

TITLE 14. Fish and Game Commission Notice of Proposed Changes in Regulations

NOTICE IS HEREBY GIVEN that the California Fish and Game Commission (Commission), pursuant to the authority vested by Sections **200, 205, 219, 265, 275, 313, 1050, 7701, 7708, 7857, 7892, 8026, 8394, 8587.1** of the California Fish and Game Code and to implement, interpret or make specific Sections **110, 200, 201, 205, 255, 265, 270, 275, 313, 1050, 7857, 7892, 8026, 8394, 8394.5, 8577, and 9028** of said Code, proposes to **amend** Sections 28.38, 28.40, 28.90, 28.95, and 107, Title 14, California Code of Regulations, relating to **Harpoons and Flying Gaffs for Recreational Tuna Fishery and Gear Marking in Commercial Harpoon Swordfish Fishery**.

Informative Digest/Policy Statement Overview

The California Fish and Game Commission (Commission) proposes to amend sections 28.38, 28.40, 28.90, 28.95, and 107, Title 14, of the California Code of Regulations (CCR) related to the Use of Harpoons and Flying Gaffs in the recreational taking of Tuna and Swordfish.

The proposed change amends sections 28.38 and 28.95 to add a method of take subsection which specifies that hand-held harpoons and flying gaffs securely attached to the vessel may be used to assist with landing tuna that have been legally taken by angling. The change in 28.90 also clarifies that spearfishing gear may not be used for marlin. An exception is added to Section 28.95 clarifying the prohibition on the use of bow and arrow fishing tackle in the take of marlin. In Section 107 the proposed change adds gear marking requirements to the commercial harpoon regulations and adds Fish and Game Code section 7701 and 7708 to the list of authorities for that section. Minor nonsubstantive changes to the other sections updating the name “broadbill” to the more commonly used “swordfish” in several sections and makes the term “finfish” consistent with the definition’s spelling throughout regulation.

Benefits of the Proposed Regulations

The Commission anticipates benefits to the environment in the sustainable management of finfish resources. Other benefits of the proposed gear change are that the gear will assist the recreational fishery in the landing of large fish and reducing the loss of legally taken fish. The proposed commercial harpoon gear marking regulation will help ensure that gear limits in the commercial deep set buoy gear fishery are maintained.

Consistency and Compatibility with Existing Regulations

Article IV, Section 20 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 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 neither inconsistent nor incompatible with existing state regulations. The Commission searched the California Code of Regulations and finds no other state agency regulations pertaining to the use of certain fishing gear.

Public Participation

Comments Submitted by Mail or Email

It is requested, but not required, that written comments be submitted on or before **5:00 P.M. on Wednesday, September 30, 2026** at the address given below, or by email to FGC@fgc.ca.gov. Written comments mailed, or emailed to the Commission office, must be received before **12:00 noon**

on Thursday, October 8, 2026. If you would like copies of any modifications to this proposal, please include your name and mailing address. Mailed comments should be addressed to Fish and Game Commission, PO Box 944209, Sacramento, CA 94244-2090.

Meetings

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the **California Natural Resources Agency Headquarters Building, Second Floor, 715 P Street, Sacramento, California**, which will commence at **8:00 a.m. on August 12, 2026** and may continue at **8:00 a.m., on August 13, 2026**. The Commission will make a reasonable effort to provide the public additional opportunities to observe or provide comment in the meeting through the Zoom videoconference platform by computer, mobile device, or telephone connections. However, the Commission cannot guarantee the accessibility or functionality of the remote connection options. Should technical issues affect remote attendee access or quality, an attempt will be made to resolve them, but the meeting will continue with in-person attendees. Instructions for participation in the **webinar/teleconference** hearing will be posted at www.fgc.ca.gov in advance of the meeting or may be obtained by calling (916) 653-4899. Please refer to the Commission meeting agenda, which will be available at least 10 days prior to the meeting, for the most current information.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the **California Natural Resources Agency Headquarters Building, Second Floor, 715 P Street, Sacramento, California**, which will commence at **8:00 a.m. on October 13, 2026**, and may continue at **8:00 a.m., on October 14, 2026, 8:00 a.m. on October 15, 2026, and 8:00 a.m. on October 16, 2026**. The Commission will make a reasonable effort to provide the public additional opportunities to observe or provide comment in the meeting through the Zoom videoconference platform by computer, mobile device, or telephone connections. However, the Commission cannot guarantee the accessibility or functionality of the remote connection options. Should technical issues affect remote attendee access or quality, an attempt will be made to resolve them, but the meeting will continue with in-person attendees. Instructions for participation in the **webinar/teleconference** hearing will be posted at www.fgc.ca.gov in advance of the meeting or may be obtained by calling (916) 653-4899. Please refer to the Commission meeting agenda, which will be available at least 10 days prior to the meeting, for the most current information.

Availability of Documents

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout format can be accessed through the Commission website at www.fgc.ca.gov. The regulations as well as all related documents upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Melissa Miller-Henson, Executive Director, Fish and Game Commission, 715 P Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above-mentioned documents and inquiries concerning the regulatory process to Melissa Miller-Henson or **David Haug** at FGC@fgc.ca.gov or at the preceding address or phone number. **Jon Ugoretz, Program Manager, Marine Region, Department of Fish and Wildlife, AskMarine@wildlife.ca.gov**, has been designated to respond to questions on the substance of the proposed regulations.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 265 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in sections 11343.4, 11346.4, 11346.8 and 11347.1 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action/Results of the Economic Impact Assessment

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 Business, 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 main cost to commercial fishing businesses permitted to use harpoons will come from the gear marking requirements, and break down to \$10 per year for 5 tags (\$2 per tag) and a labor time requirement of 2.5 hours for a cost of \$45.45 (at \$18.18/hour), for a combined cost of \$55.45 per vessel annually. There are no additional costs to commercial fishing businesses to use radar reflectors or flags, as these items are already in use in other gears and can be switched between gears. If necessary, however, purchasing a radar reflector and flag would cost \$50 with 1 hour of labor to install for a cost of \$18.18, with a combined cost of \$68.18 per vessel. The regulatory action will not impact compliance costs or recreational fishery activity.

- (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 within the state, the creation of new businesses, or the elimination or expansion of existing businesses. The proposal may positively affect worker safety through the availability of safer gear and fishing methods, and it is also anticipated to generally benefit the state's environment through sustainable fishery management. The Commission anticipates generalized benefits to the health and welfare of California residents through expanded outdoor recreational opportunities and ongoing economic activity.

(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, as it imposes no added cost to the recreational fishery. The main cost to commercial fishing businesses permitted to use harpoons will come from the gear marking requirements, and break down to \$10 per year for 5 tags (\$2 per tag) and a labor time requirement of 2.5 hours for a cost of \$45.45 (at \$18.18/hour), for a combined cost of \$55.45 per vessel annually. There are no additional costs to commercial fishing businesses to use radar reflectors or flags, as these items are already in use in other gears and can be switched between gears. If necessary, however, purchasing a radar reflector and flag would cost \$50 with 1 hour of labor to install for a cost of \$18.18, with a combined cost of \$68.18 per vessel.

(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.

(i) Business Reporting Requirements:

The proposed action does not impose a business reporting requirement.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code Sections 11342.580 and 11346.2(a)(1).

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

FISH AND GAME COMMISSION

Dated: July 21, 2026

Melissa Miller-Henson
Executive Director