

State of California
Fish and Game Commission

Initial Statement of Reasons for Regulatory Action
Amend Sections 28.38, 28.40, 28.90, 28.95, and 107
Title 14, California Code of Regulations

Re: Harpoons and Flying Gaffs for Recreational Tuna Fishery and Gear Marking in Commercial
Harpoon Swordfish Fishery

I. Date of Initial Statement of Reasons: April 28, 2026

II. Dates and Locations of Scheduled Hearings

(a) Notice Hearing

Date: June 17, 2026

Location: Sacramento, CA

(b) Discussion Hearing

Date: August 12, 2026

Location: Sacramento, CA

(c) Adoption Hearing

Date: October 14, 2026

Location: Sacramento, CA

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 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 to assist in landing tunas, the marking of commercial harpoon fishing gear, and other regulatory language clarification.

The proposed regulatory change amends Section 28.38 to add subsection describing a method of handling, which specifies that hand-held harpoons and flying gaffs, securely attached to the vessel, may be used to assist with landing recreationally caught tuna that have been taken by angling. Section 28.95 is proposed to be amended by adding reference to this allowance for the use of harpoons and flying gaffs. The proposed change adds “marlin” to the list of species prohibited for take by spear to Section 28.90 as Section 28.95 already prohibits the possession of such gear onboard recreational vessels where marlin have been taken. The change also adds marlin to the list of species prohibited for take by bow and arrow in Section 28.95, as the section already prohibits possession of the gear onboard vessels where marlin have been taken. The proposed change updates the name “broadbill” or “broadbill swordfish” to the more commonly used “swordfish” in several sections and makes the term “finfish” consistent with the definition’s spelling found in Section 1.46. The proposed change adds a gear marking requirement to the commercial harpoon regulations in Section 107 and updates the authorities for that section.

Background

This change is in response to a petition for regulatory change approved in part by the Fish and Game Commission (Petition #2024-04) to allow the use of harpoons to assist in landing large fish. Large (>100 pound) tuna have been more available to California anglers in recent years. Landing these large tuna can be difficult, and the potential for losing fish after a long time on the fishing line increases as the fish get larger. Recreationally caught tuna in the Atlantic are regularly landed with the assistance of hand-held harpoons and flying gaffs (where the hook is attached to a line and separates from the handle), which decreases the chance of losing fish that have been exhausted during the fishing process, and could die if lost. The use of harpoons and gaffs to land recreationally caught Pacific halibut, another species that can grow to a very large size, has been successfully allowed in California for decades under Title 14, California Code of Regulations, Section 28.20.

A commercial deep set buoy gear (DSBG) fishery was approved by federal regulations in 2023. This fishery allows for the use of up to 10 buoys, which are attached to fishing lines designed to catch swordfish. Commercial fishermen are allowed to set DSBG gear while simultaneously fishing for swordfish using harpoon gear. When a swordfish is harpooned, a terminal buoy, which is identical in design to DSBG buoys, is attached to the harpoon line and placed in the water while the fish is fighting. Because of this, there is the potential for more than 10 buoys to be in the water, making it difficult for enforcement officers to determine if gear limitations are being adhered to. A marking requirement, which clearly delineates harpoon buoys, would allow enforcement officers to identify gear without pulling it from the water.

Overview of Proposed Changes

Section 28.38 amendments would allow the use of harpoons and flying gaffs to assist in landing large tuna. Large (>100 pound) tuna have been more available to California anglers in recent years. This is necessary to aid recreational anglers in landing tuna and helps prevent the loss of legally taken tuna.

Subsection (a) Limit The phrase “The following daily bag limits apply” is deleted and “(a) Limit” added to be consistent with other finfish subsections that describe daily bag and possession limits. This subsection is renumbered dividing the area limits in (1) Albacore; (A) South and (B) North; and (2) Bluefin tuna; (3) skipjack; and (4) yellowfin, bigeye, albacore and other tunas. There is no change to the original regulatory text.

Subsection (b) Landing nets, gaffs, and harpoons is added to define and provide for the use of handheld harpoons and flying gaffs (where the head detaches from the pole) as an aid in landing tuna. This is necessary to specify that harpoons and flying gaffs are allowed in the recreational fishery when “...secured to the vessel with a line no longer than 30 feet total length and without buoys, floats, or other attachments.” The use of landing nets (handheld dip nets) and gaffs (without detachable heads) which are generally allowed for finfish landing is also included. Reference is made to further regulation of the gear in Section 28.95, as amended. Attachment lines are limited to 30 feet in order to allow enough line for the crew to safely and effectively

control a large fish brought to the boat legally by hook and line, while limiting the range so that harpoons and gaffs cannot be thrown at free swimming fish that had not otherwise been legally taken.

Section 28.40 Broadbill Swordfish A nonsubstantive change updating the term “broadbill swordfish” to “swordfish” makes the term consistent with the current common name for swordfish in use and makes the regulations consistent across sections. There is no change to the regulatory text.

Section 28.90 Diving, Spearfishing.

In the first paragraph, a nonsubstantive change clarifying an inconsistency in regulations changing “fin fish” to “finfish” making the term consistent with the definition of finfish found in Section 1.46.

Amending the first paragraph by deleting ‘broadbill’ and replacing with “swordfish” and adding ‘marlin’ to make the regulation consistent with Section 28.95 which prohibits the possession of spears onboard vessels that have taken marlin.

Section 28.95. Spears, Harpoons and Bow and Arrow Fishing Tackle.

Amending the sentence “Harpoons may be used ... “ by adding “and to assist in taking tuna as specified in subsection 28.38(b)” referencing and clarifying this new provision as a method of take for the listed species.

A nonsubstantive change updating the term “broadbill swordfish” to “swordfish” and “fin fish” to “finfish” making the terms consistent with the current common names throughout regulation and the definition of finfish found in section 1.46.

Amending the provision by updating the name of “broadbill” to “swordfish” and adding “marlin” to the list of species prohibited for take by bow and arrow fishing tackle, as the possession of such gear onboard vessels where marlin have been taken is prohibited earlier in the same paragraph.

Section 107 Broadbill Swordfish

The title and subsection (a) is a nonsubstantive change updating the term “broadbill swordfish” to “swordfish” making the term consistent with the current common name for swordfish in use and making the regulations consistent across sections.

Subsection (b) is unchanged.

Subsection (c) Gear Marking is added since it is necessary to distinguish harpoon buoys in the water from federal deep set buoy gear buoys, which are sometimes fished by the same vessel. Since deep set buoy gear is limited to a specific number of pieces of gear, having additional buoys that are not marked can lead to enforcement issues. This change is necessary to ensure enforcement officers can clearly distinguish harpoon gear from deep set buoy gear on the water. A yellow tag, marked with the letters “HAR” distinguish it from other gear markings already in use or planned for implementation in state and federal fisheries, which use different letter combinations and colors. A radar reflector and flag are necessary to ensure

fishermen and enforcement officers can locate the gear from a distance and ensure gear and fish are not lost. Radar reflectors and flags are already required in the deep set buoy gear fishery and are commonly used by harpoon fishermen.

Subsections (d) – (h) nonsubstantive change of numbering because of the addition of a new (c).

Updated the list of authorities of Section 107 to add Fish and Game Code sections 7701 and 7708.

(b) Goals and Benefits of the Regulation

The proposed changes to Sections 28.38, 28.40, 28.90, 28.95, and 107, would permit the use of gear for the landing of certain fish legally taken.

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

Section 28.38. Authority cited: Sections 200, 205, 265 and 313, Fish and Game Code. Reference: Sections 200, 205, 265 and 313, Fish and Game Code.

Section 28.40. Authority cited: Sections 200, 205, 219, 265 and 275, Fish and Game Code. Reference: Sections 200, 205, 255, 265, 270 and 275, Fish and Game Code.

Section 28.90. Authority cited: Sections 200, 265 and 8587.1, Fish and Game Code. Reference: Sections 205 and 7071, Fish and Game Code; and 50 CFR Part 660, Subpart G.

Section 28.95. Authority cited: Sections 200, 205, 219, 265 and 275, Fish and Game Code. Reference: Sections 110, 200, 201, 205, 219, 265, 270 and 275, Fish and Game Code.

Section 107. Authority cited: Sections 1050, 7701, 7708, 7857, 7892, 8026 and 8394, Fish and Game Code. Reference: Sections 1050, 7857, 7892, 8026, 8394, 8394.5, 8577 and 9028, Fish and Game Code.

(d) Specific Technology or Equipment Required by Regulatory Change:

The changes to permitted gear allowed in the take of tuna and swordfish are not a requirement.

(e) Identification of Reports or Documents Supporting Regulation Change: N/A

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

At the March, 2026, Marine Resource Committee meeting, the recommendation was to advance the proposed changes to recreational tuna and commercial harpoon gear regulations and request a rulemaking notice by the Fish and Game Commission for June 2026, as recommended by the Department.

IV. Description of Reasonable Alternatives to Regulatory Action

(a) No alternatives were presented.

(b) No Change Alternative.

If the regulations remain unchanged the recreational fishery would continue to be prohibited from the use of harpoons and flying gaffs to assist in landing large tuna. This may lead to increases in hooked fish being lost, as more large tuna become available to angling.

V. Mitigation Measures Required by Regulatory Action: None

VI. Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The 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.

VII. Economic Impact Assessment

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

The Commission does not anticipate any impacts on the creation or elimination of jobs within the state. 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. These costs are not expected to impact whether a business increases or decreases their level of employment.

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

The Commission does not anticipate any new impacts on the creation of new businesses or the elimination of existing businesses within the state. 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. These costs are not high enough to eliminate existing businesses or spur the creation of new businesses within the state.

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

The Commission does not anticipate any new impacts on the expansion of businesses currently doing business within the state.

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

The Commission anticipates no benefits because the proposed regulation will not affect the health and welfare of California residents.

(e) Benefits of the Regulation to Worker Safety:

The proposed regulation may impact working conditions on recreational fishing vessels that pursue or catch larger tuna (greater than 100 pounds). It is potentially safer to use a harpoon or flying gaff when attached to the vessel as proposed in this rulemaking. Using a regular gaff may result in injuries or crew going overboard when holding gaffed large tuna at the vessel's side. A harpoon/flying gaff is secured to the vessel by a rope and a crew member maintaining a hold on a large fish with a regular gaff is not necessary.

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

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.

(g) Other Benefits of the Regulation: None.

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.