

Proposed Regulatory Language

§ 163. Pacific Herring Permits.

(a) Permit Required.

(1) Pacific ~~Herring~~ herring (herring) may be taken for commercial purposes only under a revocable permit issued by the department.

(2) Herring eggs on kelp (HEOK) may be taken for commercial purposes only under a revocable permit issued by the department.

(b) Classes of Permits

(1) San Francisco Bay. As of April 1, 2020, all Odd, Even, and December, referred to as 'DH', gill net permits not designated as HEOK in the 2019 permit year ~~will be~~ were converted to Temporary permits and all converted roundhaul, referred to as 'CH', gill net permits not designated as HEOK in the 2019 permit year ~~will be~~ were converted to San Francisco Bay herring permits. Herring permits issued to partnerships ~~will be~~ were converted to individual permits on April 1, 2020. ~~Permit partnerships must designate an individual to receive the permit by March 15, 2020, by contacting the Department's License and Revenue Branch in writing.~~

(A) Temporary Permit. Each Temporary permit allows the permittee to fish one gill net of 65 fathoms or less in San Francisco Bay (defined in subsection 163.1(a)(1)). Permittees may hold a maximum of two Temporary permits. If a permittee holds two Temporary permits these will be automatically converted to a San Francisco Bay herring permit. Conversion to a San Francisco Bay herring permit is permanent. Subject to the terms and conditions in subsection (h), Temporary permits are transferrable prior to April 1, 2025. At that time, they become ~~non-transferrable~~ non-transferrable and ~~non-renewable~~ non-renewable. No new Temporary permits will be issued.

(B) San Francisco Bay Herring Permit. Each San Francisco Bay herring permit allows the permittee to fish two gill nets of 65 fathoms or less each in San Francisco Bay. Permittees may hold a maximum of one San Francisco Bay herring permit. San Francisco Bay herring permits are renewable and transferrable subject to the terms and conditions in subsections (c) and (h). No San Francisco Bay herring permits will be issued to new applicants until after March 31, 2025.

(2) Tomales Bay Herring Permit. Each Tomales Bay herring permit allows the permittee to fish two gill nets of 65 fathoms or less each in Tomales Bay (defined in subsection 163.1(a)(2)). Tomales Bay herring permits are renewable and transferrable subject to the terms and conditions in subsections (c) and (h).

(3) Humboldt Bay Herring Permit. Each Humboldt Bay herring permit allows the permittee to fish in combination no more than 150 fathoms of gill net, or a single small-scale lampara net (defined in subsection 163.1(c)(5)) in Humboldt Bay (defined in subsection 163.1(a)(3)). Humboldt Bay herring permits are renewable and subject to the terms and conditions in subsections (c) and (h).

(4) Crescent City Herring Permit. Each Crescent City herring permit allows the permittee to fish in combination no more than 150 fathoms of gill net in Crescent City Harbor (defined in subsection 163.1(a)(4)). Crescent City herring permits are renewable and transferrable subject to the terms and conditions in subsections (c) and (h).

(5) Herring Eggs on Kelp (HEOK) Permit. As of April 1, 2020, all Odd, Even, and DH HEOK permits will be converted to HEOK permits, and all CH HEOK permits will be converted to one (1) HEOK permit and one (1) Temporary permit each. A HEOK permit allows the permittee to take HEOK subject to the terms and conditions in Section 164. Odd, Even, and December permittees with permits designated as HEOK in 2019 have until March 31, 2021 to elect to convert their HEOK permit to a Temporary gill net permit. HEOK permits are renewable and transferrable subject to the terms and conditions in subsections (c) and (h). New applicants may apply for any available HEOK permits after March 31, 2021.

(c) Permit Renewal.

(1) Each herring and HEOK permit is required to be renewed annually pursuant to Section 7858 of the Fish and Game Code § 7858 and shall only be valid for that season.

(2) An applicant is eligible to renew a herring permit of the same classification if they meet all of the following requirements:

(A) Hold a current California commercial fishing license.

(B) Have held a valid, unrevoked herring permit in the immediately preceding permit year (~~April 1-March 31~~April 1-March 31).

(C) Have submitted a Release of Property form ~~FG-MR-674 (Rev. 5/13)~~, which is ~~incorporated by reference herein~~, DFW 1108, as specified in subsection 705.1(c), and payment for all herring landed in excess of the established quota as specified in subsection 163.1(j) or subsection 164(h) ~~of these regulations~~, and all fees from prior seasons.

(3) Applicants for renewal will be issued the same class of permit they held during the previous season, unless they hold two Temporary permits. Applicants who hold two Temporary permits will be issued a San Francisco Bay Herring permit.

(4) Number of permits issued.

(A) San Francisco Bay herring permits, Tomales Bay herring permits, Humboldt Bay herring permits, and Crescent City herring permits: No more than one permit will be issued to each applicant.

(B) HEOK permits: No more than one permit will be issued to each applicant.

(5) Herring permit renewals:

(A) Herring permits are renewed by submitting the completed form Commercial Herring Permit Worksheet DFW 1377 with the specified fee, as set forth in subsection 705(a) ~~of these regulations~~.

(B) Permittees must designate a currently registered vessel on the form DFW 1377. Up to two Temporary permits or one permit of any other classification of herring permit may be assigned to a single vessel. Two Temporary permits held by different permittees may be jointly

fished on a single vessel upon submission of the completed form Season Request for Changes to Herring Permits DFW ~~1322-2~~ 1322-2, as specified in subsection 705(b) to the department. No permit shall be valid for more than one vessel at a time.

(C) A change in a permit's vessel designation may be authorized by the department upon application by the permittee using form DFW ~~1322-2~~ 1322-2, and payment of the fee, as specified in subsection 705(b) ~~of these regulations~~. The fee for any approved boat transfer pursuant to this paragraph must be submitted with the form DFW ~~1322-2~~ 1322-2 to the department's License and Revenue Branch, Sacramento. Any permittee denied a boat transfer pursuant to this paragraph may submit an appeal in writing to the commission within 60 days of such denial to show cause why ~~his or her~~ their request should not be denied. The written appeal shall specifically identify the legal and factual grounds for challenging the department's action. The commission shall forward to the department a copy of all materials received from the applicant. The ~~Department~~ department shall respond in writing within 60 days of receipt of materials.

(6) HEOK permit renewals:

(A) HEOK permits are renewed by submitting the form ~~Herring-Eggs-on-Kelp~~ Herring-Eggs-On-Kelp Permit Application DFW 1406 with the specified fee, as set forth in subsection 705(a) ~~of these regulations~~.

(B) The permittee shall receive written approval from the department before using a vessel for harvesting, processing or transporting HEOK. The permittee shall list the name and department registration number issued pursuant to Section 7881 of the Fish and Game Code of any vessel that will be used for harvesting, processing or transporting HEOK under the authority of the permit on the form DFW 1406.

(C) Each HEOK permittee may designate two authorized agents to operate under his or her permit on the application form DFW 1406. A copy of the current California commercial fishing license for each authorized agent shall be submitted with form DFW 1406. Any person designated as an authorized agent shall act as an authorized agent only after the permittee has received written approval from the department.

(D) An authorized agent:

1. May serve in the place of the permittee for all fishery activities requiring the presence or action of the permittee, including the signing of electronic fish tickets and/or dock tickets;
2. May serve as an authorized agent on up to two permits.

(E) A permittee may replace an authorized agent by submitting a new application form DFW 1406 as specified in subsection 705(a), to the department's License and Revenue Branch, Sacramento.

(7) ~~For the 2020 license year, applications for renewal of herring permits must be received by the department or, if mailed, postmarked no later than May 31, 2020. Beginning in 2021, applications~~ Applications for renewal of herring permits must be received by the department or, if mailed, postmarked no later than April 30 of each year.

(8) Late fees and late fee deadlines are specified in Section 7852.2 of the Fish and Game Code.

(9) Any person denied a permit under this section may submit an appeal in writing to the commission to show cause why ~~his/her~~ their permit request should not be denied. The written appeal shall specifically identify the legal and factual grounds for challenging the department's action. Such request must be received by the commission within 60 days of the department's denial. The commission shall forward to the department a copy of all materials received from the applicant. The ~~Department~~ department shall respond in writing within 60 days of receipt of materials and shall further process all appeals pursuant to the procedure outlined in subsection 671.1(c)(7). ~~14 CCR 671.1(c)(7)(C)-(I)~~.

(d) Applications for New Permits.

(1) Herring Permits

(A) No new San Francisco Bay herring permits shall be issued until the number of San Francisco Bay herring permits held is less than 30.

(B) No new Tomales Bay herring permits shall be issued until the number of Tomales Bay herring permits held is less than 15.

(C) No new Humboldt Bay herring permits shall be issued until the number of Humboldt Bay herring permits held is less than four ~~(4)~~.

(D) No new Crescent City herring permits shall be issued until the number of Crescent City herring permits held is less than three ~~(3)~~.

(2) HEOK permits

(A) No new HEOK permits shall be issued until the number of HEOK permits held is less than ten ~~(10)~~.

(3) Applications for new herring and HEOK permits shall be made available each year on April 15 through the department's Automated License Data System at department license sales offices, the department's Internet Sales site and at retail License Agents authorized to sell commercial fishing licenses.

(4) Application Requirements

(A) Applicants shall apply by May 31 of each year.

(B) Applicants shall pay the appropriate nonrefundable Drawing Fee as specified in subsection Section ~~Section~~ 705(a).

(C) Applicants shall possess a Commercial Fishing License valid at the time of application.

(D) Applicants for new HEOK permits shall not currently possess an HEOK permit.

(E) Applicants for new herring permits shall not currently possess a herring permit and must specify the area for the permit they are requesting.

(F) Applicants shall not submit more than one HEOK drawing application for the same license year.

(G) Applicants shall not submit more than one herring drawing application for the same license year.

(H) Each applicant who applies shall receive a “drawing receipt” printed from the terminal or downloaded from the Internet. The receipt shall contain the customer’s name and permanent identification number, and proof of entry into drawing.

(5) Permit Random Selection Process.

(A) Random selection using computer generated random numbers will be used to determine which applicants will be awarded permits and which applicants will be alternates. Successful applicants and a list of alternates shall be determined within 20 business days following the application deadline date. If the drawing is delayed due to circumstances beyond the department’s control, the department shall conduct the drawing at the earliest date possible.

(B) Successful applicants will be notified as soon as practical.

(C) Successful herring permit applicants shall submit the completed form Commercial Herring Permit Worksheet DFW 1377 with the specified fee, as set forth in subsection 705(a) of these regulations by July 15.

(D) Successful HEOK Permit applicants shall submit the completed ~~Herring-Eggs-On-Kelp~~ Herring-Eggs-On-Kelp Permit Application DFW 1406 with the specified fee, as set forth in ~~Section~~ subsection 705(a), per the instructions on the Application, by July 15.

(E) Should permits still be available after that June 30, the alternate list shall be used to award any available permits.

(e) Conditions of the Permit.

(1) Herring may be taken for commercial purposes only in those areas and by those methods specified in Section 163.1 (for herring) or 164 (for HEOK) under a revocable permit issued by the department to an individual for use on a specified fishing vessel.

(2) Herring permits:

(A) A permittee may have any licensed commercial fisherman serve in ~~his or her~~ their place on the designated vessel and engage in fishing, provided the permit is aboard the vessel named on the permit(s) at all times during herring fishing operations.

(3) HEOK permits:

(A) A ~~department-issued~~ department-issued copy of the permit shall be aboard each vessel engaged in fishing, harvesting, processing, or transporting HEOK under the authority of the permit.

(B) The permittee or their ~~his/her~~ authorized agent shall be immediately present during harvesting, processing, and transporting herring eggs under the authority of the permit. The

permit shall list the names of all authorized agents and all vessels used for harvesting, processing or transporting herring eggs under the authority of the permit. (This includes the attachment of any changes approved by the department after the permit is issued).

(f) Vessel Identification.

(1) When herring or HEOK are taken under these regulations, the vessel's commercial registration number shall be displayed on both sides of the boat. The number shall be black, at least ~~40~~ ten inches high, and on a white background. All permittees aboard the boat shall be mutually responsible for the proper display of the vessel's commercial registration number.

(g) Revocation of Permits.

(1) Permit holders, their agents, employees or those acting under their direction or control, shall comply with all applicable provisions of the Fish and Game Code relating to commercial fishing and any regulations adopted pursuant thereto.

(2) Any permit may be suspended, revoked, or canceled by the department upon breach or violation of any regulation pertaining to the take of herring; or violation of the terms or conditions of the permit by the holders thereof, their agents, employees, or those acting under their direction and control. A permittee whose permit has been suspended or revoked for conviction of a violation of Fish and Game Code statutes or Division 1, Title 14, CCR, while fishing as a participant in the herring fishery may request a hearing before the commission to show cause why ~~his or her~~ their herring fishing or buying privileges should be restored.

(3) The permittee shall be responsible for all vessel operators, authorized agents, or crew members acting under ~~his or her~~ their direction or control to ensure compliance with all regulations as provided in this Section, or in the Fish and Game Code, relating to herring.

(4) If a herring permit is suspended or revoked due to the actions of a vessel operator or authorized agent who also holds a herring permit, the person who was acting as the vessel operator or authorized agent will receive the same penalty against ~~his/her~~ their own permit as received by the permittee, pursuant to ~~these regulations~~, Section 163.1 and Section 164.

(5) A person whose herring permit has been revoked by the department shall not participate in any herring fishery during the season in which it was revoked and the following season. A person whose herring permit has been suspended for the entire season by the department shall not participate in any herring fishery during the season in which the permit is suspended. A person whose herring permit has been suspended for a period less than the entire season by the department shall not participate in any herring fishery sector during the period that the permit is suspended.

(6) A permittee whose permit has been suspended or revoked for conviction of a violation of Fish and Game Code statutes or Division 1, Title 14, CCR, while fishing as a participant in the herring fishery may submit an appeal in writing to the commission within 60 days of such suspension or revocation to show cause why ~~his/her~~ their herring fishing privileges should be restored. The written appeal shall specifically identify the legal and factual grounds for challenging the department's action. The commission shall forward to the department a copy of all materials received from the applicant. The department shall respond

in writing within 60 days of receipt of materials, and shall further process all appeals pursuant to the procedure outlined in subsection 671.1(c)(7) ~~14 CCR 671.1(e)(7)(C)-(I)~~.

(h) Permit Transfers.

(1) Except as provided in this section, a permit shall not be assigned or transferred. The department may deny any transfer request submitted in accordance with this section, or may revoke an approved transfer, for violation of any relevant permit condition, section of these regulations, or Fish and Game Code.

(2) A person with a valid transferable permit that has not been suspended or revoked may transfer ~~his/her~~ their permit to another person licensed as a California commercial fisherman. The permit holder or the estate of the deceased permit holder shall submit form DFW ~~1322-2~~ 1322-2, specified in ~~Section~~ subsection 705(b), and the nonrefundable permit transfer fee specified, for each permit transfer. The transfer shall take effect on the date written notice of approval of the application is given to the transferee by the department. The permit shall be valid for the remainder of the permit year and may be renewed in subsequent years pursuant to this section.

(A) The ~~permit-transfer~~ permit-transfer fee shall be waived in the case of transfer of any Temporary Permit defined in ~~Section~~ subsection 163(b) ~~of these regulations~~.

(3) An application for a transfer of a permit shall be deferred when the current permit holder is awaiting final resolution of any pending criminal, civil and/or administrative action that could affect the status of the permit.

(4) Upon the death of a person with a valid permit, that person's estate shall immediately, temporarily relinquish the permit to the department's License and Revenue Branch, Sacramento. The estate may renew the permit as provided for in this section if needed to keep the permit valid. The estate may transfer the permit pursuant to this section no later than ~~two~~ (2) years from the date of death of the permit holder as listed on the death certificate.

(5) Any applicant who is denied transfer of a permit may submit an appeal in writing to the commission to show cause why ~~his/~~ their permit transfer request should not be denied. The written appeal shall specifically identify the legal and factual grounds for challenging the department's actions. Such request must be received by the commission within 60 days of the date of the department's denial. The commission shall forward to the department a copy of all materials received from the applicant. The department shall respond in writing within 60 days of receipt of materials.

(i) Research.

(1) Notwithstanding any other portion of this section, the department may authorize the holder of a valid herring permit to collect herring during a closed season or in a closed area for research, subject to such restrictions regarding gear(s), date(s), location(s), time(s), size, poundage or other matters as specified by the department. Any fish and/or data collected during such activity shall be made available to the department.

(2) Upon approval, the department's marine regional manager or his or her designee shall issue a Letter of Authorization to the permittee containing all conditions of use.

NOTE: Authority cited: Sections 7071 and 7078, Fish and Game Code.

Reference: ~~Section~~ Sections 7056, 7071, 7078, 7087, 7857, 7858 and 7881 Fish and Game Code.

§ 163.1. Harvest of Pacific Herring.

(a) Areas. Pacific ~~Herring~~ herring (herring) may be taken for commercial purposes only in the following areas:

(1) San Francisco Bay. San Francisco Bay is defined as the waters of Fish and Wildlife Districts ~~(Districts)~~ (Districts) 11, 12 and 13.

(A) No net shall be set or operated to a point of land above mean lower low water or within 300 feet of the following piers and recreation areas: Berkeley Pier, Paradise Pier, San Francisco Municipal Pier between the foot of Hyde Street and Van Ness Avenue, Pier 7 (San Francisco), Candlestick Point State Recreation Area, the jetties in Horseshoe Bay, and the fishing pier at Fort Baker. No net shall be set or operated within 70 feet of the Mission Rock Pier.

(B) No nets shall be set or operated in the following areas:

1. Belvedere Cove north of a line drawn from the tip of Peninsula Point (37° 51' 43" N, 122° 27' 28" W) to the tip of Elephant Rock (southwest of Pt. Tiburon at 37° 52' 19" N, 122° 27' 03" W).

2. No gill nets shall be set or operated inside the perimeter of the area bounded as follows: beginning at the middle anchorage of the western section of the Oakland Bay Bridge (Tower C at 37° 47' 54" N, 122° 22' 40" W) and then in a direct line southeasterly to the Lash Terminal buoy #5 (G"5" buoy, flashing green 4s at 37° 44' 23" N, 122° 21' 36" W), and then in a direct line southeasterly to the easternmost point at Hunter's Point (Point Avisadero at 37° 43' 44" N, 122° 21' 26" W) and then in a direct line northeasterly to the Anchorage #9 buoy "A" (Y"A" buoy, flashing yellow 4s at 37° 44' 46" N, 122° 19' 25" W) and then in a direct line northwesterly to the Alameda N.A.S. entrance buoy #1 (G"1" buoy, flashing green 4s at the entrance to Alameda Carrier Channel (37° 46' 38" N, 122° 20' 27" W) and then in a direct line northwesterly to the Oakland Harbor Bar Channel buoy #1 (G"1" buoy, flashing green 2.5s at 37° 48' 15" N, 122° 21' 23" W) and then in a direct line southwesterly to the point of beginning, Oakland Bay Bridge (Tower C at 37° 47' 54" N, 122° 22' 4" W).

(2) Tomales Bay. Tomales Bay is defined as the waters of District 10 lying south of a line drawn west, 252 magnetic, from the western tip of Tom's Point (38° 12' 53" N, 122° 57' 11" W) to the opposite shore (38° 12' 44" N, 122° 57' 42" W).

(3) Humboldt Bay. Humboldt Bay is defined as the waters of Districts 8 and 9.

(4) Crescent City. Crescent City is defined as Crescent City Harbor and that area of the waters of District 6 less than 20 fathoms in depth between two nautical measure lines drawn due east and west true from Point Saint George (41° 47' 07" N, 124° 15' 16" W) and Sister Rocks (41° 39' 31" N, 124° 08' 43" W).

(5) No boats or nets shall be operated or set in violation of existing state regulations applying to the navigation or operation of fishing vessels in any area including but not limited to San Francisco Bay, Tomales Bay, Humboldt Bay and Crescent City Harbor.

(6) All fishing for herring in ocean waters (except as specified above) is prohibited. An incidental allowance of no more than 10 percent herring by weight of any load composed primarily of other coastal pelagic fish species or market squid may be landed.

(b) Fishing Season.

(1) The season shall be open from 5:00 p.m. on January 2, and close at 12:00 ~~pm~~ p.m. on March 15.

(A) If the opening date falls on a Friday or Saturday, fishing shall commence on the first Sunday following January 2 at 5:00 p.m.

(B) If the closing date of the fishery falls on a Saturday or Sunday, fishing shall close on the Friday immediately preceding March 15 at 12:00 ~~pm~~ p.m.

(c) Gear Requirements. herring may be taken via set gill nets or small-scale lampara nets that meet the following requirements:

(1) Gill Net Length.

(A) San Francisco Bay herring permit holders and Tomales Bay herring permit holders shall fish no more than a total of two-~~(2)~~ gill nets that are 65 fathoms (one shackle) or less each in length, as measured at the cork line. Temporary permit holders shall fish no more than one ~~(4)~~ gill net that is 65 fathoms (one shackle) or less in length, as measured at the cork line, for each Temporary permit held. Said gill nets shall not exceed 120 meshes in depth.

(B) In Humboldt Bay and Crescent City Harbor, no permittee shall fish in combination more than 150 fathoms of gill net. Said gill nets shall not exceed 120 meshes in depth.

(2) Gill Net Mesh Length. Length of the mesh shall be the average length of any series of ten ~~(10)~~ consecutive meshes measured from the inside of the first knot and including the last knot when wet after use; the ten-~~(10)~~ meshes, when being measured, shall be an integral part of the net as hung and measured perpendicular to the selvages; measurements shall be made by means of a metal tape measure while ten-~~(10)~~ meshes are suspended vertically under ~~one-pound~~ one-pound weight, from a single stainless steel peg or nail of no more than 5/32 inch in diameter.

(A) In San Francisco Bay and Tomales Bay the average length of the meshes of any gill net used or possessed in the fishery shall not be less than ~~2-1/4~~ two nor greater than ~~2-1/2~~ two and one-half inches, and the length of any series of ten-~~(10)~~ consecutive meshes as determined by the above specifications shall not be less than 20 inches or greater than 25 inches.

(B) In Humboldt Bay and Crescent City Harbor the length of the meshes of any gill net used or possessed in the fishery shall not be less than ~~2-1/4~~ two and one-quarter inches or greater than ~~2-1/2~~ two and one-half inches, and the length of any series of ten-~~(10)~~ consecutive meshes as determined by the above specification shall not be less than ~~22-1/2~~ 22.5 inches or greater than 25 inches.

(3) Set gill nets shall be anchored by not less than 35 pounds of weight at each end, including chain; however, at least ~~one-half~~ one-half of the weight must be anchor.

(4) Gill nets shall be marked at both ends with a buoy displaying above its waterline, in Roman alphabet letters and Arabic numerals at least 2 two inches high, the official number of the vessel from which such gill net is being fished. Buoys shall be lighted at both ends using matching white or amber lights that may be seen for at least a distance of 100 yards and marked at both ends with matching flags or markers or placards, all of rigid or ~~non-collapsible~~ non-collapsible material of the same color, on a staff at least 3 three feet above the water at each end, bearing the fishing vessel number in contrasting 4 four-inch black letters.

(5) Lampara Gear Requirements. Herring may be fished by small-scale lampara nets only as defined below in Humboldt Bay by Humboldt Bay herring permit holders.

(A) Humboldt Bay herring permit holders fishing lampara gear shall fish no more than one lampara net constructed of two wings attached to a single central bag constructed of smaller mesh than and distinct from the wings, with no rings along the lead line or any method of pursing the bottom of the net. Each wing shall not exceed 55 fathoms in length, measured along the cork line from the end of the cork line to the intersection of the wing and the lampara bag, and the cork line of the bag shall not exceed 18 fathoms in length. The height of the wings, measured from the lead line to the float line at the mid-point of the wing, shall not exceed 10 fathoms. No lampara net may be used or possessed onboard any vessel using or possessing gill nets in the fishery.

(d) Net Tending. Permitted vessels shall be in the immediate proximity, not exceeding three ~~(3)~~ nautical miles, of any single gill net being fished.

(e) Temporal Closures. Herring fishing is not permitted from noon Friday through 5:00 p.m. Sunday.

(f) Noise. All San Francisco Bay herring permittees, vessel operators, or crew shall recognize city ordinances governing transient noise sources, when fishing within 500 feet of any shoreline with residential dwellings, between the hours of 10:00 p.m. and 7:00 a.m. through implementation of noise reduction measures specified or developed by the herring fishing industry and approved by the department. Noise reduction measures include, but are not limited to: noise dampening devices for shakers and anchor chains, muffled engine exhaust systems, limited use of deck speakers, and/or reduced speed within 500 feet of shore.

(g) Marine Mammals. The use of explosives, seal bombs, or marine mammal deterrent devices in the herring fishery is prohibited.

(h) Retention and Discards.

(1) All fish taken by gill nets shall be retained and landed except sturgeon, halibut, salmon, steelhead and striped bass may not be taken by or possessed on any vessel operating under the authority of these regulations. All sturgeon, halibut, salmon, steelhead and striped bass shall be returned immediately to the water.

(2) Only herring may be retained by any vessel fishing lampara nets under the authority of a Humboldt Bay herring permit. Herring shall be removed from the water by hand-operated

brail or dip net only and retained onboard the vessel. All other fish wrapped by lampara net shall be immediately released and shall not be removed from the water or retained.

(3) All herring wrapped by lampara net in excess of any seasonal quota established by subsection 55.02(d), allotted tonnage established by subsection 163.1(j)(5), or daily landing limit established by subsection 163.1(j)(7) shall be released and shall not be removed from the water or retained.

(i) Notification Requirements.

(1) Permittees shall notify the department using the contact information designated on the permit within 24 hours of beginning fishing for the season.

(2) Permittees shall notify the department using the contact information designated on the permit, within 24 hours if they terminate fishing operations for the season prior to the overall quota being taken.

(j) Landing Requirements.

(1) Herring shall not be landed between the hours of 10:00 p.m. and 6:00 a.m. on weekdays, or from 10:00 p.m. Friday to 6:00 a.m. Monday.

(2) It is unlawful to transfer herring or herring nets from one permittee to another or from one boat to another except that ~~non-motorized~~ non-motorized lighters may be used, provided they do not carry aboard any gear capable of taking herring, including net reels, and that the catches of not more than one permittee are aboard the lighters at any time. Permit vessels shall not serve as lighters for other permit boats.

(3) A permittee and ~~his/her~~ their gear must stay together when delivering fish to market.

(4) Any herring taken for commercial purposes shall only be delivered to a person licensed pursuant to Section 163.5 ~~of these regulations~~.

(5) The department will estimate from the current catch rate the time at which the herring season catch is estimated to reach any quota established in accordance with ~~Section subsection~~ subsection 55.02(d) ~~of these regulations~~ and will publicly announce that time on VHF/Channel 16. It shall be the responsibility of all permittees to monitor this radio channel at all times. Any announcement made by the department on VHF/Channel 16 shall constitute official notice. All fishing gear must be removed from the water by the announced time terminating fishing operations. The department may announce a temporary closure for the ~~gill net-herring~~ fishery in order to obtain an accurate tally of landings and to allow all boats to unload. If the fishery is reopened, permittees may be limited to equally allotted tonnages to preclude exceeding a quota, as may be announced, and, if necessary, additional time may be granted to reach the quotas.

(6) All herring landed in excess of any established quota shall be forfeited to the department by the signing of a Release of Property form DFW 1108 MR-FG-674 (Rev. 5/13), as set forth in subsection 163(c). Such fish shall be sold or disposed of in a manner determined by the department. The proceeds from all such sales shall be paid into the Fish and Game Preservation Fund.

(7) Any vessel taking herring by lampara gear, described in subsection 163.1(c)(5), shall not possess or make landings in excess of 2,000 pounds of herring per calendar day. Such landings shall be counted along with gill-net landings toward any annual Humboldt Bay herring quota established in accordance with subsection 55.02(d).

(A) Herring taken by lampara gear shall not be landed after 12:00 p.m. on February 14 during a fishing season as defined by subsection 163.1(b). If February 14 lands on a Saturday or Sunday, then such herring shall not be landed after 12:00 p.m. on the Friday immediately preceding February 14.

NOTE: Authority cited: Sections 7071, and 7078 ~~and 8550~~, Fish and Game Code. Reference: Sections 7056, 7071, 7078, and 7087 ~~and 8550~~, Fish and Game Code.