PROPOSED RULE MAKING

CR-102 (June 2004)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

Agency: Washington Department of Fish and Wildlife

☒ **Preproposal Statement of Inquiry was filed as WSR** 10-13-085 on June 15, 2010 **or**
☐ **Expedited Rule Making--Proposed notice was filed as WSR _____; or**
☐ **Proposal is exempt under RCW 34.05.310(4).**

☒ **Original Notice**
☐ **Supplemental Notice to WSR _____**
☐ **Continuance of WSR _____**

Title of rule and other identifying information: (Describe Subject). WAC 220-48-005 Puget Sound bottomfish--General provisions; WAC 220-48-011 Beam trawl and otter trawl--Gear; WAC 220-48-013 Beam trawl and otter trawl logbooks; WAC 220-48-015 Beam trawl and otter trawl--Seasons; WAC 220-48-016 Pelagic trawl--Gear--Licensing; WAC 220-48-017 Pelagic trawl--Seasons; WAC 220-48-028 Set net--Dogfish--Gear; WAC 220-48-029 Set net--Dogfish--Seasons; WAC 220-48-031 Set line--Gear; WAC 220-48-032 Set line--Seasons; WAC 220-48-041 Commercial jig--Gear; WAC 220-48-051 Troll lines--Bottomfish--Gear; WAC 220-48-052 Bottomfish troll--Seasons; WAC 220-48-062 Drag seines--Seasons; WAC 220-48-071 Bottomfish pots--Gear and seasons; WAC 220-49-012 Herring, anchovy and smelt fishing--Purse seine; WAC 220-49-020 Herring and anchovy--Seasons--Lawful gear--Purposes; and WAC 220-52-051 Shrimp fishery--Puget Sound.

Hearing location(s):
Natural Resources Building, Room 172
1111 Washington St., SE
Olympia WA 98504

Date: December 3-4, 2010 Time: 8:30 a.m.

Submit written comments to:
Name: Lori Preuss, Rules Coordinator
Address: 600 Capitol Way, N.
Olympia WA 98501-1091

E-mail: Lori.Preuss@dfw.wa.gov
Fax: (360) 902-2155 by December 4, 2010

Date of intended adoption: On or after February 4, 2011
(Note: This is **NOT** the **effective** date)

Assistance for persons with disabilities:
Contact: Susan Yeager by: November 25, 2010
TTY: (360) 902-2207 or (360) 902-2267

Purpose of the proposal and its anticipated effects, including any changes in existing rules: See Attachment 1

Reasons supporting proposal: See Attachment 1

Statutory authority for adoption: RCW 77.04.012, 77.12.045, and 77.12.047.

Statute being implemented: RCW 77.04.012, 77.12.045, and 77.12.047.

Is rule necessary because of a:

Federal Law?	☒ Yes	☐ No
Federal Court Decision?	☐ Yes	☒ No
State Court Decision?	☐ Yes	☒ No

If yes, CITATION:
50 CFR, Parts 223 and 224

DATE
October 20, 2010

NAME (type or print)
Lori Preuss

SIGNATURE
Lori Preuss

TITLE
Rules Coordinator

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: October 20, 2010
TIME: 11:30 AM

WSR 10-21-118

(COMPLETE REVERSE SIDE)

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:
None.

Name of proponent: (person or organization) Washington Department of Fish and Wildlife

☐ Private
☐ Public
☒ Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting.....	Craig Burley	1111 Washington St., Olympia	(360) 902-2784
Implementation....	James Scott	1111 Washington St., Olympia	(360) 902-2736
Enforcement.....	Chief Bruce Bjork	1111 Washington St., Olympia	(360) 902-2373

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

☒ Yes. Attach copy of small business economic impact statement.

☐ No. Explain why no statement was prepared.

Is a cost-benefit analysis required under RCW 34.05.328?

☐ Yes A preliminary cost-benefit analysis may be obtained by contacting:
Name:
Address:

phone ( ) _____
fax ( )_____
e-mail _____

☒ No: Please explain: These proposals do not involve hydraulics.

Attachment 1

Purpose of the proposal, its anticipated effects, including any changes in existing rules and reasons supporting proposal

WAC 220-48-005 Puget Sound bottomfish – General provisions: This proposal prohibits the retention of rockfish in Puget Sound by any commercial fishing gear. This is needed to recover rockfish populations in Puget Sound. The proposal also changes the maximum size limit for lingcod to 36 inches. This change to the lingcod maximum size limit is needed for conservation needs and matches regulations for recreational fisheries.

WAC 220-48-011 Beam trawl and otter trawl – Gear: This rule is being repealed**.** Beam trawl and otter trawl are proposed for closure in Puget Sound**.**

WAC 220-48-013 Beam trawl and Otter Trawl Logbooks: This rule is being repealed. Beam trawl and otter trawl are proposed for closure in Puget Sound**.**

WAC 220-48-015 Beam trawl and otter trawl – Seasons: These fisheries are proposed for closure to protect rockfish stocks in Puget Sound.

WAC 220-48-016- Pelagic Trawl- Gear-Licensing: This rule is being repealed. The department is proposing to close fishing by pelagic trawl to protect rockfish stocks.

WAC 220-48-017 Pelagic Trawl-Seasons: This rule is being repealed. The department is proposing to close fishing by pelagic trawl to protect rockfish stocks.

WAC 220-48-028- Set Net-Dogfish-Gear: This rule is being repealed. The department is proposing to close fishing by set net gear to protect rockfish stocks.

WAC 220-48-029- Set net – Dogfish – Seasons: This fishing gear is being closed to protect rockfish populations in Puget Sound.

WAC 220-48-031- Set Line-Gear: This rule is being repealed. The department is proposing to close fishing by set line gear to protect rockfish stocks.

WAC 220-48-032 Set line – Seasons: This fishing gear is proposed for closure in Puget Sound to protect rockfish populations.

WAC 220-48-041 Commercial jig – Gear: Existing regulations have closed this fishing gear, and the proposed change is intended to clarify the closure.

WAC 220-48-051 Troll lines-Bottomfish-Gear: This rule is being repealed. The department is proposing to close fishing by troll lines to protect rockfish stocks.

WAC 220-48-052 Bottomfish Troll – **Seasons**: Existing regulations have closed this fishing gear, and the proposed change eliminates unnecessary provisions.

WAC 220-48-062 Drag seines – Seasons: This proposal closes Marine Fish-Shellfish Management and Catch Reporting Area 29 to taking, fishing for, or possessing bottomfish with drag seine gear for commercial purposes.

WAC 220-48-071 Bottomfish pots – **Gear and seasons:** This proposal closes fishing with bottomfish pot fishing gear in Puget Sound to protect rockfish populations in Puget Sound, except that Marine Fish-Shellfish Management and Catch Reporting Areas 23C and 29 (waters between Cape Flattery and the Port Angeles vicinity)will be open to bottomfish pot fishing only by permit issued by the Director. The permit will specify the gear as well as the times, areas, and manner of fishing.

WAC 220-49-012 Herring, anchovy and smelt fishing – **Purse seine:** This proposal prohibits the use of purse seine fishing gear to capture herring, smelt or anchovy. It is needed to protect rockfish populations in Puget Sound.

WAC 220-49-020 Herring and anchovy – **Seasons** – **Lawful gear** – **Purposes:** This proposal closes the use of purse seine fishing gear to capture herring or anchovy in Puget Sound. The proposal is needed to protect rockfish populations in Puget Sound.

WAC 220-52-051 Shrimp fishery – **Puget Sound:** This proposal requires participants in the shrimp fishery using trawl gear to obtain and follow the conditions of a permit issued by the department. This proposal is needed to monitor the fishery for possible impact on rockfish populations.

Small Business Impact Statement

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1. **Description of the reporting, record keeping and other compliance requirements of the proposed rules.**

   The proposed rule changes will affect the commercial fishing industry within Puget Sound. There are four distinct sections to the proposals as follows:

   1. Prohibit the retention of rockfish caught by any commercial fishing gear.
   2. Prohibit the use of bottom trawl, set net, and set line fishing gear.
   3. Prohibit the use of forage fish purse seine and pelagic trawl gear. Prohibit the use of drag seines for bottomfish in Catch Reporting Area 29. Prohibit the use of bottomfish pot gear except by permit of the director in Catch Reporting Areas 23C and 29.
   4. Require participants in the shrimp trawl fishery to obtain a special permit, and, when requested, carry an observer while fishing.

   Throughout this statement, the proposals will be analyzed by each of the four sections. The analysis is based on performance during 2008 and 2009, the most recent years for which complete data are available.

2. **Kinds of professional services that a small business is likely to need in order to comply with such requirements**.

   Proposed rules sections 1, 2 and 3 will not require any additional professional services. Section 4 will require participants to obtain the services of a trained fishery observer for some of their fishing trips.

3. **Costs of compliance for businesses, including costs of equipment, supplies, labor and increased administrative costs.**

   Sections 1-3 will not increase costs**.**

   Section 4 will require businesses participating in the Puget Sound shrimp trawl fishery to obtain and compensate a trained fishery observer when requested to do so by the department. Informal cost estimates provided by the industry estimate the daily cost of such an observer to be $200 to $400. The agency anticipates that participants will be required to carry an observer on 10% of their shrimp trawling trips in Puget Sound. This equates to an average additional cost of $20 to $40 for each day fished.

4. **Will compliance with the rule cause businesses to lose sales or revenue?**

   Sections 1 and 2 will cause loss of sales. Sections 3 and 4 will not.

5. **Cost of compliance for the ten percent of businesses that are the largest businesses required to comply with the proposed rules, using one or more of the following as a basis for comparing costs:**

   (a) cost per employee;

   (b) cost per hour of labor; or

   (c) cost per $100 of sales.

   The agency selected option (c) to compute costs of compliance.

   Section 1 would result in an annual loss of sales of $.002 per $100 dollars of sales.

   Section 2 would cost:

   (a) $60.63 per $100 in sales for the otter trawl fishery;

   (b) $3.78 per $100 in sales for the set line fishery; and

   (c) $24.23 per $100 in sales for the set net fishery.

   Section 3 would not result in a loss of sales because these fisheries are not active, and there are no employees or sales involved.

   Section 4 would increase the cost of compliance to between $1.05 and $2.10 per $100 in sales for the shrimp trawl fishery.

   Now compare the largest businesses' cost of compliance with the cost of compliance for small businesses. Will this rule have a disproportionate impact on small businesses?

   No; all affected businesses fit the definition of "small businesses" under the Regulatory Fairness Act, chapter 19.85 RCW.

6. **Steps taken by the agency to reduce the costs of the rule on small businesses or reasonable justification for not doing so.**

   A. Agency staff worked closely with staff of the National Marine Fisheries Service to minimize the impact on existing commercial fisheries while meeting federal requirements to protect ESA-listed species of rockfish in Puget Sound.

B. The agency developed a conservation plan for the ESA-listed species of rockfish and has applied for a federal permit to allow commercial and recreational fishing to continue in most of Puget Sound. If the department failed to obtain the permit, it would be incumbent on each business to obtain an individual permit from the federal government. Absent a valid permit, capture of listed rockfish could be a violation of federal law.

C. The Department designed the required monitoring programs to minimize the cost of compliance.

7. A description of how the agency will involve small businesses in the development of the rule.

The agency sent a letter to known participants on June 9, 2010. On June 18, 2010, a meeting was held with all participants invited. An additional mailing will be sent to participants in October 2010, and an opportunity to provide written and oral comments to the Fish and Wildlife Commission will be provided in December 2010.

8. A list of industries that will be required to comply with this rule.

Section 1- all participants in the state-managed commercial fisheries in Puget Sound will be required to comply.

Section 2- all participants in the commercial fisheries in Puget Sound using bottom trawl, set line, or set net gears will be required to comply. During 2008 and 2009, a total of nine active businesses were participating in these fisheries.

Section 3- these fisheries are currently inactive, so no existing businesses will be required to comply.

Section 4- businesses participating in the Puget Sound shrimp trawl fishery will be required to comply. During 2008 and 2009, a total of six businesses participated in this fishery.

9. **An estimate of the number of jobs that will be created or lost as the result of compliance with the proposed rul**e.

An estimated one to three jobs may be lost if the proposed rules are adopted. The lost jobs would be associated with the closure of the bottom trawl fishery in Puget Sound. Some, but not all, of the current participants will have opportunities to shift activities to adjacent ocean areas where the fisheries remain open.

AMENDATORY SECTION (Amending WSR 98-05-043, filed 2/11/98, effective 3/14/98)

WAC 220-49-012 Herring, anchovy and smelt fishing--Purse seine. ((~~(1) Lawful purse seine gear in the Puget Sound herring and anchovy fisheries shall not exceed 600 feet in length or contain meshes less than 1/2-inch stretch measure unless otherwise authorized by permit from the director.~~

~~(2) Lawful purse seine gear in the Puget Sound smelt fishery shall not exceed 350 feet in length nor contain meshes less than 1/2 inch stretch measure.~~

~~(3) Licensing:~~

~~(a) A baitfish purse seine fishery license is a license required to operate the gear provided for in this section and allows the operator to retain smelt and anchovy.~~

~~(b) A herring purse seine fishery license is a license required to operate the gear provided for in this section and allows the operator to retain herring.~~)) It is unlawful to take, fish for or possess herring, anchovy or smelt taken with purse seine gear in all Puget Sound Management and Catch Reporting Areas.

AMENDATORY SECTION (Amending Order 04-218, filed 8/17/04, effective 9/17/04)

WAC 220-49-020 Herring and anchovy--Seasons--Lawful gear--Purposes. It ((~~shall be~~)) is unlawful to take, fish for or possess for commercial purposes herring or anchovy in Puget Sound except during lawful seasons, with lawful gear and for such purposes as provided for hereinafter in each respective fishing area:

(1) Area 20A.

(a) Closed September 1 through May 31 to all commercial fishing gear except for the spawn on kelp fishery as provided for in WAC 220-49-063.

(b) Closed June 1 through August 31 to all commercial fishing.

(2) It is unlawful to use purse seine gear in any Puget Sound Marine Fish-Shellfish Management and Catch Reporting Area ((~~except 23A, 23B, 23C, 23D, and 29. Areas 23A, 23B, 23C, 23D and 29 are open to purse seine gear only during seasons set by emergency rule~~)).

(3) All other Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas - Open entire year with drag seine, lampara, and dip bag net for human consumption or bait only except for closures set out in subsections (4)((~~,~~)) and (5) ((~~and (6)~~)) of

this section.

(4) The following areas are closed the entire year to all gear:

Areas 20B, 21A, 21B, 22A, 22B, 25A, and 25E.

(5) The following areas are closed from January 16 through April 15, except to dip bag net gear:

(a) Area 24A except for a year-round closure in Swinomish Channel in those waters between the bridge spanning the channel south of La Conner and a line perpendicular to the channel at the northeast end of the La Conner boat basin, 24B, and 24D.

(b) Waters of Area 25C south of a line from Tala Point to Foulweather Bluff.

(c) Area 25D.

(d) Waters of Area 26B west of a line from Point Monroe to Point Jefferson.

(e) Area 26C.

(f) Waters of Area 26D north of a line from Neill Point to Piner Point.

(g) Areas 27A, 27B and 27 C are closed year-round.

(h) Waters of Area 28A west of a line projected true north-south through Treble Point on Anderson Island, including Henderson Inlet.

(i) Waters of Area 28B west of a line projected true north from Penrose Point, including Mayo Cove and Von Geldern Cove.

(j) All contiguous waters of Area 28D north and east of a line projected from Dofflemeyer Point through Cooper Point to landfall on the west shore of Eld Inlet, including Totten Inlet, Hammersley Inlet and Oakland Bay.

AMENDATORY SECTION (Amending Order 05-275, filed 12/9/05, effective 1/9/06)

WAC 220-52-051 Shrimp fishery--Puget Sound. (1) A Puget Sound shrimp pot license or a Puget Sound shrimp trawl license will only be issued to an individual who is a natural person, and this person shall be the primary operator. Holders of Puget Sound shrimp pot licenses and Puget Sound shrimp trawl licenses may designate a single alternate operator per license.

(2) It is unlawful to fish for shrimp for commercial purposes in Puget Sound using shellfish pot gear except during seasons opened by emergency rule:

(a) Gear restrictions -

(i) In all areas, maximum 100 pots per fisher except for dual licensees as provided for in RCW 77.70.410.

(ii) In all areas:

(A) Buoys must be orange in color and consist of durable material that will remain floating on the surface with five pounds attached; bleach or antifreeze bottles or other containers may not be used as floats.

(B) The line attaching the pot to the buoy must be weighted sufficiently to prevent the line from floating on the surface.

(C) The maximum perimeter of shrimp pots must not exceed ten feet and the maximum height must not exceed two feet.

(D) It is unlawful to set or pull shrimp pot gear from one hour after official sunset to one hour before official sunrise.

(b) Spot shrimp size restriction: It is unlawful to retain spot shrimp taken by shellfish pot gear that have a carapace length less than 1 and 3/16 inches. Carapace length is defined as the length between the posterior mid-dorsal margin to the posterior-most part of the eye-stalk orbit.

(c) Area restrictions:

(i) Pot gear closed in all Puget Sound Shrimp Districts except the Port Townsend Shrimp District.

(ii) Pot gear closed in Lopez Sound south of a line projected true east-west from the northern tip of Trump Island from the season opening through July 9th.

(3) It is unlawful to fish for shrimp for commercial purposes in Puget Sound using trawl gear except during seasons opened by emergency rule((~~:~~)) and authorized by a permit issued by the director.

(a) Gear restrictions - Beam trawl gear only. Otter trawl gear may not be used.

(i) Maximum beam width in Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B, 21A, and 22A is 25 feet.

(ii) Maximum beam width in Marine Fish-Shellfish Management and Catch Reporting Areas 23A, 23B, 23C, 25A, 25B, and 29 is 60 feet.

(b) It is unlawful to retain spot shrimp.

(c) Area restrictions:

(i) Shrimp trawl fishing closed in all Puget Sound Shrimp Districts.

(ii) Shrimp trawl fishing closed in Lopez Sound south of a line projected true east-west from the northern tip of Trump Island from the season opening through July 9th.

(d) It is unlawful to fish for shrimp in Puget Sound with beam trawl gear in waters shallower than 100 feet.

(e) It is lawful to fish for shrimp in Puget Sound with beam trawl gear in Marine Fish-Shellfish Management and Catch Reporting Area 21A only in those waters north and west of a line from the southern tip of Sinclair Island to Carter Point on Lummi Island.

(f) The following restrictions apply to shrimp beam trawl harvest in Marine Fish-Shellfish Management and Catch Reporting Area 20A:

(i) Closed in waters east of a line from the southwest corner of Point Roberts to Sandy Point.

(ii) Closed in waters shallower than 20 fathoms.

(g) It is unlawful to operate shrimp beam trawl gear in Puget Sound from one hour after official sunset to one hour before official sunrise.

(h) It is unlawful to fish for, retain, land or deliver shrimp taken with trawl gear without a valid Puget Sound shrimp trawl fishery permit.

(i) It is unlawful to take, retain, land, or deliver any shrimp taken with trawl gear without complying with all provisions of a Puget Sound shrimp trawl fishery permit.

(j) A violation of this subsection is punishable under RCW 77.15.750.

(4) All shrimp taken in the Puget Sound commercial shrimp fishery must be landed and recorded on Washington state fish receiving tickets within 24 hours of harvest. No fisher may land shrimp without immediate delivery to a licensed wholesale dealer, or if transferred at sea, without transfer to a licensed wholesale dealer. A fisher who is a licensed wholesale dealer may complete and return a fish receiving ticket to satisfy the requirements of this subsection.

(5) For purposes of shrimp pot harvest allocation, fishing season, and catch reporting, the Marine Fish-Shellfish Management and Catch Reporting Areas (catch areas) are modified as follows:

(a) That portion of Catch Area 22A south of a line due east from the international boundary to Lime Kiln Point light on San Juan Island, then south of the shores of San Juan Island, then south of a line from Cattle Point on San Juan Island to Davis Point on Lopez Island, then south of the shores of Lopez Island to Point Colville shall be considered to be part of Catch Area 23A.

(b) Catch Area 23A is divided into four subareas:

(i) 23A-E (east) is those waters of Catch Area 23A east of 122°57'W. Long. and north of 48°22.5'N. Lat.

(ii) 23A-W (west) is those waters of Catch Area 23A west of 122°57'W. Long. and north of 48°22.5'N. Lat.

(iii) 23A-C (central) is those waters of Catch Area 23 south

of 48°22.5'N. Lat. and east of a line projected 335° true from the Dungeness lighthouse.

(iv) 23A-S (south) is those waters of Catch Area 23A west of a line projected 335° true from the Dungeness lighthouse.

(c) Catch Area 26A is divided into two subareas:

(i) 26A-E (east) is those waters of Catch Area 26A north and east of a line projected 110 degrees true from the southern tip of Possession Point on Whidbey Island to the shipwreck on the opposite shore.

(ii) 26A-W (west) is those waters of Catch Area 26A south and west of a line projected 110 degrees true from the southern tip of Possession Point on Whidbey Island to the shipwreck on the opposite shore.

(d) Catch Area 26B is divided into two subareas:

(i) 26B-1 is those waters of Catch Area 26B westerly of a line projected from West Point to Alki Point.

(ii) 26B-2 is those waters easterly of a line projected from West Point to Alki Point.

(6) For purpose of shrimp trawl harvest allocation and catch reporting, 23A East is that portion of Catch Area 23A, east of a line projected true north from the Dungeness lighthouse. 23A West is that portion of Catch Area 23A, west of the line described herein.

(7) The following areas are defined as Puget Sound Shrimp Management Areas:

(a) Shrimp Management Area 1A: Waters of Catch Area 20B west of a line from Point Doughty on Orcas Island to the bell buoy at the international boundary, and all waters of Catch Area 22A west of a line projected true north and south from the western tip of Crane Island, west of a line projected from the number 2 buoy at the entrance to Fisherman Bay to the southern tip of Shaw Island.

(b) Shrimp Management Area 1B: Waters of Catch Area 20B east of a line from Point Doughty on Orcas Island to the bell buoy at the international boundary, and waters of Catch Area 22A east of a line projected true north and south from the western tip of Crane Island, east of a line projected from the number 2 buoy at the entrance to Fisherman Bay to the southern tip of Shaw Island, and east of a line projected true south from Point Colville, and all waters of Catch Area 21A north and west of a line from the southern tip of Sinclair Island to Carter Point on Lummi Island.

(c) Shrimp Management Area 1C: Waters of Catch Areas 20A, 21B, 22B, and waters of Catch Area 21A not included in Management Area 1B.

(d) Shrimp Management Area 2E: Waters of Catch Areas 24A, 24B, 24C, 24D, and 26A-E (east).

(e) Shrimp Management Area 2W: Waters of Catch Areas 25B, 25C, 25D, and 26A-W (west).

(f) Shrimp Management Area 3: Waters of Catch Areas 23A, 23B, 23C, 23D, 25A, 25E, and 29.

(g) Shrimp Management Area 4: Waters of Catch Areas 26B and 26C.

(h) Shrimp Management Area 5: Waters of Catch Areas 27A, 27B, and 27C.

(i) Shrimp Management Area 6: Waters of Catch Areas 26D, 28A, 28B, 28C, and 28D.

(8) In Shrimp Management Areas 1A, 1B and 1C, all catch must be reported by Management Area and Catch Area combined, either 1A-20B, 1A-22A, 1B-20B, 1B-21A, 1B-22A, 1C-20A, 1C-21A, 1C-21B, or 1C-22B.

AMENDATORY SECTION (Amending WSR 98-05-043, filed 2/11/98, effective 3/14/98)

WAC 220-48-052 Bottomfish troll--Seasons. ((~~(1)~~)) It is unlawful to fish for or possess bottomfish taken for commercial purposes with bottomfish troll gear in all Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas.

((~~(2) It is unlawful to fish for or possess salmon while fishing for bottomfish with troll line gear under authority of a bottomfish troll license.~~

~~(3) In any waters of Puget Sound it is lawful to retain for commercial purposes bottomfish taken with commercial salmon gear incidental to a lawful salmon fishery, except lingcod during closures provided in WAC 220-48-005.~~))

AMENDATORY SECTION (Amending Order 02-66, filed 3/27/02, effective 4/27/02)

WAC 220-48-005 Puget Sound bottomfish--General provisions. (1) It is unlawful to possess any English sole less than 12 inches in length taken by any commercial bottomfish gear in all Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas.

(2) It is unlawful to possess any starry flounder less than 14 inches in length taken by any commercial bottomfish gear in all Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas.

(3) It is unlawful to possess lingcod taken with any commercial gear the entire year in Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas 23D, 24A, 24B, 24C, 24D, 25B, 25C, 25D, 26A, 26B, 26C, 26D, 27A, 27B, 27C, 28A, 28B, 28C, and 28D.

(4) It is unlawful to possess any lingcod less than 26 inches in length or greater than ((~~40~~)) 36 inches in length taken by any commercial gear in all state waters east of the Bonilla-Tatoosh line.

(5) It is unlawful to possess lingcod taken by any commercial gear from June 16 through April 30 in Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B, 21A, 21B, 22A, 22B, 23A, 23B, 23C, 25A, 25E, and 29.

(6) It is unlawful to possess any species of shellfish taken with lawful bottomfish gear except as provided in WAC 220-52-063 and 220-52-066.

(7) Incidental catch.

(a) It is lawful to retain bottomfish taken incidental to any lawful salmon fishery, provided the bottomfish could be lawfully taken.

(b) It is unlawful to retain salmon or sturgeon taken incidental to any lawful bottomfish fishery in Puget Sound.

(c) It is unlawful to retain any species of shellfish taken incidental to any bottomfish fishery in Puget Sound, except that it is lawful to retain octopus and squid.

(d) It is unlawful to retain any whiting taken incidental to any bottomfish fishery in Catch Areas 24B, 24C or 26A except using pelagic trawl gear when these areas have been opened by the director for a directed whiting fishery.

(8) A vessel trip is defined as having occurred upon the initiation of transfer of catch from a fishing vessel.

(9) Pacific cod.

(a) It is unlawful to discard any Pacific cod taken by any commercial fishing gear.

(b) All Pacific cod taken by a commercial gear shall be landed at a licensed commercial dealer.

(10) Sablefish. It is unlawful to take more than 300 pounds

of sablefish per vessel trip or more than 600 pounds of sablefish per two-month cumulative limit from open Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas. A two-month cumulative limit is the maximum amount of fish that may be taken and retained, possessed or landed per vessel per two-fixed calendar month period. The fixed two-month periods are January-February, March-April, May-June, July-August, September-October and November-December.

(11) Sixgill shark. It is unlawful to retain sixgill shark taken by commercial fishing gear in all Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas.

(12) Rockfish. It is unlawful to retain any species of rockfish taken by commercial fishing gear in all Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas.

AMENDATORY SECTION (Amending Order 01-58, filed 4/18/01, effective 5/19/01)

WAC 220-48-015 Beam trawl and ((~~bottom~~)) otter trawl--Seasons. ((~~(1)~~)) It is ((~~lawful~~)) unlawful to fish for and possess bottomfish taken with ((~~bottom~~)) otter trawl and beam trawl gear in all Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas ((~~20A, 20B, 21A, 22A, 22B, 23A, 23B, 23C, 25A, and 25B the entire year with the following exceptions:~~

~~(a) Those waters of Area 20A east of a line projected from Point Whitehorn to Sandy Point are closed the entire year.~~

~~(b) Those waters of Area 20A within an area bounded by lines from Lilly Point to Birch Point and from the southwest corner of Point Roberts to Point Whitehorn to where these two lines are intersected by a line south from Kwomais Point in British Columbia and a line from Lilly Point to the north Alden Bank buoy are closed April 15 through May 31.~~

~~(c) Those waters of Area 20A within an area bounded by lines from Lilly Point to Birch Point and Lilly Point to the north Alden Bank buoy to where those lines are intersected by a line projected approximately 230 degrees south from Birch Point to Alden Point on Patos Island are closed June 1 through June 30.~~

~~(d) Areas 20A, 20B, 21A, 22A and 22B are closed to all trawl fishing in waters less than 30 feet deep.~~

~~(e) Areas 20A, 20B, 21A, 22A and 22B are closed in waters deeper than 40 fathoms from 12:01 a.m. September 15 through December 31 except if the Pacific cod quota for these waters has not been taken by September 15, these waters may be opened by emergency rule for the taking of the Pacific cod quota.~~

~~(f) Area 23C is closed to otter trawl fishing the entire year in waters shallower than 50 fathoms and is closed to beam trawl fishing in waters less than 60 feet deep.~~

~~(g) Area 23C is closed to otter trawl Wednesday, Saturday and~~

~~Sunday, January 1 through August 31, and closed to all otter trawl September 1 through December 31.~~

~~(2) It is lawful to fish for and possess bottomfish taken with beam trawl gear in Marine Fish-Shellfish Management and Catch Reporting Areas 23A, 23B, 25A and 25B the entire year with the following exceptions:~~

~~(a) All of Area 25A is closed February 1 through April 15 of each year.~~

~~(b) Those waters of Area 25A lying southerly and westerly of a line projected from Kiapot Point to Gibson Spit (Sequim Bay) are closed the entire year.~~

~~(c) Areas 23A, 25A and 25B are closed to beam trawl fishing in waters less than 60 feet deep.~~

~~(3) It is unlawful to fish for or possess bottomfish taken with otter trawl gear in Marine Fish-Shellfish Management and Catch Reporting Areas 23A, 23B, 25A and 25B the entire year.~~

~~(4) It is unlawful to take, fish for or possess bottomfish taken with bottom trawl or beam trawl gear in Marine Fish-Shellfish Management and Catch Reporting Areas 21B, 23D, 24A, 24B, 24C, 24D, 25C, 25D, 25E, 26A, 26B, 26C, 26D, 27A, 27B, 27C, 28A, 28B, 28C, 28D, and 29 the entire year.~~

~~(5) It is unlawful to take more than 500 pounds of rockfish with beam trawl and bottom trawl gear during any vessel trip in all Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas~~)).

AMENDATORY SECTION (Amending Order 04-218, filed 8/17/04, effective 9/17/04)

WAC 220-48-029 Set net--Dogfish--Seasons. ((~~(1)~~)) It is unlawful to take, fish for and possess dogfish and other species of bottomfish taken with dogfish set net gear for commercial purposes in ((~~the following~~)) all Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas ((~~except during the seasons designated below:~~

~~(a) Areas 20A and 20B - November 1 through June 15.~~

~~(b) Area 21A - March 1 through June 15.~~

~~(c) Areas 21B, 22A, 22B, 23A, and 23B - Closed all year.~~

~~(d) Areas 23C and 23D - September 16 through June 15.~~

~~(e) Areas 24A, 24B, and 24D - September 16 through June 15.~~

~~(f) Area 24C - September 16 through June 15, except those waters south of a line projected due east of East Point on Whidbey Island are closed all year.~~

~~(g) Areas 25A, 25B and that portion of Area 25C west of a line from Twin Spits to the Port Gamble Millstack - September 16 through June 15.~~

~~(h) Area 25D and that portion of 25C east of line from Twin Spits to the Port Gamble Millstack - Closed all year.~~

~~(i) Area 25E - Closed all year.~~

~~(j) Area 26A - September 16 through June 15, except those waters southerly and westerly of a line between the ferry dock at Mukilteo and the ferry dock at Clinton are closed all year.~~

~~(k) Area 26B - September 16 through June 15, except those waters provided for in WAC 220-20-020(4) (Shilshole Bay) are closed at all times and those waters west of a line from Point Jefferson to Point Monroe are closed from January 1 to April 15. Those waters west of a line projected 178 degrees true from the end of the Indianola dock to the landfall on the south shore of Port Madison are closed at all times.~~

~~(l) Area 26C - Open April 16 through June 15 and September 16 through December 31, except those waters north of a line projected true east of Point Bolin and those waters west of a line projected 178 degrees true from the end of the Indianola dock to the landfall on the south shore of Port Madison are closed at all times.~~

~~(m) Area 26D - September 16 through June 15, except Quartermaster Harbor and those waters south of lines projected from Dash Point to Point Piner on Maury Island and from Point Dalco true west to the Kitsap Peninsula are closed all year.~~

~~(n) Areas 27A, 27B, and 27C - Closed all year.~~

~~(o) Area 28A - September 16 through June 15, except those waters north of a line projected true east of Fox Point on Fox Island, and east of a line projected due north from the northwest tip of Fox Island are closed all year.~~

~~(p) Areas 28B, 28C, and 28D - September 16 through June 15, except those waters provided for in WAC 220-20-010(6) (upper Carr Inlet).~~

~~(q) Area 29 - September 16 through June 15.~~

~~(2) Incidental catch: It is unlawful to retain any shellfish or fish other than bottomfish~~)).

AMENDATORY SECTION (Amending Order 04-218, filed 8/17/04, effective 9/17/04)

WAC 220-48-032 Set line--Seasons. ((~~(1) Set line fishing for dogfish and other bottomfish is open~~)) It is unlawful to take, fish for and possess any species of bottomfish taken with set line gear in all Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas ((~~year-round except as provided in this section.~~

~~(2) It is unlawful to take, fish for, and possess dogfish and other bottomfish taken with set lines in:~~

~~(a) All Marine Fish-Shellfish Management and Catch Reporting Areas June 16 through September 15.~~

~~(b) That portion of Area 26C north of a line projected due east from Point Bolin to Bainbridge Island is closed all year.~~

~~(c) That portion of Area 26D south of lines projected due west of Point Dalco on Vashon Island, and from Dash Point to Point Piner on Maury Island, is closed all year.~~

~~(d) That portion of Area 28A east of a line projected due~~

~~north from the northwest tip of Fox Island, and north of a line projected due east from Fox Point on Fox Island is closed all year.~~

~~(e) Those waters provided for in WAC 220-20-010(6) and 220-20-020(4).~~

~~(f) Marine Fish-Shellfish Management and Catch Reporting Areas 27A, 27B, and 27C.~~

~~(3) Incidental catch: It is unlawful to retain any shellfish and any fish other than bottomfish, and the cumulative weight of rockfish and lingcod shall not exceed 30 pounds for any vessel trip in all open Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas~~)).

AMENDATORY SECTION (Amending Order 94-23, filed 5/19/94, effective 6/19/94)

WAC 220-48-041 Commercial jig--Gear. (1) It is ((~~lawful~~)) unlawful to fish for and possess bottomfish with commercial jig gear.

(2) Licensing: A bottomfish jig fishery license is the license required to operate commercial jig gear in Puget Sound.

AMENDATORY SECTION (Amending WSR 98-05-043, filed 2/11/98, effective 3/14/98)

WAC 220-48-071 Bottomfish pots--Gear and seasons. (1) It ((~~shall be~~)) is unlawful to take, fish for, and possess bottomfish for commercial purposes with bottomfish pot gear as described in WAC 220-16-145, except in the following Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas during the seasons designated below:

((~~(a) Areas 20A, 21A, 21B, 23A, and 23B - Open April 15 through November 30.~~

~~(b) Areas 23C and 23D - Open December 1 through April 14.~~

~~(c) All other areas are closed the entire year, except by permit from the director.~~)) Areas 23C and 29 open only by permit form the director.

(2) Licensing: A bottomfish pot fishery license is the license required to operate the gear provided for in this section.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 220-48-011	Beam trawl and otter trawl--Gear.
WAC 220-48-013	Beam trawl and otter trawl logbooks.
WAC 220-48-016	Pelagic trawl--Gear--Licensing.
WAC 220-48-017	Pelagic trawl--Seasons.
WAC 220-48-028	Set net--Dogfish--Gear.
WAC 220-48-031	Set line--Gear.
WAC 220-48-051	Troll lines--Bottomfish--Gear.

AMENDATORY SECTION (Amending Order 04-218, filed 8/17/04, effective 9/17/04)

WAC 220-48-062 Drag seines--Seasons. It is unlawful to take, fish for, and possess bottomfish with drag seine gear for commercial purposes except in the following Marine Fish-Shellfish Management and Catch Reporting Areas during the seasons designated below:

(1) Areas 28A, 28B, 28C, and 28D - Open January 1 through April 30.

(2) All other areas - Open September 1 through April 30, except Areas 27A, 27B, ((~~and~~)) 27C, and 29 are closed year-round.