

Staff Summary for August 12-13, 2026

5. Harpoons and Flying Gaffs for Recreational Tuna Fishery and Gear Marking in Commercial Harpoon Swordfish Fishery**Today's Item****Information** ☒**Action** ☐

Discuss proposed amendments to regulations related to allowing the use of harpoons and flying gaffs in the recreational tuna fishery and gear marking requirements in the commercial harpoon swordfish fishery.

Summary of Previous/Future Actions

- | | |
|---|--|
| • Marine Resources Committee (MRC) vetting and recommendation | November 6, 2025 and March 12, 2026; MRC |
| • Notice hearing | June 17-18, 2026 |
| • Today's discussion hearing | August 12-13, 2026 |
| • Adoption hearing | October 14-15, 2026 |

Background

At its December 2024 meeting, the Commission granted regulation change petition 2024-04, in part, which requested to allow the use of hand-held harpoons to assist in landing fish in the recreational tuna fishery in instances where a gaff is lawfully allowed. Following granting of the petition, several recommended regulatory changes – both recreational and commercial – were developed by the Department, presented to MRC at its November 2025 and March 2026 meetings, and ultimately presented to the Commission in June 2026.

At its June 2026 meeting, the Commission authorized publication of a notice of its intent to amend regulations related to gear types and use in recreational tuna fishing, commercial harpoon fishing gear, and other non-substantive changes. A background and summary of the proposed changes are included in Exhibit 1; details of the proposed changes are provided in the initial statement of reasons (Exhibit 2), and the publicly noticed regulatory language is presented in Exhibit 3. The notice appeared in the California Regulatory Notice Register on July 31, 2026. Throughout the public process, from earlier MRC meetings through initial rulemaking notice, public feedback on the proposed regulations from the public has been minimal, albeit generally supportive.

Today's meeting is an opportunity for public discussion of the regulations.

Significant Public Comments (N/A)**Recommendation (N/A)****Exhibits**

1. [Staff summary for Agenda Item 7, June 17-18, 2026 Commission meeting](#) (for background purposes only)
2. [Initial statement of reasons](#)
3. [Noticed regulatory language](#)

Motion (N/A)

Staff Summary for June 17-18, 2026
(...for background purposes only...)

7. Harpoons and Flying Gaffs Allowance

Today's Item

Information ☐

Action ☒

Consider authorizing publication of notice of intent to amend regulations related to allowing harpoons and flying gaffs use in the recreational tuna fishery.

Summary of Previous/Future Actions

- | | |
|---|--|
| • Marine Resources Committee (MRC) vetting and recommendation | November 6, 2026 and March 12, 2026; MRC |
| • Today's notice hearing | June 17-18, 2026 |
| • Discussion hearing | August 12-13, 2026 |
| • Adoption hearing | October 14-15, 2026 |

Background

Current regulations do not allow the use of hand-held harpoons to assist recreational anglers in landing tuna; however, harpoons are permitted as a landing aid for other species. For instance, Section 28.20 allows the use of a harpoon to assist in the take of Pacific halibut, with limitations defined in Section 28.95. Section 28.95 further specifies that harpoons may be used to take skates, rays, and sharks (except white sharks) and to assist in the take of Pacific halibut. The use of gaffs for take of finfish is detailed in Section 28.65, where a gaff is defined as, "any hook with or without a handle used to assist in landing fish or to take fish in such a manner that the fish does not take the hook voluntarily in its mouth."

Regulation Change Petition and Regulatory Development

At its December 2024 meeting, the Commission took action on Petition 2024-04, which requested to allow the use of hand-held harpoons to assist in landing fish in the recreational fishery in instances where a gaff is lawfully allowed. The Commission granted Petition 2024-04 in part, and requested the Department develop regulatory changes to allow a harpoon as a landing aid limited to tuna, which are often very large. The Department presented recommended recreational measures — including allowing the use of hand-held harpoons and flying gaffs as an aid in landing legally-caught tuna — for discussion at the November 2025 and March 2026 MRC meetings (see Exhibit 6 for additional background).

Addition of Commercial Gear Requirement and Non-Substantive Clarifications

While vetting concepts for the recreational regulations, the Department identified several additional updates to the regulations, most notably a separate need for commercial swordfish harpoon buoy marking requirements. The Department publicly identified the commercial gear issue at both MRC meetings and suggested integrating it into the rulemaking. Similarly, the Department identified several potential non-substantive amendments.

The MRC motion in March 2026 was to advance a rulemaking on recreational tuna fishing and associated gear regulations "as recommended by the Department and discussed today." Although the motion did not explicitly reference commercial harpoon gear, staff understands

**Staff Summary for June 17-18, 2026
(...for background purposes only...)**

MRC's action as supporting movement of the overall rulemaking package as presented and publicly discussed.

To ensure affected commercial fishing participants are fully informed, the Department initiated direct outreach to commercial harpoon permittees and will continue engagement throughout the rulemaking process.

Proposed Regulatory Amendments

Following MRC discussions and recommendation, the Department provided draft proposed regulations to the Commission that would accomplish the following:

- Handheld Harpoons and Flying Gaffs in Recreational Tuna Fishery
 - Allow the use of the gear types to assist in landing tuna taken by angling.
 - Define the gear types and establish the conditions under which they may be used as an aid in landing tuna.
 - Clarify that the gear types are aids in landing fish and are not new, standalone methods of take.
 - Add appropriate cross-references between sections for the added gear provisions.
- Commercial Swordfish Harpoon Fishery
 - Add gear marking requirements for buoys used in the fishery, to distinguish the harpoon buoys from federal deep set buoy gear.
- Non-Substantive Clarifications
 - Correct spelling and terminology (i.e., changing “broadbill swordfish” to “swordfish” and “fin fish” to “finfish”).
 - Clarify that existing prohibitions on possessing spearfishing gear and bow-and-arrow fishing tackle aboard a vessel when taking marlin also prohibit taking marlin with those gear types.

Further details on the Department's submission are available in the draft initial statement of reasons (Exhibit 2), draft proposed regulatory language (Exhibit 3), and Department's presentation (Exhibit 5).

To accurately reflect the scope of the rulemaking (which includes both recreational and commercial components), the rulemaking title in Exhibit 2 has been revised from “Harpoons and Flying Gaff Allowance” to “Harpoons and Flying Gaffs for Recreational Tuna Fishery, and Gear Marking in Commercial Harpoon Swordfish Fishery.” (This updated title is also included for approval by the Commission under Agenda Item 26B for the rulemaking timetable.)

Significant Public Comments (N/A)

Staff Summary for June 17-18, 2026
(...for background purposes only...)

Recommendation

Commission staff: Authorize publication of a notice of intent to amend recreational tuna fishing gear regulations and the additional amendments specifically including commercial harpoon buoy regulations, and clarifying updates related to swordfish, marlin, and finfish, as recommended by the Department and identified in exhibits 2 and 3.

Committee: Authorize publication of a notice of intent to amend regulations as presented at the November 2025 and March 2026 MRC meetings and recommended by the Department.

Department: Authorize publication of a notice of intent to amend regulations pertaining to recreational tuna, swordfish and marlin fishing and commercial harpoon fishing gear, consistent with the draft initial statement of reasons and draft proposed regulatory language (exhibits 2 and 3).

Exhibits

1. [Department memo, received May 19, 2026](#)
2. [Draft initial statement of reasons](#)
3. [Draft proposed regulatory language](#)
4. [Draft economic and fiscal impact statement \(STD. 399\)](#)
5. [Department presentation](#)
6. [Staff summary and exhibits for Agenda Item 6, March 12, 2026 MRC meeting \(for background purposes only\)](#)

Motion

Moved by _____ and seconded by _____ that the Commission authorizes publication of a notice of its intent to amend sections 28.38, 28.40, 28.90, 28.95 and 107, related to recreational tuna fishing, commercial harpoon fishing gear, and other non-substantive changes.

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.

Proposed Regulatory Text

Section 28.38, Title 14, CCR, is amended as follows:

§ 28.38. Tunas.

~~The following daily bag limits apply:~~

(a) Limit

~~(a)(1)~~ Albacore:

~~(1)(A)~~ South of a line running due west true from 34°27'N. lat. (at Point Conception, Santa Barbara County) -- The special limit for albacore is 10, which may be taken or possessed in addition to the overall general daily bag limit of 20 finfish specified in subsection 27.60(a).

~~(2)(B)~~ North of a line running due west true from 34°27'N. lat. (at Point Conception, Santa Barbara County) -- The special limit for albacore is 25, which may be taken or possessed in addition to the overall general daily bag limit of 20 finfish specified in subsection 27.60(a).

~~(b)(2)~~ Bluefin tuna -- The special limit for bluefin tuna is 2, which may be taken or possessed in addition to the overall general daily bag limit of 20 finfish specified in subsection 27.60(a). This limit applies to all bluefin tuna possessed, regardless of where taken.

~~(c)(3)~~ There is no limit on skipjack tuna.

~~(d)(4)~~ For yellowfin tuna, bigeye tuna, and other tunas not listed above, the limit is 10. Unlike albacore and bluefin tuna, fish taken under this limit shall apply toward the overall general daily bag limit of 20 finfish specified in subsection 27.60(a).

(b) Landing nets, gaffs, and harpoons

A handthrust harpoon, gaff, including flying gaffs where the hook detaches from the handle, or a handheld dip net may be used to assist in landing tuna that have been legally taken by angling. Harpoons and flying gaffs used to assist with landing shall be secured to the vessel with a line no longer than 30 feet total length and without buoys, floats, or other attachments. See Section 28.95 of these regulations for additional restrictions on the use of harpoons.

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

Proposed Regulatory Text

Section 28.40, Title 14, CCR, is amended as follows:

§ 28.40. ~~Broadbill~~ Swordfish.

Limit: Two.

Note: 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, Title 14, CCR, is amended as follows:

§28.90 Diving, Spearfishing.

Persons who are floating or swimming in the water may use spearfishing gear and SCUBA diving equipment to take ~~fin fish~~ finfish other than giant (black) sea bass, garibaldi, gulf grouper, broomtail grouper, trout, salmon, marlin, or ~~broadbill swordfish~~, except that:

- (a) No person may possess or use a spear within 100 yards of the mouth of any stream in any ocean waters north of Ventura County.
- (b) When spearfishing for or in possession of federal groundfish species or all greenlings of the genus *Hexagrammos* as authorized pursuant to subsection 27.20(b)(1)(D), in an area or during a season closed to the take of these species, no fishing gear except spearfishing gear may be aboard the vessel or watercraft.

Note: 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, Title 14, CCR, is amended as follows:

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

Spears, harpoons and bow and arrow fishing tackle may be used for taking all varieties of skates, rays, and sharks, except white sharks. Harpoons may be used to assist in taking Pacific halibut as specified in Section 28.20 and to assist in taking tuna as specified in subsection 28.38(b). Such gear may not be possessed or used within 100 yards of the mouth of any stream in any ocean waters north of Ventura County, nor aboard any vessel on any day or on any trip when ~~broadbill~~ swordfish or marlin have been taken. Bow and arrow fishing tackle may be used to take ~~fin fish~~ finfish other than giant (black) sea bass, garibaldi, gulf grouper, broomtail grouper, trout, salmon, ~~broadbill swordfish~~, marlin, and white shark.

Note: 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.

Proposed Regulatory Text

Section 107, Title 14, CCR, is amended as follows:

§ 107. ~~Broadbill~~ Swordfish.

(a) Permit Required.

(1) The owner or operator of a vessel taking ~~broadbill~~ swordfish for commercial purposes shall have obtained a valid swordfish permit and shall be in possession of said permit when engaged in such activities.

(2) To Whom Issued. The department shall issue a permit to the owner or operator of a currently registered vessel.

(b) Vessel Identification. Permittees vessel shall display its assigned permit number in 10" high x 2" wide black Roman alphabet letters and Arabic numerals. Figures shall be black on a white background on both sides of the superstructure of the vessel. Numbers shall be displayed at all times while operating under a swordfish permit.

(c) Gear Marking. Any buoys attached to harpooned fish must include a terminal array that includes a marker buoy, locator flag, and radar reflector. The buoy shall be clearly and distinctly marked, in a color that contrasts with the buoy, with the Commercial Fishing Vessel Number and a securely affixed durable tag stamped or engraved, where there is a physical indentation along with a contrasting color, with the vessel number and the letters "HAR." Durable tags must be yellow and large enough to accommodate the engraved letters "HAR" that are at least 1 3/4 inches in height.

~~(e)~~ (d) Conditions of Permit. Provisions of the Fish and Game Code relating to commercial fish except as modified by the provisions of these regulations, shall be a condition of all permits to be fully performed by the holders thereof, their agents, servants, employees, or those acting under their direction or control.

~~(d)~~ (e) Cost of Permit. See Section 8394.5 of the Fish and Game Code.

~~(e)~~ (f) Methods of Take.

(1) Swordfish may be taken only with hand-held hook and line, deep set buoy gear authorized under federal law, or handthrust harpoon.

(2) Aircraft may be used to directly assist a permittee or any person in the taking of any species of fish while operating under a swordfish permit.

Only aircraft with current FAA registration which are registered with the department pursuant to Section 7892, Fish and Game Code, and aircraft pilots licensed pursuant to Section 7850, Fish and Game Code, may conduct flights for permittees. Such aircraft shall display the letters "SW" on the underside of each wing in block Roman alphabet at least 24 inches high x 3 inches wide, black in color and on a white background.

~~(f)~~ (g) Notification Procedure. The department shall notify permittees if the director, pursuant to Section 8577 of the Fish and Game Code, closes the swordfish harpoon fishery or any area where the fishery is conducted. The department shall notify permittees by mail and by public announcement on VHF/Channel 16 between 0800 hours and 1000 hours during normal business days. Radio transmissions shall commence 48 hours prior to the effective date of a closure and shall continue for 24 hours after the effective date of such action. It shall be the responsibility of the permittee to daily monitor the named radio channel during the specified hours.

~~(g)~~ (h) Revocation of Permits. Any permit may be revoked and canceled by the commission upon breach or violation of any fish and game law or regulation or violation of the terms or conditions of the permit by the holders thereof, their agents, servants, employees or those acting under their direction and control.

Note: 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.