2.b.(i), 2.b.(ii) and 2.b.(iii)). These changes went into effective April 11, 2024 (OAL File ID # 2024-03-07S).

Aside from KRFC, the Klamath River Basin also supports spring Chinook Salmon originating from the Klamath and Trinity rivers (Klamath River spring Chinook Salmon; KRSC). Naturally produced KRSC are both temporally and spatially separated from KRFC in most cases, running an earlier fishing season of July 1 through August 14 on the Klamath River, and July 1 through August 31 on the Trinity River. 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.

While the KRSC stocks are not under PFMC management or allocation, KRSC share similar ocean distribution and in-river habitat challenges to those of SRFC and KRFC. Given that the environmental factors that have reduced these two primary target stocks in California to historical lows are shared by KRSC, the Department is recommending emergency closure of the KRSC stock in the Klamath and Trinity rivers. For the purposes of responsible stewardship and conservation, the Department supports exercising an abundance of caution when planning salmon fisheries in California in 2024.

The Department recognizes that Chinook Salmon fishery closures in 2024 will result in socioeconomic and cultural losses for the communities and tribes of our state; however, it is necessary to provide every advantage possible to this valuable and cherished resource at this time. Recent and dramatic shifts in climate have led to vastly improved river habitat conditions early in 2024 as a result of above average accumulations of rain and snow. This shift in precipitation has resulted in vastly improved river habitat with higher flow, cooler temperatures, and reduced disease. These improvements are expected to persist, especially as compared to summer and fall conditions experienced over the last few years of extreme drought. The Department expects that allowing for escapement of as many spawning salmon as possible on improved river habitat this spring and fall will be advantageous in efforts to rebound these stocks and rebuild abundances. It is hoped that leveraging this opportunity now will pay dividends in future population recovery and sustainable fishing opportunity.

II. Proposed Emergency Regulations

Subsection 7.40(b)(50), Klamath and Trinity Rivers

The proposed emergency regulations will align inland KRSC sport fishing in the Klamath and Trinity rivers with the April 10, 2024 PFMC recommendation and anticipated federal regulatory action to close all ocean salmon fisheries along the California coast for 2024 by amending the Chinook Salmon bag limit and possession limit language to read “Closed to the take and possession of Chinook Salmon” in the following subsections regarding possession limits [subsection 7.40(b)(40)(C)] and open seasons and bag limits [subsection 7.40(b)(40)(E)], as follows:

- (b)(40)(C)2.a. On the Klamath River downstream of the Highway 96 bridge at Weitchpec from July 1 through August 14; and the Trinity River downstream of the Old Lewiston Bridge to the confluence of the South Fork Trinity River from July 1 through August 31 (The current possession limit is two Chinook Salmon).

- (b)(40)(E)2.e. On the Klamath River downstream of the Highway 96 bridge at Weitchpec from July 1 through August 14 (The current bag limit is one Chinook Salmon).
- (b)(40)(E)6.b. On the Trinity River main stem downstream of the Old Lewiston Bridge to the Highway 299 West bridge at Cedar Flat July 1 through August 31 (The current bag limit is one Chinook Salmon).
- (b)(40)(E)6.c. On the Trinity River main stem downstream of the Highway 299 West bridge at Cedar Flat to the Denny Road bridge at Hawkins Bar July 1 through August 31 (The current bag limit is one Chinook salmon).
- (b)(40)(E)6.e. On the Trinity River main stem downstream of the Denny Road bridge at Hawkins Bar to the mouth of the South Fork Trinity River July 1 through August 31 (The current bag limit is one Chinook salmon).

III. Findings for the Existence of an Emergency

The Commission considered the following factors in determining that an emergency does exist at this time.

The magnitude of potential harm:

The number of Chinook Salmon forecasted to return to the Sacramento River and Klamath River basins this year is near record low. In response to the critically low abundance forecasts for California Chinook Salmon stocks, federal fishery agencies are expected to completely close California ocean fisheries for 2024. On April 18, 2024, the Department recommended to the Commission that the KRFC in-river sport fishery be closed for 2024. At this time, it is critical that all Chinook Salmon in the Klamath River Basin be protected from fishery impacts. Any additional take of KRSC in the Klamath and Trinity rivers will harm this important recreational fishery by lowering already reduced escapement numbers and jeopardizing spawning success, which would imperil future KRSC stocks.

The existence of a crisis situation:

Consecutive years of drought, habitat compression in the ocean, and associated changes in ocean forage assemblages have created substantially difficult conditions for Chinook Salmon in the southern range of its distribution. California stocks have recently experienced a significant decline. SRFC and KRFC, in particular, have reached historical lows in abundance. This significant decline for SRFC and KRFC is expected to lead federal fishery agencies to completely close California ocean fisheries for 2024. In addition, the Department has recommended to the Commission that all KRFC and SRFC in-river sport fishing be closed in 2024. KRSC share similar ocean distribution and fishery impacts to KRFC and SRFC. Given that the environmental factors that have reduced these two primary target stocks in California to historical lows are shared among KRSC, it is necessary to protect this stock from fishery impacts in 2024.

The immediacy of the need:

There is an immediate need for action due to the low abundance forecasts for SRFC and KRFC stocks in California. On April 10, 2024 PFMC adopted recommendations to close all ocean salmon fisheries in California for 2024. On April 18, 2024 the Department recommended to the Commission that all KRFC and SRFC in-river sport fishing be closed in 2024. Without the closure,

the fishery for KRSC in the Klamath and Trinity rivers would begin July 1. The Department recognizes that Chinook Salmon stocks in the Klamath River Basin are threatened by recreational effort shifts as recreational anglers turn to the few remaining fishing opportunities for salmon in California, therefore increasing effort and ultimately take.

Whether the anticipation of harm has a basis firmer than simple speculation:

The 2024 KRFC and SRFC forecast of abundance prior to fishing is at a historical low. KRFC has met the status determination criteria as an overfished stock since 2018, and SRFC is currently at risk of approaching overfished status. Given that the environmental factors that have reduced these two primary target stocks in California to historical lows are shared among all California salmon stocks, an abundance of caution around fishery planning is necessary for KRSC. The proposed fishing closures for KRSC on the Klamath and Trinity rivers will minimize fishing impacts and the magnitude of potential harm during this crisis situation.

IV. 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) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State

None. The proposed emergency regulations will make Chinook Salmon sport fishing in the Klamath and Trinity rivers consistent among the currently proposed closures of both the KRFC and SRFC fisheries in the Klamath River Basin and Central Valley rivers, respectively.

(b) Nondiscretionary Costs/Savings to Local Agencies

None.

(c) Programs Mandated on Local Agencies or School Districts

None.

(d) 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.

(e) Effect on Housing Costs

None.

V. Technical, Theoretical, and/or Empirical Studies, Reports, or Documents Relied Upon:

Pacific Fishery Management Council. April 2024. *Preseason Report III, Council Adopted Management Measures and Environmental Assessment Part 3 for 2023 Ocean Salmon Fishery Regulations*. <https://www.pcouncil.org/documents/2024/04/2024-preseason-report-iii.pdf>

Pacific Fishery Management Council. April 10, 2024. News Release. Pacific Fishery Management Council Adopts 2024 West Coast Ocean Salmon Seasons. <https://www.pcouncil.org/documents/2024/04/pacific-fishery-management-council-adopts-2024-west-coast-ocean-salmon-seasons-updated-april-10-2024.pdf>

VI. Authority and Reference

Authority cited: 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.

VII. Fish and Game Code Section 399 Finding

Delay in the amendments to bag and possession limits for the inland sport fishery for KRSC when the ocean fisheries were declared closed could be detrimental to the stock. Emergency action is necessary to safeguard KRSC stocks in a timely manner in conjunction with the PFMC's recommendation for ocean salmon commercial and recreational fishery closures.

Pursuant to Section 399 of the Fish and Game Code, the Commission finds that adopting this regulation is necessary for the immediate conservation, preservation, or protection of Klamath River Basin spring Chinook Salmon.

Informative Digest/Policy Statement Overview

Consecutive years of drought, habitat compression in the ocean, and associated changes in ocean forage assemblages have created substantially difficult conditions for Chinook Salmon in the southern range of its distribution. In particular, California stocks have recently experienced such a significant decline that the two pillars of this west coast fishery, Sacramento River and Klamath River fall-run Chinook Salmon (SRFC and KRFC, respectively), have reached historical lows in abundance. This significant decline for SRFC and KRFC led fishery agencies to completely close KRFC and SRFC ocean and river fisheries for 2023, and similar action is being contemplated for 2024. On April 10, 2024, the Pacific Fishery Management Council (PFMC) acted unanimously to recommend closure of California's commercial and recreational ocean salmon fisheries through the end of the year, mirroring recommendations made last year to close the fisheries in 2023.

Another salmon stock, the Klamath River spring Chinook Salmon (KRSC), shares similar ocean distribution and in-river habitat challenges to those of SRFC and KRFC. While the KRSC stocks are not under PFMC management or allocation, because the environmental factors that have reduced these two primary target stocks in California to historical lows are shared among all California salmon stocks, the California Department of Fish and Wildlife (Department) is recommending emergency closure of the KRSC in-river fishery on the Klamath and Trinity rivers, which typically is open between July and August.

The Department recognizes that Chinook Salmon fishery closures in 2024 will result in socioeconomic and cultural losses for the communities and tribes of our state, however it is necessary to provide every advantage possible to this valuable and cherished resource at this time. Recent and dramatic shifts in climate led to vastly improved river habitat conditions early in 2024, as a result of above average accumulations of rain and snow. This shift in precipitation has resulted in vastly improved river habitat with higher flow, cooler temperatures, and reduced disease. These improvements are expected to persist, especially as compared to summer and fall conditions experienced over the last few years of extreme drought. The Department expects that allowing for the escapement of as many spawning salmon as possible on improved river habitat this spring and fall will be advantageous in efforts to rebound these stocks and rebuild abundances. It is hoped that leveraging this opportunity now will pay dividends in future population recovery and sustainable fishing opportunity.

The proposed emergency regulations will align KRSC sport fishing in Klamath and Trinity rivers with recent federal regulatory action to close all ocean salmon fisheries along the California coast for 2024.

Benefits of the Regulation:

The Commission anticipates benefits to the State's environment by helping to sustainably manage California's Chinook Salmon resources through the proposed closure of the KRSC stock in the Klamath and Trinity rivers. Other benefits of the proposed regulations are consistency with fishery management goals, and preservation of salmon stocks to help ensure future resource availability past the current low population estimate. Any environmental risks arising from the proposed rule more conservatively preserve salmon than existing regulation.

Consistency and Compatibility with Existing Regulations

Article IV, Section 20 of the State Constitution specifies that the Legislature may delegate to Commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit. The Legislature has delegated to the Commission the power to regulate sport fishing in waters of the state (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 consistent with other recreational fishing regulations in Title 14, CCR, and therefore finds that the proposed regulations are neither inconsistent nor incompatible with existing state regulations. The Commission has searched the California Code of Regulations and finds no other state agency regulations pertaining Chinook Salmon sport fishing.

