

## REGULATORY LANGUAGE

**Section 163, Title 14, CCR, is amended to read:**

**§ 163. Harvest of Herring.**

*. . . [No changes to subsections (a) through (f)]*

(g) Quotas.

(1) Crescent City Area: The total take of herring in the Crescent City area for commercial purposes by use of gill net only shall not exceed 30 tons per season.

(2) Humboldt Bay: The total take of herring in Humboldt Bay for commercial purposes by use of gill net only shall not exceed 60 tons per season.

(3) Tomales Bay: The total take of herring for commercial purposes by use of gill net only shall not exceed 350 tons per season.

(4) San Francisco Bay: The total take of herring in San Francisco Bay for commercial purposes shall not exceed ~~2,500~~ 834 tons ~~for the 2014-2015~~ per season. Tonnage shall be allocated on the following basis:

(A) Gill net permittees (including "CH" permittees): Tonnage shall be allocated to each fishing group (odd and even) in proportion to the number of permits that are assigned to each fishing group minus the number of permits in each platoon that are suspended for the entire season. Each gill net permittee (designated by the department in writing) participating in research sponsored by the department shall be assigned an individual quota equal to 0.5 percent of the season gill net quota per assigned platoon.

*. . . [No changes to subsections (h) through (j)]*

Note: Authority cited: Sections 1050, 5510, 8550, 8552.1, 8553 and 8555, Fish and Game Code. Reference: Sections 713, 1050, 7852.2, 8043, 8550, 8552, 8552.6, 8553, 8554, 8555, 8556, 8557 and 8559, Fish and Game Code.

## REGULATORY LANGUAGE

**Section 164, Title 14, CCR, is amended to read:**

### **§164. Harvesting of Herring Eggs.**

*[No changes to subsections (a) through (f)]*

(g) Permit conditions: Every person operating under a permit to harvest herring eggs shall:

(1) Forfeit his or her herring fishing privileges authorized pursuant to Section 163 of these regulations during the same season.

(2) In addition to any license fees required by the Fish and Game Code, pay a royalty of \$500 per ton of herring eggs on kelp taken. (The royalty fee shall include the landing tax imposed pursuant to Article 7.5, (commencing with Section 8040) Chapter 1, Part 3, Division 6, of the Fish and Game Code, and the royalty fee required for the harvesting of kelp pursuant to Section 165, Title 14 CCR).

(3) Submit a Herring-Eggs-on-Kelp Monthly Landings and Royalty Report (~~FG 143 HR (Rev. 2/14)~~, DFW 143 HR (REV. 06/04/15)), which is incorporated by reference herein (available at the department's License and Revenue Branch, Sacramento), with payment due to the department's License and Revenue Branch, Sacramento for each month of the season, within 60 days after the close of the month for which it is due.

(h) Permit applications. Each applicant for a herring eggs on kelp permit shall:

(1) Submit the completed application as specified in Section 705, Title 14, CCR, to the address listed on the application for the season to which the application applies. No person shall submit more than one application per season. Applications shall include a performance deposit as specified in subsection (i).

(2) Permit Renewal. Applications for renewal of all Herring-Eggs-on-Kelp permits shall be received by the department, or if mailed, postmarked, on or before ~~August 4~~ the first Friday of October each year. Late fees, late fee deadlines, and late renewal appeal provisions are specified in Fish and Game Code Section 7852.2.

(3) Have submitted all fees from prior seasons.

*. . . [No changes to subsection (i)]*

(j) Method of Take. Herring eggs may only be taken by harvesting giant kelp (*Macrocystis* sp.), with spawn (i.e., eggs) attached, which has been artificially suspended using the following two methods: rafts and/or lines, a technique commonly known as the "open pond" method. For the purpose of this Section, a raft is defined as a temporary, mobile structure with a metal, wood or plastic frame. The total surface area of each raft is not to exceed 2,500 square feet. Rafts used by a licensed herring eggs on kelp permittee, prior to the 1995-96 season, are exempt from these size specifications. Such rafts may not be modified to exceed 2,500 square feet total surface area. Any new raft built after the 1995-96 herring eggs on kelp season must meet the specified dimensions. A line is defined as a piece of line of no more than 1,200 feet in overall length that is suspended under a suitable permanent structure (e.g., pier or

dock), or between two permanent structures (e.g., piers or docks). Kelp lines shall have floats or cork over the entire length of line. Each end of the line must be attached to a permanent structure. Kelp lines suspended from a permanent structure (e.g., pier or dock) shall not be placed as to hinder navigation. If kelp lines are suspended under a permanent structure (e.g., pier or dock), or if a raft is tied up to a permanent structure (e.g., pier, dock or rock wall, natural stationary shoreline structures), the permittee shall obtain prior written approval from the appropriate owners or controlling agency (e.g., wharfinger, Coast Guard, Navy or private owner). Buoys are not permanent structures.

(1) Not more than two rafts and/or two lines may be used per permit. Two permits may be simultaneously fished on the same raft if each line on the raft is clearly identified with the permit number of the owner. Each raft shall have a light at each corner that may be seen for at least a distance of 100 yards. Each raft shall be further identified with the herring eggs on kelp permit number in 14-inch high, 2-inch wide black Roman alphabet letters and Arabic numerals painted on a white background permanently affixed to the raft. Lines shall be marked at the beginning and the end with a light that may be seen for at least a distance of 100 yards. Each line shall be further identified with the herring eggs on kelp permit number in 14-inch high, 2-inch wide black Roman alphabet letters and Arabic numerals painted on a white background, permanently affixed to the line.

(2) Not more than 10 sets of test kelp may be used per permit. Test kelp is defined as one stipe with blades, attached to a length of line for the purpose of testing for spawning activity. A set is defined as one length of line with test kelp attached. Each set must be attached to a permanent structure (e.g., pier, dock) and marked with the herring eggs on kelp permit number, in Roman alphabet letters and Arabic numerals at least 3 inches high, at a point above the waterline. No herring eggs on kelp shall be retained from test kelp sets for testing purposes that have not been weighed and recorded, pursuant to subsection 164(k).

(3) Rafts and/or lines may not be placed in any waters or areas otherwise closed or restricted to the use of herring gill nets operating pursuant to Section 163 of these regulations, except where written approval is granted by the owners or controlling agency (e.g., Navy, Coast Guard). Rafts and/or lines may be placed in Belvedere Cove or Richardson Bay, only if permittees tie their rafts and/or lines to a permanent structure (e.g., pier, dock or rock wall, natural stationary shoreline structures), and obtain prior written approval. Buoys are not permanent structures.

(4) The total amount of herring eggs on kelp that may be harvested by each permittee shall be based on the previous season's spawning population assessment of herring in San Francisco Bay, as determined by the department. This assessment is used to establish the overall herring fishing quotas pursuant to Section 163 of these regulations. Each herring eggs on kelp permittee is allocated a quota equal to approximately ~~0.79 percent~~ 1.0 percent of the quota.

(5) Each vessel operating under or assisting in fishing operations under a permit issued pursuant to these regulations shall have a current Fish and Wildlife commercial boat registration and be further identified with the permittee's herring eggs on kelp permit number in 14-inch high, 2-inch wide black Roman alphabet letters and Arabic numerals painted on a white background permanently affixed to each side of the vessel. If a herring eggs on kelp vessel is also used as an assist vessel in another permittee's fishing operation, it must be identified with the number of the permit it is assisting.

(6) The permittee shall notify the department's License and Revenue Branch, Sacramento in writing with 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 herring eggs under the authority of the permit. The permittee shall receive written approval from the department before using a vessel for harvesting, processing or transporting herring eggs.

(7) Permittee shall notify the department's Santa Rosa Marine Region office at the telephone number designated on the herring eggs on kelp permit within a 4-hour period prior to the suspension of kelp on a raft and/or lines and supply the following information:

(A) Where the kelp suspension will take place; and

(B) Where the permittee plans to fish the rafts and/or lines; and

(C) A local fax number or mailing address where confirmation of kelp suspension notification can be sent.

. . . *[No changes to subsections (k) through (n)]*

Note: Authority cited: Sections 1050, 5510, 8389, 8552.1, 8553 and 8555, Fish and Game Code. Reference: Sections 713, 1050, 7850, 7850.5, 7852.2, 7881, 8043, 8053, 8389, 8550, 8550.5, 8552.1, 8552.2, 8552.3, 8552.4, 8552.5, 8552.6, 8552.7, 8552.8, 8553, 8554, 8555 and 8556, Fish and Game Code.