

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

Amend Section 231  
Title 14, California Code of Regulations  
Re: Processing and Donating Sport-Caught Fish

I. Date of Initial Statement of Reasons: December 5, 2025

II. Dates and Locations of Scheduled Hearings

(a) Notice Hearing:

Date: December 10-11, 2025

Location: Sacramento

(b) Adoption Hearing:

Date: February 11-12, 2026

Location: Sacramento

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 proposal amends Section 231 to rename the section to “Processing of Sport-Caught Fish,” rename the permit to “sport-caught fish processing permit,” allow sport-caught fish processing permit holders to donate fish directly to a nonprofit organization that directly supports food access or distribution, California tribe, school, or California city/county government program that directly supports food access or distribution, reduce the potential for sport-caught fish to be commercialized through this program, update the permit suspension and revocation process, and clarify existing regulations.

### **Background**

At its June 19-20, 2024 meeting, the California Fish and Game Commission (Commission) granted a petition for regulation change (tracking number 2023-10) after referring the petition to the California Department of Fish and Wildlife (Department) for review and recommendation. The petitioner requested that the Commission amend subsection 231(b) to allow sport fishing license holders who exchange fish for processing to have those fish returned as a donation to a nonprofit organization rather than directly to the angler as presently allowed. The proposed amendments here represent the cumulation of the Department’s Marine Region and Law Enforcement Division (LED) internal discussions.

## **Current Regulations**

Current law, in Section 7121, California Fish and Game Code (FGC), specifies that except as otherwise provided by the code, selling or purchasing sport-caught fish is prohibited. Section 75, FGC defines that “Sell” includes barter, exchange or trade. FGC statutes and Title 14 regulations do not prohibit the donation of sport-caught fish to a nonprofit or other organization or individual.

Subsection 231(b) allows for the exchange of sport-caught fish by entities with a valid sport-caught fish exchange permit for the purpose of filleting, smoking or canning if the same fish is returned to the angler or exchanged pound for pound, adjusted for loss during processing. Historically, the provisions in subsection 231(b) were primarily used to exchange fresh-caught tuna species for canned tuna, allowing recreational anglers to retain fish for later consumption. Section 231 does not include a provision to allow anyone other than the individual who caught the fish to receive the processed fish.

Subsection 231(c) prescribes the exchange process based on a sliding scale exchange rate. Subsection (c)(4) includes a provision allowing processors to sell sport-caught tuna that is not returned to the angler to commercial canneries in exchange for commercially harvested canned tuna. Subsection (c)(4), however, requires yellowtail not returned to the angler to be donated to “...a non-profit charitable institution for food purposes only and may be fresh or processed.” The provision historically provided an immediate ability to exchange sport-caught tuna for canned tuna, effectively placing the sport-caught tuna into the commercial market through the exchanges. Allowing the practice is inconsistent with the existing prohibition on sale of sport-caught fish.

## **Proposed Regulations**

The proposed changes to Section 231 have been developed to allow the fish that have been released to a sport-caught fish processing permit holder to be delivered directly to a nonprofit organization, which will address the petitioner’s request. In addition, the proposed amendments allow direct donations of sport-caught fish to California Native American tribes, public schools within a California unified school district, and California city or county government programs. The proposed amendments will provide sport fishing license holders the opportunity to support nonprofit, community, school, and tribal initiatives addressing food insecurity, access, and distribution. In addition, the proposed changes will modify outdated provisions within subsection 231(c) to eliminate the potential for sport-caught fish to be commercialized and to update the permit suspension and revocation process. Additionally, changes are proposed for clarity and consistency.

### **Amend Section 231, Exchanging of Sport-Caught Fish**

The proposed regulation changes the title of the section from “Exchanging of Sport-Caught Fish” to “Processing of Sport-Caught Fish.” This change is necessary to prevent confusion from the public and industry as the industry rarely exchanges sport-caught fish for previously filleted, smoked or canned products, but does process the same fish that is provided by the sport fishing license holder directly into filleted, smoked, or

canned fish. The proposed regulation also provides consistency between the section title and the corresponding permit title.

### **Amend subsection 231(a)**

The proposed regulation updates the permit title from “sport-caught fish exchange permit” to “sport-caught fish processing permit.” Additionally, the proposed regulation adds the subsection heading of “Permit.” These changes are necessary to provide a more accurate description of the activity and authorizations of the permit.

The proposed regulation replaces “person or persons who exchange fresh fish” with “person, as defined in Fish and Game Code Section 67, who for a fee processes fish” or exchange fish taken under authority of a sport fishing license. This change is necessary to clarify the applicability of the regulation. The proposed regulation also necessarily removes the word “fresh” because frequently fish are placed on ice while on board vessels to prevent spoilage; frozen fish are not considered fresh. Additionally, “fresh” is an ambiguous term that can be interpreted subjectively.

The proposed regulation also updates the permit fee. This change is necessary to update the fee to reflect the existing mechanism used to adjust the fee pursuant to FGC Section 713. The baseline for the fee is being reset to \$96 (which is the 2026 fee as adjusted per the procedure set by FGC Section 713, from the baseline of \$50.75 established in 2006); however, it does not change the amount that permittees must pay or the mechanism for annual adjustments set by FGC Section 713, which states:

- (a) The changes in the Implicit Price Deflator for State and Local Government Purchases of Goods and Services, as published by the United States Department of Commerce, shall be used as the index to determine an annual rate of increase or decrease in the fees for licenses, stamps, permits, tags, or other entitlements issued by the department.
- (b)
  - (1) The department shall determine the change in the Implicit Price Deflator for State and Local Government Purchases of Goods and Services, as published by the United States Department of Commerce, for the quarter ending March 31 of the current year compared to the quarter ending March 31 of the previous year. The relative amount of the change shall be multiplied by the current fee for each license, stamp, permit, tag, or other entitlement issued by the department.
  - (2) The product shall be rounded to the nearest twenty-five cents (\$0.25), and the resulting amount shall be added to the fee for the current year. The resulting amount shall be the fee for the license year beginning on or after January 1 of the next succeeding calendar year for the license, stamp, permit, tag, or other entitlement that is adjusted under this section.

See Table 1 in the STD 399 addendum for documentation of the annual adjustment process using the implicit price deflator.

Current regulation specifies that the Department shall issue the permit upon application and payment of the permit fee. The proposed regulation adds language specifying “unless the permit or privilege to obtain a permit has been suspended or revoked pursuant to subsection (j).” It is necessary that the issuance of the permit be conditional upon the applicant being in good standing to enforce compliance, uphold the public interest in sustainable fisheries management, and ensure fairness.

Additionally, minor changes are proposed for clarity and consistency.

### **Repeal current subsection 231(a)(1)**

Current subsection 231(a)(1) specifies the Department office locations where permits shall be issued. The current list of locations is outdated and restricts the Department’s License and Revenue Branch from issuing permits at additional sites or through authorized agents that change over time, or from eliminating underutilized locations.

### **Add new subsection 231(a)(1)**

The proposed language adds an exception to the sport-caught fish processing permit requirement for fish taken under the authority of a sport fishing license that are filleted on board a licensed commercial passenger fishing vessel (CPFV), if the fish are filleted on board the vessel prior to passenger departure.

This language is necessary to clarify that the practice of filleting passengers’ fish at sea while aboard a licensed CPFV, as allowed pursuant to subsection 195(e)(1), does not fall under the permit requirements set forth in Section 231. The Department and Commission have determined that the current sport-caught fish exchange permit is required for businesses such as sport-fish processing businesses and canneries, not CPFV operations. This amendment will provide clarity that the renamed “sport-caught fish processing” permit is not required when filleting fish at sea for passengers while aboard a CPFV. Since filleting is a type of processing, without this amendment CPFV operations would be required to obtain a permit not previously needed for a commonly performed practice/service.

### **Amend subsection 231(b), Authorized Species**

Current regulations in subsection (b) specify that any legally taken species of sport-caught fish may be possessed for filleting, smoking or canning if the same fish is returned to the angler or if the fish is exchanged pound for pound, adjusted for loss during processing, or exchanged according to subsection (c) for various tunas, and specify species that may be processed for canning only. Current subsection (d) specifies that salmon may only be exchanged for salmon; striped bass may only be exchanged for striped bass; and tuna may only be exchanged for tuna.

The proposed regulation expands upon and clarifies current regulation by adding a limitation to only allow same-species exchange; prohibits commercially taken or commercially imported fish to be used in the exchange process; and prohibits fish received for exchange or processing to be sold or processed for any other purpose not expressly authorized by this section.

These changes are necessary to reduce the potential for the commercialization of sport-caught fish. Language referring to exchanges according to subsection (c) and language specifying species that may be processed for canning only, as well as language describing skipjack and yellowtail as tuna, are proposed to be repealed consistent with the proposed repeal of current subsection (c). The term “angler” is changed to “sport fishing license holder” as it is a term that encompasses all who can use the service.

### **Repeal current subsections 231(c), 231(c)(1), 231(c)(1)(A) through 231(c)(2)(L), and 231(c)(4), Exchange Process.**

Current subsections 231(c) through (c)(2)(L) prescribe the exchange process for various tunas based on a sliding scale exchange rate. For example, for each pound of tuna received, the permittee will provide in exchange one six ounce can of albacore (white meat) tuna if the sale price of tuna to the permittee is greater than \$4,470.00 per ton.

Subsection (c)(4) requires all fish received for processing under this subsection to be used only for canning and includes a provision allowing processors to sell sport-caught tuna that is not returned to the angler to commercial canneries in exchange for commercially harvested canned tuna and allows tuna not acceptable for canning to be sold for reduction purposes (the reduction or conversion of fish into fish flour, fishmeal, fish scrap, fertilizer, fish oil, or other fishery products or byproducts). However, subsection (c)(4) requires yellowtail not returned to the angler to be donated to “...a non-profit charitable institution for food purposes only and may be fresh or processed.”

The provision historically provided an immediate ability to exchange sport-caught tuna for canned tuna, effectively placing the sport-caught tuna into the commercial market through the exchanges. This allowance is no longer in common practice by the industry and processors instead usually fillet, smoke, and/or can the actual fish the sport fishing license holder brings to the processor and return the processed fish to the license holder.

Allowing the exchange of sport-caught fish for commercially harvested tuna is inconsistent with the existing prohibition on sale of sport-caught fish. The repeal of these subsections is necessary to eliminate the inconsistency with the existing prohibition and to bring the regulations in line with current industry practices.

### **Repeal current subsection 231(c)(3)**

Current subsection (c)(3) specifies marking requirements for cans of fish exchanged. The provisions are revised and moved to subsection (g).

### **Add new subsection 231(c), Multi-licensed Business Requirements**

Current regulations in subsection 231(g) require that all sport-caught fish must be marked by removing the entire upper lobe of the tail and that fish so marked must be kept separate from commercially taken fish until transferred to the cannery or processing facility.

The proposed regulation, directed to persons or businesses that possess both a sport-caught fish processing permit and a fish business license, reiterates the requirement

that commercially taken fish shall be stored separately from sport-caught fish and adds the requirement that commercially taken fish shall be processed separately from sport-caught fish received for exchange or processing under the section's authority. Additionally, the proposed regulation draws attention to the marking requirement for fish received from sport fish license holders for exchange or processing and emphasizes that sport-caught fish may not be sold or possessed for sale at any time. The change is necessary to further prevent the potential for sport-caught fish from being commercialized.

### **Repeal current subsection 231(d), Species Limitation**

Current regulations in subsection (d) specify that salmon may only be exchanged for salmon; striped bass may only be exchanged for striped bass; and tuna may only be exchanged for tuna. The provisions of this subsection are modified and moved to subsection (b).

### **Add new subsection 231(d), Donating Processed Fish**

This proposed regulation allows the fish that have been released to a sport-caught fish processing permit holder to be transferred directly from the sport-caught fish processing permit holder to one or more of the following recipients: a nonprofit organization, as defined in FGC Section 1405, that directly supports food access or distribution; a California Native American tribe, as defined in Section 21073 of the Public Resources; a public school within a California unified school district as defined in Education Code Section 83; or a program administered by a California city or county government that directly supports food access or distribution. Use of the definitions in Title 14, the California Public Resources Code, and the California Education Code is necessary to reduce ambiguity, minimize disputes about interpretation, promote consistent application of the law, and avoid unnecessary duplication.

The proposed regulation is necessary to allow the donation of sport-caught fish directly to nonprofit organizations without the sport fishing license holder being present, as requested in the petition for regulation change. Additionally, the proposed regulation adds California tribes, schools, and programs administered by city or county governments as eligible recipients that may receive sport-caught fish directly from sport-caught fish processing permit holders. This change is necessary to make it easier for sport fishing license holders to support nonprofit, community, school, and tribal initiatives addressing food insecurity, access, and distribution.

This amendment also establishes the following requirements:

- The sport-caught fish processing permit holder shall record the species, number of pounds of fish to be donated and the name and address of the specified nonprofit organization, tribe, school, or city/county government program.
- Fish stored by the sport-caught fish processing permit holder for donation must be clearly labeled "for donation" and a copy of the record required by subsection (e) must be attached to the donated fish.

- Any fish processed for donation may be transported to the nonprofit organization, tribe, school, or city/county government program by the sport-caught processing permit holder or a person designated by the recipient.
- All copies of records labeling the donated fish shall remain attached to the fish until prepared for immediate consumption.

These provisions are necessary to aid LED in tracking fish delivered to nonprofit organizations, tribes, schools, and city/county government programs from sport-caught fish processing permit holders and to provide instructions for records regarding donated fish. LED must be able to track the fish, including the species and number of pounds, to prevent the unlawful transportation of sport-caught fish from the processor to the place of donation.

The proposed amendment prohibits donated fish from being sold, auctioned, raffled, or otherwise utilized for fundraising activities. This change is necessary to ensure that donations are solely used for direct consumption by individuals in need, as part of the recipient nonprofit organizations, tribal, school, or city/county charitable programs to address food insecurity and/or nutritional needs.

#### **Amend and renumber subsection 231(e), Records**

Current regulations in subsection (e) prescribe the records that must be kept by the sport-caught fish exchange permittee. This amendment changes “permittee” to “sport-caught fish processing permit holder” and “angler” to “sport fishing license holder.” It is necessary to update the term “permittee” to “sport-caught fish processing permit holder” as it provides additional clarity and specificity. Additionally, it is necessary to update the term “angler” to “sport fishing license holder” as it is a term that encompasses all who can use the service (e.g., spear fishing or other methods of take beyond angling).

The first sentence of current subsection (e) is renumbered as subsection (e)(1) and revised. In addition to the current requirements to record the name and address of the angler/sport fishing license holder, the date the fish were received, and the number and weight of all fish by species received from the angler/sport fishing license holder, the proposed regulation requires that the sport-caught fish processing permit holder record a written statement signed by the sport fishing license holder affirming that all fish were legally taken under the authority of a sport fishing license. Affirming the legality of the fish is necessary to support LED in identifying and tracking illegally sourced fish and violators of sport fishing licenses. The current requirement to record the fishing license number is repealed as it imposes an unnecessary requirement upon the sport-caught fish processing permit holder. In certain situations, such as long-range angling trips with a Mexican sport fishing license or short duration trips covered by a one-day sport fishing license, the angler may not have access to or know their license number.

The second sentence of current subsection (e) is renumbered as subsection (e)(2), and revised to specify that at the time the fish are returned to a sport fishing license holder or donated to a nonprofit organization, tribe, school, or city/county program, the sport-caught fish processing permit holder shall record the species of the fish and the date of return or donation. This change is necessary to aid LED in tracking fish delivered to

nonprofit organizations, tribes, schools, and city/county government programs from sport-caught fish processing permit holders and to provide instructions for records regarding donated fish. Current language specifying “or otherwise disposed of” is proposed to be repealed in the first sentence of this subsection. Requirements for records of the disposition of fish not returned to the angler or donated are clarified in a new sentence. The proposed regulation repeals the requirement to record the weight of the fish returned to the angler and adds that, upon request, the weight of each species of fish shall be recorded by the sport-caught fish processing permit holder. This amendment is necessary because it allows the opportunity for the Department to verify the weights of sport-caught fish coming into and going out of the facility to verify that no sport-caught fish is being commercially sold.

Subsection (e)(3), with language referencing FGC sections 7232 and FGC 8050, is proposed to be added to clearly denote that records are required if offal is sold pursuant to FGC 8050.

The third sentence of current subsection (e), requiring records to be retained for three years and made available upon demand, is renumbered as subsection (e)(4) and revised to replace “Permittees” with “sport-caught fish processing permit holders” for clarity and specificity.

#### **Amend subsection 231(f), Transportation**

Current regulations in subsection (f) provide that permittees may transport or provide for the transportation of tuna to canneries or processing facilities outside of California. The proposed regulation changes “tuna” to “fish” to allow sport-caught fish processing permit holders to transport other species of fish to canneries or processing facilities for the purpose of canning or processing. This amendment also repeals the language “outside of California” to allow sport-caught fish processing permit holders an option to transport fish to a facility within or outside of California. This change is necessary to remove unnecessary limitations on businesses required to have a sport-caught fish processing permit. “Permittee” is changed to “sport-caught fish processing permit holder” for clarity and specificity.

#### **Amend and renumber subsection 231(g), Marking**

Current regulations in subsection (g) require that all sport-caught fish must be marked by removing the entire upper lobe of the tail and that fish so marked must be kept separate from commercially taken fish until transferred to a cannery or processing facility.

Current subsection (g) is renumbered as subsection (g)(1) and is revised to add a heading of “Marking of Fish” for clarity and consistency and specifies that the fish must be marked immediately upon receipt. Additionally, the proposed regulation specifies that fish so marked shall be kept separate from commercially taken fish until processed.

This change is necessary to ensure proper and immediate identification of sport-caught fish prior to processing. The amendment aims to prevent sport-caught fish being easily mixed or mistaken for commercially caught fish, preventing the sale of sport-caught fish.



Replacing “until transported to a cannery or processing facility” with “until processed” is necessary to address a compliance issue under the current regulation, which allowed the removal of the identifying mark denoting a fish as sport-caught upon its arrival at a processing facility. LED has determined that the removal of the entire upper lobe of the tail should remain until it is processed. This requirement is intended to prevent the mixing of sport-caught and commercially harvested fish within facilities that handle both to ensure that sport-caught fish are not unlawfully sold or otherwise represented as a commercially harvested product.

“Permittee” is changed to “sport-caught fish processing permit holder” for clarity and specificity.

The proposed regulation adds new subsection (g)(2) “Marking of Processed Fish” for clarity and consistency.

FGC Section 7230 requires that any cannery or packing plant in which fish that have been taken under a sport fishing license are canned or smoked, shall emboss or imprint on the top of each can or package the words “not to be sold.” However, FGC Section 7230 does not address filleted fish.

The proposed regulation specifies, ‘In addition to the marking requirements of Fish and Game Code Section 7230, all individual packages or cans of processed fish shall be marked with the species name, and all processed fish shall be maintained in packages, cans, containers, or boxes clearly marked as “not to be sold.”’ This is necessary to differentiate canned, smoked or filleted sport-caught fish from any commercially taken fish on the premises and prevent the potential for sport-caught fish being commercialized. Requiring the species name is essential for LED to accurately track the types of fish being processed and ensure compliance with regulations.

The proposed regulation draws attention to the requirements of FGC Section 7230 requiring individual cans or packages of smoked fish to be labeled “not to be sold” in order to clarify all marking requirements for processed sport caught fish.

Additionally, the proposed regulation specifies that packages, cans, containers, or boxes of sport-caught fish shall be kept separate from commercially taken fish until returned to the sport fishing license holder or donated to a nonprofit organization, tribe, school, or city/county program. This amendment is necessary to further prevent the commercialization of sport-caught fish.

### **There are no proposed changes to subsection 231(h)**

### **Add new subsection 231(i)**

This amendment specifies that the requirements of subsections (c), (e), (f) and (g) apply to persons who are required to hold a permit in order to close a potential loophole in the regulation.

### **Amend, renumber and retitle subsection 231(i), Revocation of Permits.**

Current subsection (i) provides that permits may be revoked or suspended by the Commission upon a violation by the permittee, or the permittee's agent, servant, employee, or person acting under the permittee's direction or control of any provision of these regulations or of the provisions of FGC related to receiving, processing or sale of fish taken under authority of a sport fishing license.

The proposed regulation renumbers the subsection as (j) and retitles the subsection from "Revocation of Permits" to "Revocation or Suspension of Permits." The change to the title of the subsection is necessary for consistency with the actions specified in the subsection.

Current subsection (i) is separated into new subsections (j)(1), (j)(1)(A) and (j)(1)(B).

Proposed subsection (j)(1) specifies that a sport-caught fish processing permit and/or the privilege to obtain a permit may be revoked or suspended by the Department. It is necessary to be able to suspend or revoke the "privilege to obtain a permit" of persons who are eligible, or may be eligible in the future, to hold a permit upon violation because otherwise, a violator who did not hold a permit at the time of violation could obtain a permit after violation. The proposed regulations authorize the Department to take permit suspension or revocation actions that the Commission had previously reserved for itself to be able to address suspensions and revocations during the year the permit is active, and not afterwards. The Commission's suspension and revocation process generally takes longer than the Department's process, which could lead to an inability or untimely ability to protect the public, and resources, if a permittee is violating the law. "Permittee" is also changed to "sport-caught fish processing permit holder" for clarity and specificity.

Proposed subsection (j)(1)(A) specifies the violations that may lead to suspension or revocation. The proposed regulation replaces "any provision of these regulations or of the provisions of the Fish and Game Code relating to the receiving, processing or sale of fish taken under authority of a sport fishing license" with "the terms or conditions of the sport-caught fish processing permit" or "federal law, provisions of the Fish and Game Code, or any regulation adopted pursuant thereto related to commercial fishing, recreational fishing, or the receiving, processing or sale of fish." This change is necessary to protect the public and the resources from sport-caught fish processing permit holders who are violating laws intended to protect the public and subject resources, by enabling the Department to suspend or revoke a permit if needed, when the behavior does not fall under the previously limited circumstances.

Proposed subsection (j)(1)(B) specifies the persons whose violations may lead to suspension or revocation. "Permittee" is replaced with "sport-caught fish processing permit holder" for clarity and specificity. "Any person required to hold a sport-caught fish processing permit" is added to the list of persons whose violations may trigger suspension or revocation to enforce the regulations and the requirements therein upon violators who may not have held a permit at the time of the violation. Language specifying "the permittee's agent, servant, employee or person acting under the

permittee's direction or control" is unchanged except for replacing "permittee's" with "sport-caught fish processing permit holder's" for clarity and specificity.

Subsection (j)(1)(C) "Process" is added. The proposed regulation specifies that the Department shall notify the sport-caught fish processing permit holder or person of any permit revocation or suspension action in writing via certified mail. The notice shall include the name of the permit holder or person, any permit identification number(s), a description of the reasons for the revocation or suspension, the required disposition of wildlife, and the permit holder or person's right to request and detailed instructions to submit a request for reconsideration of the Department's action. This amendment is necessary to establish and clarify the Department's notification process in the event that a sport-caught fish processing permit, or the privilege to obtain a sport-caught fish processing permit, is revoked or suspended. The process, as proposed, ensures a reasonable and appropriate procedure for issuing notifications.

Subsection (j)(2) "Requests for Reconsideration" is added. The proposed regulation specifies that any permit holder or person who receives a notice of revocation or suspension may submit a written request for reconsideration no later than 30 calendar days following receipt of the detailed instructions, and shall set forth the reasons for the requested reconsideration. Additionally, the proposed regulation specifies the Department shall consider the information submitted with the request and, within 60 calendar days of receipt of the request may reverse or amend its decision, including based upon a mistake of fact, a mistake of law, or because the permit holder takes corrective actions pursuant to an agreement with the Department. This amendment is necessary to establish and clarify a procedure in which a person or permit holder may request a reconsideration in the event of a revocation or suspension of the sport-caught fish processing permit or privilege to obtain a permit. Based on the Department's experience with permit revocations and suspensions, the Department has determined that 30 calendar days is the appropriate amount of time for the sport-caught fish processing permit holder or person to request reconsideration and that 60 calendar days is an appropriate amount of time to present a decision on the request for consideration following the submission of information with the request from the sport-caught fish processing permit holder or person.

Subsection (j)(3) "Appeals" is added. The proposed regulation specifies that any sport-caught fish processing permit holder or person whose permit or privilege to obtain a permit has been suspended or revoked by the Department, and whose permit or privilege to obtain a permit was not reinstated after reconsideration by the Department, may appeal the suspension or revocation to the Commission. The proposed regulation further specifies that the request for appeal must be received by the Commission in writing no later than 30 calendar days after the date of receipt of notice from the Department of its reconsideration decision and that the Commission shall not consider requests for appeals after the deadline. In addition, the proposed regulation specifies the Commission's email and postal mailing addresses to which requests for appeals must be sent. This amendment is necessary to establish and clarify a procedure in which a person or permit holder may request from the Commission an appeal of the Department's revocation or suspension of a sport-caught fish processing permit or

privilege to obtain a permit. Based on the Department's experience with permit revocations and suspensions, the Department has determined that 30 calendar days is an appropriate amount of time for the sport-caught fish processing permit holder or person to prepare and submit a request for appeal.

(b) Goals and Benefits of the Regulation

The proposed changes provide benefits to nonprofit organizations that directly support food access or distribution, California tribes, schools, and California city/county government programs that directly support food access or distribution who will be able to directly receive donations of fish, and sport fishing license holders who wish to make donations. By facilitating the donation process, all parties involved will be more able to provide and receive donations. The proposed changes also clarify several key regulations in order to ensure that sport-caught fish are not unlawfully commercialized. Removal of unnecessary detail on canned fish exchanges not only prevents commercialization but also eliminates confusion regarding how fish may be processed for a sport fishing license holder.

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

Authority cited: Sections 200, 713, 5510, 7121, 7230 and 7232, Fish and Game Code.

Reference: Sections 200, 1050, 5510, 7121, 7230 and 7232, Fish and Game Code.

(d) Specific Technology or Equipment Required by Regulatory Change: None

(e) Identification of Reports or Documents Supporting Regulation Change

Petition to the California Fish and Game Commission for Regulation Change (tracking number 2023-10), received September 5, 2023

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

December 13-14, 2023, Fish and Game Commission meeting, San Diego

IV. Description of Reasonable Alternatives to Regulatory Action

(a) Alternatives to Regulation Change

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

(b) No Change Alternative

Without the proposed changes, the outstanding issues concerning the inability for nonprofit organizations that directly support food access or distribution, California tribes, schools, and California city/county government programs that directly support food access or distribution to directly receive donations of fish would remain unaddressed. Additionally, the potential for unlawful commercialization of sport-caught fish would remain unaddressed. Further, without these changes, several unnecessary and outdated details would remain, which would contribute to the growing confusion surrounding these regulations from the public and sport fishing license holders.

## 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. It is prohibited for sport-caught fish to be sold commercially, and the costs for processing are borne by the sport fishing license holder who caught the fish, so processing businesses do not face any increased costs besides the adjustment of the permit fee. The marking requirement for packages and cans of fish added by the proposed regulations will require sport-caught fish processing permit holders to add the species name to the labels they already create for each individual package/can of fish and will require sport-caught fish processing permit holders to add the words “not to be sold” to the labels they already create for packages of filleted fish. These new markings can be done with a permanent marker instead of printing, but this will not create a significant difference in labor hours that would impose new costs to sport-caught fish processing permit holders. Similarly, the marking requirement for fish received for donation to be labeled “for donation” is not expected to adversely impact a sport-caught fish processing permit holder’s operations. The new record keeping requirements for donated fish may add a minute or two to processing the donated fish, but it is unlikely to expand the existing labor requirements or costs of processing in a way that will adversely impact those businesses, as the activity would be folded into their existing procedures that require gathering similar information. While the baseline for the fee is being reset to \$96 (which is the 2026 fee as adjusted per the procedure set by FGC Section 713), it does not change the amount that permittees must pay or the mechanism for annual adjustments set by FGC Section 713, thus it does not impose a direct cost impact that would adversely affect businesses.

### (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 Commission does not anticipate any impacts on the creation or elimination of jobs, the creation of new businesses, the elimination of existing businesses or the expansion of businesses in California. The marking requirement for packages and cans of fish added by the proposed regulations will require sport-caught fish processing permit holders to add the species name to the labels they already create for each individual package/can of fish and will require sport-caught fish processing permit holders to add the words “not to be sold” to

the labels they already create for packages of filleted fish. These new markings can be done with a permanent marker instead of printing, but this will not create a significant difference in labor hours that would increase a sport-caught fish processing permit holder's operational costs. Similarly, the marking requirement for fish received for donation to be labeled "for donation" is not expected to adversely impact a sport-caught fish processing permit holder's operations. The new record keeping requirements for donated fish may add a minute or two to processing the donated fish, but this is unlikely to expand the existing labor requirements or costs of processing in a way that adversely impacts those businesses, as similar information is already gathered. While the baseline for the fee is being reset to \$96 (which is the 2026 fee as adjusted per the procedure set by FGC Section 713), it does not change the amount that permittees must pay or the mechanism for annual adjustments set by FGC Section 713.

The Commission does not anticipate any direct benefits related to the health and welfare of the California residents, except that, as stated above, by facilitating the donation process, the proposed changes provide benefits to recipients of food support from nonprofit organizations and city/county programs that directly support food access or distribution, California Tribes, and schools. The Commission does not anticipate any benefits related worker safety, or the state's environment.

(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. The marking requirement for packages and cans of fish added by the proposed regulations will require sport-caught fish processing permit holders to add the species name to the labels they already create for each individual package/can of fish and will require sport-caught fish processing permit holders to add the words "not to be sold" to the labels they already create for packages of filleted fish. These new markings can be done with a permanent marker instead of printing, but this will not create a significant difference in labor hours that would increase a sport-caught fish processing permit holder's operational costs. Similarly, the marking requirement for fish received for donation to be labeled "for donation" is not expected to adversely impact a sport-caught fish processing permit holder's operations. The new record keeping requirements for donated fish may add a minute or two to processing the donated fish, but this is unlikely to expand the existing labor requirements or costs of processing in a way that adversely impacts those businesses, as similar information is already gathered. While the baseline for the fee is being reset to \$96 (which is the 2026 fee as adjusted per the procedure set by FGC Section 713), it does not change the amount that permittees must pay or the mechanism for annual adjustments set by FGC Section 713, thus it does not impose a direct cost impact.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None. The proposed regulation resets the baseline value for the permit fee to \$96 (which is the 2026 fee as adjusted per the procedure set by FGC Section 713). Doing so does not increase the Department's revenue, as the fee is still the same value that is set using the procedure as defined in FGC Section 713, and future increases for the fee will still follow

the same adjustment procedure using the annual change in the Implicit Price Deflator for State and Local Government Purchases of Goods and Services, as published by the United States Department of Commerce. Further details about how the fee's annual adjustments are made can be found in the STD 399 addendum.

(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

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

None. The reporting requirement added by the proposed regulations will require sport-caught fish processing permit holders to add the species name to the labels they already create for each individual package/can of fish and will require sport-caught fish processing permit holders to add the words "not to be sold" to the labels they already create for packages of filleted fish. These new markings can be done with a permanent marker instead of printing. It is not anticipated that this will create a significant difference in labor hours that would impose new costs to sport-caught fish processing permit holders that would affect employment levels within the state. Similarly, the marking requirement for fish received for donation to be labeled "for donation" is not expected to adversely impact a sport-caught fish processing permit holder's operations. The new record keeping requirements for donated fish may add a minute or two to processing the donated fish, but it is unlikely to expand the existing labor requirements or costs of processing in a way that will adversely impact those businesses, as the activity would be folded into their existing procedures that require gathering similar information. While the baseline for the fee is being reset to \$96 (which is the 2026 fee as adjusted per the procedure set by FGC Section 713), it does not change the amount that permittees must pay or the mechanism for annual adjustments set by FGC Section 713, thus it does not impose a direct cost impact that would affect a business's operations in a way that would cause them to add or eliminate jobs.

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

None. It is illegal to sell sport-caught fish, and the costs for processing are borne by the sport fishing license holder who caught the fish, so processing businesses do not face any increased costs besides the adjustment of the permit fee. The reporting requirement added by the proposed regulations will require sport-caught fish processing permit holders to add the species name to the labels they already create for each individual package/can of fish and will require sport-caught fish processing permit holders to add the words "not to be sold" to the labels they already create for packages of filleted fish. These new markings can

be done with a permanent marker instead of printing, but this will not create a significant difference in labor hours that would impose new costs to sport-caught fish processing permit holders that would affect the creation or elimination of businesses. Similarly, the marking requirement for fish received for donation to be labeled “for donation” is not expected to adversely impact a sport-caught fish processing permit holder’s operations. The new record keeping requirements for donated fish may add a minute or two to processing the donated fish, but it is unlikely to expand the existing labor requirements or costs of processing in a way that will adversely impact those businesses, as the activity would be folded into their existing procedures that require gathering similar information. While the baseline for the permit fee is being reset to \$96 (which is the 2026 fee as adjusted per the procedure set by FGC Section 713), it does not change the amount that permittees must pay or the mechanism for annual adjustments set by FGC Section 713, thus it does not impose a direct cost impact that would change business’s decision to eliminate its operations the state or create a new business.

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

None. It is illegal to sell sport-caught fish, and the costs for processing are borne by the sport fishing license holder who caught the fish, so processing businesses do not face any increased costs besides the adjustment of the permit fee. The reporting requirement added by the proposed regulations will require sport-caught fish processing permit holders to add the species name to the labels they already create for each individual package/can of fish and will require sport-caught fish processing permit holders to add the words “not to be sold” to the labels they already create for packages of filleted fish. These new markings can be done with a permanent marker instead of printing, but this will not create a significant difference in labor hours that would impose new costs to sport-caught fish processing permit holders that would affect the expansion of businesses. Similarly, the marking requirement for fish received for donation to be labeled “for donation” is not expected to adversely impact a sport-caught fish processing permit holder’s operations. The new record keeping requirements for donated fish may add a minute or two to processing the donated fish, but it is unlikely to expand the existing labor requirements or costs of processing in a way that will adversely impact those businesses, as the activity would be folded into their existing procedures that require gathering similar information. While the baseline for the permit fee is being reset to \$96 (which is the 2026 fee as adjusted per the procedure set by FGC Section 713), it does not change the amount that permittees must pay or the mechanism for annual adjustments set by FGC Section 713, thus it does not impose a direct cost impact that would change business’s decision to expand its operations the state

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

The Commission does not anticipate any direct benefits related to the health and welfare of the California residents, except that, as stated above, by facilitating the donation process, the proposed changes provide benefits to recipients of food support from nonprofit organizations and city/county programs that directly support food access or distribution, California Tribes, and schools.



(e) Benefits of the Regulation to Worker Safety

None.

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

None.

(g) Other Benefits of the Regulation

The proposed changes provide benefits to nonprofit organizations that directly support food access or distribution, California tribes, schools, and California city/county government programs that directly support food access or distribution who will be able to directly receive donations of fish, and to sport fishing license holders who wish to make donations. By facilitating the donation process, all parties involved will be more able to provide and receive donations. The proposed changes also clarify several key regulations in order to ensure that sport-caught fish are not unlawfully commercialized. Removal of unnecessary detail on canned fish exchanges not only prevents commercialization but also eliminates confusion regarding how fish may be processed for a sport fishing license holder.

## 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), “Department” refers to the California Department of Fish and Wildlife, and “Commission” refers to the California Fish and Game Commission.

### Current Regulations

Current law, in Section 7121, California Fish and Game Code (FGC), specifies that except as otherwise provided by the code, selling or purchasing sport-caught fish is prohibited.

Section 75, FGC, defines that “Sell” includes barter, exchange or trade. FGC statutes and Title 14 regulations do not prohibit the donation of sport-caught fish to a nonprofit or other organization or individual.

Subsection 231(b) allows for the exchange of sport-caught fish to entities with a valid sport-caught fish exchange permit for the purpose of filleting, smoking or canning if the same fish is returned to the angler or exchanged pound for pound, adjusted for loss during processing. Historically, the provisions in subsection 231(b) were primarily used to exchange fresh-caught tuna species for canned tuna, allowing recreational anglers to retain fish for later consumption. Section 231 does not include a provision to allow anyone other than the individual who caught the fish to receive the processed fish.

Subsection 231(c) prescribes the exchange process based on a sliding scale exchange rate. Subsection (c)(4) includes a provision allowing processors to sell sport caught tuna that is not returned to the angler to commercial canneries in exchange for commercially harvested canned tuna and allows tuna not acceptable for canning to be sold for reduction purposes (the reduction or conversion of fish into fish flour, fishmeal, fish scrap, fertilizer, fish oil, or other fishery products or byproducts). Subsection (c)(4), however, requires yellowtail not returned to the angler to be donated to “...a non-profit charitable institution for food purposes only and may be fresh or processed.” The provision historically provided an immediate ability to exchange sport-caught tuna for canned tuna, effectively placing the sport-caught tuna into the commercial market through the exchanges. Allowing the practice is inconsistent with the existing prohibition on sale of sport caught fish.

### Proposed Changes

The Department recommends that the Commission amend Section 231 to rename the section to “Processing of Sport-Caught Fish,” rename the permit to sport-caught fish processing permit, allow sport-caught fish processing permit holders to donate fish directly to a nonprofit organization that directly supports food access or distribution, California tribe, school, or city/county program that directly supports food access or distribution, reduce the potential for sport-caught fish to be commercialized through this program, update the permit suspension and revocation process, and clarify existing regulations.

Specifically, the proposed changes are as follows:

- The proposed regulations will change the title of the section from “Exchanging of Sport-Caught Fish” to “Processing of Sport-Caught Fish,” update the permit fee and

permit title, and specify that a permit shall be issued unless the permit or privilege to obtain a permit has been suspended or revoked.

- The proposed regulations will clarify permit applicability and add an exception to the sport-caught fish processing permit requirement for fish taken under the authority of a sport fishing license that are filleted on board licensed commercial passenger fishing vessels, if the fish are filleted on board the vessel prior to passenger departure.
- The proposed regulations will remove the list of permit issuing locations that currently restricts the Department's License and Revenue Branch from issuing permits at additional sites or through authorized agents or eliminating underutilized locations.
- To reduce the potential for sport-caught fish to be commercialized, the proposed regulations add a limitation to only allow same-species exchange, prohibit commercially taken or imported fish to be used in the exchange process, prohibit fish received for exchange or processing to be sold or processed for any other purpose not expressly authorized, require sport-caught fish to be stored and processed separate from commercially taken fish, add requirements for the record-keeping, and add to existing marking requirements for sport-caught fish received from sport fish license holders for exchange or processing.
- The proposed regulations will repeal current subsections prescribing the exchange process of sport-caught tuna for canned tuna, including provisions allowing processors to sell sport-caught tuna that is not returned to the angler to commercial canneries in exchange for commercially harvested canned tuna and allowing tuna not acceptable for canning to be sold for reduction purposes. The process allowing for the exchange of sport caught tuna for commercially harvested canned tuna no longer occurs and is inconsistent with the existing prohibition on the sale of sport-caught fish.
- The proposed regulations will allow the donation of sport-caught fish directly to nonprofit organizations that directly support food access or distribution, California Native American tribes, public schools, and city or county government programs that directly support food access or distribution without the sport fishing license holder being present. Requirements for recording, transporting, and labeling donations, as well as restrictions, are specified. The proposed regulations will prohibit donated fish from being sold, auctioned, raffled, or otherwise utilized for fundraising activities.
- The proposed regulations will allow permittees to transport fish to canneries or processing facilities for the purpose of canning or processing within or outside of California.
- The proposed regulations will add a new subsection to clarify the applicability of the regulation and specify that the requirements of subsections (c) Multi-licensed Business Requirements, (e) Records, (f) Transportation, and (g) Marking apply to persons who are required to hold a permit.

- The proposed regulations will specify that a sport-caught fish processing permit and or the “privilege to obtain a permit” may be suspended or revoked by the Department upon a violation of the terms or conditions of the permit, or violation of any California or federal law related to commercial fishing, recreational fishing, or the receiving, processing or sale of fish by the sport-caught fish processing permit holder, any person required to hold a sport-caught fish processing permit, or the sport-caught fish processing permit holder’s agent, servant, employee or other person acting under the permittee’s direction or control.
- Additionally, the proposed regulations will establish and clarify the Department’s notification process in the event that a sport-caught fish processing permit, or privilege to obtain a permit, is revoked or suspended, as well as clarify and establish procedures for reconsideration and appeal of such suspension or revocation.

Finally, other minor changes are proposed for clarity and consistency.

#### Benefit of the Regulations:

The proposed changes provide benefits to nonprofit organizations that directly support food access or distribution, California tribes, schools, and city/county programs that directly support food access or distribution who will be able to directly receive donations of fish, and sport fishing license holders who wish to make donations. By facilitating the donation process, all parties involved will be more able to provide and receive donations. The proposed changes also clarify several key regulations in order to ensure that sport-caught fish are not unlawfully commercialized. Removal of unnecessary detail on canned fish exchanges not only prevents commercialization but also eliminates confusion regarding how fish may be processed for a sport fishing license holder.

#### Consistency and Compatibility with Existing Regulations:

The proposed regulations are neither inconsistent nor incompatible with existing state regulations. Section 20, Article IV, of the state Constitution specifies that the Legislature may delegate to the 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 adopt regulations governing entities that process sport-caught fish (California Fish and Game Code Section 7121). Health and Safety Code Section 114031 requires that game animals be received from an approved source and allows the use of legally obtained donated fish by nonprofit organizations authorized to serve meals to indigent persons. Additionally, Health and Safety Code Section 114057.1, subdivision (c) requires a food facility to not use a reduced-oxygen packaging method for non-frozen fish. The Commission has reviewed its own regulations and finds that the proposed regulations are neither inconsistent nor incompatible with existing state regulations. The Commission has searched the CCR for any other regulations regarding the processing of sport-caught fish; therefore, the Commission has concluded that the proposed regulations are neither inconsistent nor incompatible with existing state regulations. The Commission has searched the Code of Federal Regulations (CFR) and, pursuant to California Government Code Section 11346.2(b)(6), has determined that the proposed regulations avoid unnecessary duplication and do not conflict with federal regulations contained in the CFR.

## Business Reporting Requirements

The Commission finds it is necessary for the welfare of the people of the state that the proposed changes to reporting requirements apply to business.