

STATE OF CALIFORNIA  
FISH AND GAME COMMISSION  
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION  
(Pre-publication of Notice Statement)

Amend Sections 163 and 164  
Title 14, California Code of Regulations  
Re: Harvest of Herring and Harvest of Herring Eggs

I. Date of Initial Statement of Reasons: June 14, 2007

II. Dates and Locations of Scheduled Hearings:

(a) Notice Hearing: Date: July 13, 2007  
Location: Bridgeport, CA

(b) Discussion Hearing: Date: August 10, 2007  
Location: Santa Barbara, CA

(c) Adoption Hearing: Date: October 12, 2007  
Location: Concord, CA

III. Description of Regulatory Action:

(a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

Under existing law, herring and herring eggs may be taken for commercial purposes only under a revocable permit, subject to such regulations as the Fish and Game Commission (Commission) shall prescribe. Current regulations specify: permittee qualifications; permit application procedures and requirements; permit limitations; permit areas; vessel identification requirements; fishing quotas; seasons; gear restrictions; quotas; landing and monitoring requirements; permit categories and conditions; royalty fees; permit performance deposit requirements; fishing and harvesting restrictions; processing requirements and permit suspension conditions and procedures.

The proposed regulations would establish fishing quotas, establish season dates and times that fishing operations are allowed, grant authority to the Director of Fish and Game (Director) for the 2008-09 season and beyond to choose the quota within a range of 0-15% of the most current biomass estimate for San Francisco Bay, grant the authority to the Director for the 2008-09 season and beyond to choose season dates with input from the Director's Herring Advisory Committee (DHAC) for the San Francisco and Tomales Bay fisheries, allow herring permittees in San Francisco Bay to be

up to three nautical miles from their nets, require the \$50 fee for boat transfers and substitution requests be submitted with the written request for transfer or substitution, modify a section to correspond with Section 163.5 regarding penalties for late applications, provide clarifying language regarding boat registration, and correct the Herring Eggs on Kelp Permit Application number to correspond with the 2007-08 season application.

Annual management recommendations, to improve or provide for the efficient harvest and orderly conduct of the herring fishery, are solicited from interested fishermen and individuals at public meetings and from the DHAC, which is composed of various representatives from the commercial herring fishing industry. The proposed amendments to Sections 163 and 164, Title 14, California Code of Regulations (CCR), reflect, in part, Department recommendations presented to the Director's Herring Advisory Committee and recommendations from the DHAC. The Department prepared a Supplemental Environmental Document, pursuant to the requirements of the California Environmental Quality Act. This Environmental Document will be released for public review in mid-July 2007. Certification of the Environmental Document is scheduled to occur at the October 12, 2007 Commission meeting in Concord, California.

### **BACKGROUND**

Pacific herring occur in four primary spawning areas of California, in San Francisco Bay, Tomales Bay, Humboldt Bay, and Crescent City Harbor. The Department manages these populations as separate stocks. The commercial herring fisheries on these stocks are closely regulated through a catch quota system to provide for adequate protection and utilization of the herring resource. The Department conducts annual assessments of the size (spawning biomass) of the spawning populations of herring in San Francisco and Tomales bays. In addition to the assessment of spawning biomass, the Department examines the age structure of the spawning population, growth and general condition, biological aspects of the catch, and environmental conditions. These data serve as the basis for establishing fishing quotas for the next successive season.

### **FISHING QUOTAS**

Annual fishing quotas are conservatively set and have been limited to a total commercial catch of not more than 20 percent (harvest percentage) of the spawning biomass, to ensure adequate protection for the herring resource and provide for the long-term yield of the fishery. In practice, the harvest percentage has typically been set between 10 and 15 percent of the previous season's spawning biomass estimate. Harvest percentages are not determined by a fixed mathematical formula, rather, they are modified based on additional biological data collected each season, such as oceanic conditions, growth rates of herring, strength of individual year-classes, and predicted size of incoming year-classes (*i.e.*, recruitment). In response to

poor recruitment, or indication of population stress, and/or unfavorable oceanographic conditions, harvest percentages are set below 15 percent. For example, the harvest percentage for the 1992-93, 1993-94, 1994-95, 1997-98, 2000-01, 2001-02, 2002-03, 2004-05, and 2005-06 fishing seasons in San Francisco Bay was set at 12, 10, 12, 12, 10, 12, 10, 10, and 7.6 percent, respectively. The 2006-07 harvest percentage represented 3.1 percent of the 2005-06 season biomass. This harvest percentage was proposed based on the previous season's quota, industry support and the desire for further information on the impacts of *Gracilaria* (subtidal algae) density on calculating the spawning biomass.

### **San Francisco Bay**

The 2006-07 spawning biomass estimate for San Francisco Bay is 10,935 tons (including catch), which is far below the 28-year average of 52,302 tons and a 92 percent decrease over last season's estimate of 145,054 tons. Since the 2002-03 season, the Department has expressed concern regarding the health, specifically the age structure, of the San Francisco Bay herring population. Additionally, since the 1997-98 El Niño, the estimated numbers of age 4 and older herring which support the gill net fishery have declined in the population and the number of age 3 herring has increased in the catch. The number of 3-year old fish in the catch increased during the 2006-07 season potentially due to the decreases in 4-, 5-, and 6-year old herring which continues to indicate a truncated age structure. The use of 2 inch mesh gillnets in the San Francisco Bay fishery may have also increased the take of age three and potentially age two fish in the commercial catch. One of the Department's herring fishery management goals is to allow the harvest of age 4 and older herring and to avoid the harvest of 2- and 3-year old fish, many of which are first-time spawners. A coast-wide trend in decreasing mean length at age, and a truncation in age-classes have been reported for herring fisheries along the eastern Pacific coast in British Columbia and Alaska.

The spawning biomass estimate for this season is the lowest recorded estimate in the history of the roe herring fishery (1978-79 season to present). The precipitous drop in spawning biomass from a record high in 2005-06 to a record low in 2006-07 may have been caused by unfavorable environmental ocean conditions associated with an El Niño event, and an unusually dry winter for San Francisco Bay.

### San Francisco Bay Quota:

The Department is providing the Commission the option to consider a quota 0-10 percent of the most recent spawning biomass estimate. The Department's recommendation for the 2007-08 season is 1094 tons, which is 10 percent of the 2006-07 spawning biomass.

The Department continues to be concerned about the status of the herring population in San Francisco Bay; however, we believe that our recommendation represents a conservative approach. The number of boats fishing the San Francisco herring fishery has decreased substantially in the last several years. Since the 2004-05 season, the number of boats actively fishing has gone from over forty to twenty-five and both herring permittees and herring buyers anticipate that the number of boats actively fishing during the 2007-08 season could decrease further. Given the decline in the number of active participants in the fishery and the possibility for improved environmental conditions the Department believes that a 1,094 ton quota will provide for a small fishery for the permittees while maintaining conservation safeguards against overexploitation.

Within the overall quota for San Francisco Bay, separate quotas are established for each gill net platoon (i.e., December "DH", Odd, and Even fishing groups). The overall quota is divided among the three platoons in proportion to the number of permits assigned to each platoon. Slight annual adjustments in the quota assignments for each fishing group are needed to account for attrition of permittees and the use of herring permits in the herring eggs on kelp (HEOK) fishery. Herring eggs on kelp fishing occurs only in San Francisco Bay and the fishery is regulated under Section 164, Title 14, CCR. Individual HEOK quotas will depend on the total herring fishery quota for San Francisco Bay established by the Fish and Game Commission under Section 163, Title 14, CCR. In 1994, the Commission decided to provide HEOK permittees possessing "CH" permits with a HEOK quota equal to approximately 0.79 percent of the overall quota.

All HEOK permittees must hold a herring permit. To fish HEOK, a herring permittee must waive his or her herring fishing privileges under Section 163 and "exchange" his or her "share" of the herring quota for an equivalent HEOK quota. The current factor used to convert an equivalent amount of resource from the sac roe fishery to the herring eggs on kelp fishery is 0.2237.

### **Tomales Bay**

No changes to the regulations are proposed for the Tomales Bay fishery quota. Proposed changes to the season dates are outlined under "Season Dates and Fishing Times" below.

### **Humboldt Bay and Crescent City Harbor**

No changes to the regulations are proposed for Humboldt Bay or Crescent City Harbor herring fisheries including quotas and season dates.

## **FOR THE 2008-09 SEASON AND BEYOND: GRANT AUTHORITY TO THE DIRECTOR OF FISH AND GAME TO CHOOSE A QUOTA WITHIN A**

## **RANGE OF 0-15% OF THE MOST CURRENT BIOMASS ESTIMATE FOR SAN FRANCISCO BAY**

In an effort to streamline the regulatory process for the Pacific herring regulations, the Department proposes that the Commission grant the authority to Director of Fish and Game (Director) to choose the quota within a range of 0-15% of the most current biomass estimate for San Francisco Bay. The Director would establish the annual quota based on the determination of the Department as to the status of the stock utilizing the best science available, including but not limited to information from recent fishery-independent field surveys, commercial catches, age composition and environmental data. The Director shall provide the Executive Director of the Fish and Game Commission and permitted herring fishermen with a memo stating the annual quota by May 15 of each year for the upcoming herring season.

The Department will continue to use a harvest strategy for the commercial herring fishery based on a mathematical model developed by the Pacific Fishery Management Council (PFMC). This model demonstrated that a 20% harvest rate of the estimated biomass would be sustainable for several years into the future under stable environmental and biological conditions. Since the 1997-98 El Nino event the Department has taken a more conservative approach when setting harvest rates with quotas averaging 10% (range 3-15%) of the previous season's biomass estimate for that 10-year period. This proposal would potentially reduce the number of regulatory packets that would have to be opened during the next few years, thus reducing the workload for Department and Commission personnel while maintaining the management strategy.

## **SEASON DATES AND FISHING TIMES**

The consensus of the DHAC, which met on March 16, 2007, was to recommend that the dates of the roe herring fisheries in San Francisco Bay be set from 5:00 p.m. on Sunday, December 2, 2007 until noon on Friday, December 21, 2007 ("DH" gill net platoon only). Recommended dates for the odd and even platoons are from 5:00 p.m. on Wednesday, January 2, 2008, until noon on Friday, March 21, 2008. The consensus of the Tomales Bay permittees for season dates was to recommend opening at noon on Wednesday, December 26, 2007, until noon on Friday, February 29, 2008.

## **FOR THE 2008-09 SEASON AND BEYOND: GRANT AUTHORITY TO THE DIRECTOR OF FISH AND GAME TO CHOOSE SEASON DATES FOR THE 2008-09 SEASON AND BEYOND**

Season opening and closing dates for San Francisco and Tomales bays, as well as the dates of various provisions of the regulations, have historically been adjusted each year to account for annual changes in the

calendar. The Department proposes that the Commission grant the authority to the Director of the Department of Fish and Game to choose season dates for the 2008-09 season and beyond, with input from the DHAC, for the San Francisco and Tomales Bay fisheries. The Director shall provide the Executive Director of the Fish and Game Commission and permitted herring fishermen with a memo stating the season dates by May 15 of each year for the upcoming herring season. This would eliminate the need to open a regulatory packet to change season dates, which would help streamline the regulatory process for the Department and the Commission.

### **EXTEND THE DISTANCE ALLOWED FROM THE NET FROM 1 MILE TO 3 MILES**

Subsection (f)(2)(A) of the roe fishery regulations specifies that herring gillnet permittees shall be within one nautical mile of any gill net being fished. The DHAC has recommended that herring permittees be allowed to extend that distance to three nautical miles. This would allow them to search for schools of herring while still legally fishing their gillnet gear.

The issue of restricting travel to no more than one mile from their fishing net was originally imposed to cut down on nets being left unattended for long periods of time. When the regulation was put in place, there was one permit on each boat and each herring permittee was allowed to fish two gillnets. Problems with unattended nets occurred even though they were properly marked with buoys at both ends and lighted at night. Other boaters utilizing San Francisco Bay were impacted resulting in disabled boaters calling for help from the United States Coast Guard.

Since the regulation was put in place more than ten years ago, the number of boats actively fishing in the fishery has declined. The sharpest decline has occurred in the last three years. Despite the decline, the Department is concerned that by allowing a permittee to be three miles from their nets it will increase the travel time for a permittee should a conflict with other boaters occur. The Department is also concerned that monitoring the location of the nets by enforcement personnel will prove more difficult. To alleviate this concern, each actively fishing herring permittee needs to provide the means for enforcement personnel to contact the herring permittee should problems occur.

### **SEASONAL PERMIT TRANSFER/SUBSTITUTION FEE**

Current language in the first paragraph of Section 163 states that, "the \$50 transfer fee must be received in the department's License and Revenue Branch, Sacramento office no later than five working days after written approval of any boat transfer of permittee substitution". The Department proposes to amend this paragraph to require that the fee of \$50 for boat transfers and permittee substitution requests be submitted along with the

written request for transfer or substitution. Fish and Game Code Section 1050.1 states that any license, permit, tag stamp, or entitlement authorized pursuant to this code is not valid until the fee authorized or identified in statute or regulation for that entitlement is received and paid to the Department or its agent.

**PERMIT ISSUANCE DATE**

Current language in the first paragraph of Section 163 specifies an “issuance date” of November 15. The Department proposes to remove the term “issuance date”. License and Revenue Branch issues licenses and permits as the applications and payment are received. It would not be practical to hold and issue all herring applications until November 15.

**CHANGES FOR CLARITY AND CONSISTENCY**

Existing language in Section 163(b)(1) outlines the requirements for submitting an application for a herring permit. Along with other requirements, it states that a “certificate of the boat registration” is needed. A certificate of boat registration does not exist. Therefore, for clarity, the Department proposes to remove “certificate of”.

In Section 163(b)(3), existing language specifies the due date for herring permit applications. It also states that if an application is not received or postmarked by the deadline date, it will not be eligible for consideration for the current herring season. Currently, the Commission applies penalties to late applications pursuant to Section 163.5(f)(2)(A)(3). Therefore, for consistency and clarity the Department proposes to remove the language “not be eligible for consideration for the current California herring season”, and add that applications and permit fees received after the above deadline “will be subject to Section 163.5(f)(2)(A)(3) of Title, 14, of the CCR.”

Corrections to the Herring Eggs on Kelp Permit Application number in subsection 164(h)(1) are proposed to coincide with the 2007-08 season application.

- (b) Authority and Reference Sections from the Fish and Game Code for Regulation:

Authority: Sections 1050, 5510, 8550, 8552.1, 8553 and 8555, Fish and Game Code.

References: Sections 713, 8043, 8550, 8552, 8552.6, 8553, 8554, 8555, 8556, 8557 and 8559, Fish and Game Code.

- (c) Specific Technology or Equipment Required by Regulatory Change:

None.

- (d) Identification of Reports or Documents Supporting Regulation Change:
  - (1) Informational Summary Packet for herring fisheries in (a) San Francisco Bay; (b) Tomales Bay; (c) Humboldt Bay, Crescent City Harbor.
  - (2) Meeting Notes, Director's Herring Advisory Committee Meeting, March 16, 2007, Sacramento, California.
  - (3) Meeting Notes, Director's Herring Advisory Committee Conference Call, April 13, 2007.

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

- (1) Herring Town Hall Meeting, January 19, 2007, Sausalito, California.
- (2) Director's Herring Advisory Committee Meeting, March 16, 2007, Sacramento, California.

IV. Description of Reasonable Alternatives to Regulatory Action:

- (a) Alternatives to Regulation Change: No alternatives were identified.
- (b) No Change Alternative:  
A no change alternative would provide a quota for the 2007-08 fishing season of 4,502 tons.
- (b) Consideration of Alternatives:

The following Alternatives were considered but rejected by the Department of Fish and Game:

**SIMPLIFYING THE PACIFIC HERRING REGULATIONS**

The existing Pacific herring regulations are cumbersome, complex and difficult to manage. The Department, as well as the DHAC, is very interested in simplifying the Pacific herring regulations. However, a comprehensive restructure will take time and could not be done this regulatory cycle. The Department will be looking into how to simplify the regulations in the future.

**REDUCTION IN OUT-OF-STATE PERMIT FEE**

Fish and Game Code §8552.1 provides the Commission with the authority to adjust fees charged for permits. Some members of the



DHAC expressed their concerns regarding the disparity between the non-resident and resident permit fees for the Pacific herring fishery at a Town Hall meeting on January 19, 2007, at the DHAC meeting on March 16, 2007, and on a DHAC conference call on April 14, 2007. Currently, the non-resident permit fee for Pacific herring is \$1,066.25 and the in-state permit fee is \$282.50. Along with their Pacific herring limited entry permit fee, out-of-state permittees must obtain a non-resident boat registration (\$852.25), a non-resident commercial fishing license (\$324.00), and a Herring Stamp (\$106.25) if they fish in San Francisco Bay, resulting in a total cost of \$2,348.75 for one permit. If a permittee owns three herring permits, the total cost would be \$4,697.75. All of these fees are subject to annual indexing and therefore increase by small amounts each year. Non-resident permittees have stated that the cost of purchasing their permits has become prohibitive especially for those who own more than one permit. The industry proposal is to reduce the non-resident permit fee to a point that would not exceed a differential that was fifteen percent greater than the resident fee.

The Department, at the request of the Commission, has prepared a report that evaluates the cost of managing the state's commercial fisheries. This report identified that there is a large gap between commercial fees and revenues and the costs to operate those fisheries. For this reason the Department does not support a proposal for a reduction in permit fees for the 2007-08 season.

**ALLOW A PERMITTEE TO BE A TEMPORARY SUBSTITUTE FOR TWO PERMITS IN THE SAME FISHING GROUP**

Existing regulations state that a permittee can fish their permit in their assigned fishing group(s) and be a temporary substitute for one other permittee in the same fishing group. DHAC members proposed at their March 16, 2007 meeting that permittees be allowed to be a temporary substitute for two permittees in the same fishing group regardless of ownership. Section 163 states that, "A permittee serving as a temporary substitute on a permit while simultaneously fishing his or her own permit on a single vessel in the same fishing group shall incur the same penalties on his/her permit for all violations as those incurred against the permit for which he/she is serving as temporary substitute as prescribed in these regulations and in Section 163.5, Title 14, CCR." Allowing a permittee to act as a temporary substitute for two permits within the same fishing group, would potentially reduce the number of crew members acting as temporary substitutes for a herring permit and make the operator of the boat responsible for any violations and penalties as prescribed in Section 163. Because the Department is

planning a comprehensive restructure of herring regulations in the near future the the Department's recommendation is to address this issue at that time.

### **EXTENSION OF FISHING TIME**

Existing regulations specify that herring fishing is not permitted from noon on Friday through 5:00 p.m. Sunday in San Francisco Bay. DHAC members have proposed extending fishing time in San Francisco Bay by allowing fishing from noon on Friday to 7:00 a.m. Saturday each week. It is the goal of the industry in opening fishing during this time to increase the profitability of the fishery. Due to the limited time that herring are available to the fishery, a weekend spawning event could potentially represent a significant portion of herring that could be caught during the season and could represent significant income to the industry. Removal of the weekend restriction would allow San Francisco Bay herring fishermen to operate an additional 19 hours a week during the season.

The existing Friday noon closure in San Francisco Bay was established to minimize the conflict with other boating users on the Bay, mainly the recreational power and sail boaters. With an extension of fishing time to encompass a portion of the weekend, there is a potential for a user conflict during the extended fishing hours. Extending fishing into the weekend in San Francisco Bay would also potentially increase costs to the Department in the form of overtime for Department personnel to monitor fishing activity. As a limited entry quota fishery, landings information is strictly monitored especially when quotas are close to being reached for each fishing group. Until the issues mentioned above can be sufficiently resolved the Department does not support extension of fishing time.

#### V. Mitigation Measures Required by Regulatory Action:

See Draft Supplemental Environmental Document – Pacific Herring Commercial Fishing Regulations.

#### 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 2007-08 regulations would affect California's commercial herring fishermen and herring processing plants, all of which are small businesses as defined under Government Code Section 11342.610, but should not affect the ability of California businesses to compete with businesses in other states. Depending on the decision of the Fish and Game Commission (Commission), harvest quotas for San Francisco Bay herring fishermen could decrease from the 2006-07 quota of 4,502 tons to 1,094 tons for 2007-08. In light of the recommended 1,094 ton quota for 2007-08, the maximum potential adverse economic impacts for 2007-08 are given in the table below. Note, variability in environmental and ocean conditions, and volatility in future herring biomass estimates, prevent realistic forecasts of future economic impacts to the herring industry, beyond the 2007-08 season.

<b>Maximum potential economic impacts from proposed 2007-08 herring fishery quota regulations, relative to year 2006-07 allowable quotas.</b>			
Season(s)	Business Economic Output*	Jobs	Wages and Earnings*
2007-08	\$ (4,965,841)	-61	\$ (2,525,179)
After 2007-08	Unknown	Unknown	Unknown
<i>*All dollar amounts are in year 2006 prices (2006\$). Negative values are incremental losses in output, jobs, or wages relative to last year, and denoted with parentheses or minus sign.</i>			

These maximum potential economic impacts are based on changes in the allowable harvest quota relative to the 2006-07 season. Thus the projected maximum potential economic impacts assume the entire 2006-07 harvest quota was utilized to generate business revenue, jobs, and wages. Similarly, the above maximum potential economic impact projections, assume the entire 2007-08 allowable quotas will be utilized. Differences in the harvest potential between the fishing seasons are then used to estimate incremental impacts to revenue, output, jobs, and earnings, arising from the proposed regulations. However, the probable impacts are expected to be much less since the San Francisco Bay herring fishery only harvested 6.5% of the allowable 4,502 ton quota in the 2006-07 San Francisco Bay herring season. Using actual 2006-07 landings history as the initial point of comparison to the proposed regulations, may offer economic projections more indicative of reality.

Relative to actual landings observed in the 2006-07 San Francisco Bay herring fishery, the potential economic impacts projections would be as shown in the table below.

<b>Potential economic impacts from proposed 2007-08 herring fishery regulations, relative to year 2006-07 landings history.</b>			
Season(s)	Business Economic Output	Jobs	Wages and Earnings*
2007-08	\$ 1,168,969	14	\$ 594,432
After 2007-08	Unknown	Unknown	Unknown

*\*All dollar amounts are in year 2006 prices (2006\$). Negative values are incremental losses in output, jobs, or wages relative to last year, and denoted with parentheses or minus sign.*

- (a) 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:

None.

- (c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. There are no new fees or reporting requirements stipulated under the proposed regulations.

- (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:

None.

- (h) Effect on Housing Costs:

None.

## INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Under existing law, herring may be taken for commercial purposes only under a revocable permit, subject to such regulations as the Fish and Game Commission shall prescribe. Current regulations specify: permittee qualifications; permit application procedures and requirements; permit limitations; permit areas; vessel identification requirements; fishing quotas; seasons; gear restrictions; quotas; and landing and monitoring requirements.

The proposed regulations would establish fishing quotas, establish season dates and times that fishing operations are allowed, grant authority to the Director of Fish and Game (Director) for the 2008-09 season and beyond to choose the quota within a range of 0-15% of the most current biomass estimate for San Francisco Bay, grant the authority to the Director for the 2008-09 season and beyond to choose season dates with input from the Director's Herring Advisory Committee (DHAC) for the San Francisco and Tomales Bay fisheries, allow herring permittees in San Francisco Bay to be up to three nautical miles from their nets, require the \$50 fee for boat transfers and substitution requests be submitted with the written request for transfer or substitution, modify a section to correspond with Section 163.5 regarding penalties for late applications, provide clarifying language regarding boat registration, and correct the Herring Eggs on Kelp Permit Application number to correspond with the 2007-08 season application.

The following is a summary of the proposed changes in Sections 163, and 164, Title 14, CCR:

- The proposed regulations would establish fishing quotas by area for the 2007-08 herring fishing season, based on the most recent biomass assessments of spawning populations of herring. The Department is recommending the San Francisco Bay quota be set at 1,094 tons, which represents 10 percent of the 2006-07 spawning biomass estimate. If the Commission were to adopt San Francisco Bay this quota, a 1,094 ton quota this would result in a 1.9 ton individual quota for a "CH" gillnet permittee and a 0.9 ton individual quota for a non-"CH" gillnet permittee participating in the HEOK fishery.
- For the 2008-09 season and beyond, the proposed regulations would grant authority to Director of Fish and Game to choose the quota within a range of 0-15% of the most current biomass estimate for San Francisco Bay. The Director would establish the annual quota based on the determination of the Department as to the status of the stock utilizing the best science available, including but not limited to information from recent fishery-independent field surveys, commercial catches, age composition and environmental data. The Director shall provide the Executive Director of the Fish and Game Commission and

permitted herring fishermen with a memo stating the annual quota by May 15 of each year for the upcoming herring season.

- There are no quota changes proposed for Humboldt Bay/Crescent City Harbor or Tomales Bay for the 2007-08 herring season.
- Proposed regulations would allow fishing in San Francisco Bay from 5:00 p.m. on Sunday, December 2, 2007 until noon on Friday, December 21, 2007 ("DH" gill net platoon only). Recommended dates for the odd and even platoons are from 5:00 p.m. on Wednesday, January 2, 2008, until noon on Friday, March 21, 2008.
- The proposed regulations would set the dates of the roe herring fisheries in Tomales Bay from noon on Wednesday, December 26, 2007, until noon on Friday, February 29, 2008.
- For the 2008-09 season and beyond, the proposed regulations would grant the authority to the Director of Fish and Game to choose season dates, with input from the DHAC, for the San Francisco and Tomales Bay fisheries. The Director shall provide the Executive Director of the Fish and Game Commission and permitted herring fishermen with a memo stating the season dates by May 15 of each year for the upcoming herring season.
- A proposed amendment to the regulations would allow herring permittees in San Francisco Bay to be within 3 nautical miles of their nets while fishing instead of the existing 1 nautical mile regulation starting with the 2007-08 season.
- The proposed regulations would amend a section to require that the fee of \$50 for boat transfers and permittee substitution requests must be submitted along with the written request for transfer for substitution.

Following are minor changes proposed to clarify and simplify the regulations.

- The proposed regulations would amend a section to correspond with Section 163.5 regarding penalties for late applications.
- The proposed regulations would correct the herring Eggs on Kelp permit application number in subsection 164 (h)(1) to coincide with the 2007-08 season application.