

“GREEN SHEET”

Meeting dates:	June 20, 2008 Conference Call (Rule Action)
Agenda item #:	Ocean Spot Shrimp Quotas and Continuing License Provisions - Rule Action
Staff Contact:	Morris Barker, Ph.D., State Marine Resource Manager (Fish Program)
Presenter(s):	Morris Barker, Ph.D., State Marine Resource Manager (Fish Program)

Background:

The ocean spot shrimp fishery has been operating under the requirements of the emerging commercial fishery act for a number of years. The data gathered during this period has undergone an evaluation by our biometric scientist in consultation with the management staff. We initiated this fishery with an annual harvest coast wide cap of 250K pounds (demonstrated catch by the participants before effort limitation) and subsequently acted to put a sub-area cap of 100K pounds in the southern area of the fishery to prevent localized depletion. As the fishery evolved we gained a better understanding of it and its limitations. Through close monitoring we learned more about the extent of fishing grounds, biological characteristics specific to the coastal spot shrimp, and the resource potential to support a commercial fishery.

The evaluation of fishery logbook data, from 1996-2006, pointed to a couple of precautionary actions that should be instituted to preserve the fishery and the resource potential of this valuable commodity. First, we recommend the coastal total harvest cap be reduced to 200,000 pounds, as 250,000 pounds is thought to be unsustainable. This fishery has not harvested the 250,000 pound cap since the fishery was initially limited in 1999. It appears effort (mostly trawl) was being expended prior to this year to build a history for consideration of the limited entry permit. Further, evidence of a linkage of spot shrimp populations to benthic topography (canyons, deep water coral, rock substrate, etc) was substantiated through plots of harvest sites from logbook entries. The logbook evaluation also revealed the resource's capacity to sustain harvest differs by region. The preliminary estimates of maximum sustained yield (MSY) for the regions, north and south, are 99K and 104K pounds, respectively. This results in a second recommendation that a northern cap be added forcing a split of harvest, which reflects the producing habitat and further prevents local area depletion. These numbers can change again in the future as additional information becomes available. The combined effect of these two recommendations is a permanent separation of the coast into two regions, to be managed independently relative to the harvest caps, each of which is 100K pounds.

Another issue that has risen is the landing provision for maintaining a valid permit. The initial implementing rules required a permit holder to land a minimum of 1,000 pounds in a two calendar year period. For those fishers who landed product head-off, the poundage was multiplied by a factor of two. Those permit holders who could not document such a volume of landings were denied a permit for the following licensing year. This approach reduced the field of participants from fifteen to eight. The remaining participants have been aggressive at retaining their permits in active status even when failing to meet the minimum landing provision. The process does provide for an administrative hearing for consideration of reinstatement; however, a recent

example has resulted in threats of lawsuits to the department and an agency decision to reinstate the permit. The process no longer serves as a winnowing device to reduce the remaining effort levels. The existing permit level is a concern for some current permit holders who feel that the number of permits is still at a level of overcapitalization. Staff recommends that the continuing landing provision be repealed, which will stabilize the fishery at eight permits, barring death or retirement of the permit holders (non-transferable permit). This recommendation is made with the expectation that an opportunity to address concerns regarding overcapitalization and possible remedies can still be exercised through future management actions or by legislative action if the fishery transitions to a standard, limited entry fishery.

Policy issue(s) you are bringing to the Commission for consideration:

Does the Fish and Wildlife Commission wish to: a) reduce the total allowable annual catch of ocean spot shrimp to a more sustainable level and spread the harvest to reflect the available habitat; and, b) repeal the continuing landing provision for maintaining a valid permit?

Public involvement process used and what you learned:

We have continually worked with the permit holders, keeping them apprised of the fishery and the information as it develops. We have shared the proposals through a mailing (see attached) to current permit holders but to date have (OK)received comments on the proposals.

Action requested:

Commission is to consider adoption of the proposed amendments to WAC 220-88B-030 – Emerging commercial fishery – Eligibility for coastal experimental fishery permits- Terms and conditions of use- Renewal-Vessel restriction-Incidental catch

Draft motion language:

Move to adopt amendments to WAC 220- 88B-030 Emerging commercial fishery – Eligibility for coastal experimental fishery permits- Terms and conditions of use- Renewal-Vessel restriction-Incidental catch

Justification for Commission action:

Justification for Commission action is RCW 77.12.047 and the need for to manage for sustainability of the resource and to reduce an unnecessary burden on the fishers.

Form revised 10/25/07



REGION 6

48 Devonshire Road • Montesano, Washington 98563 • (360) 249-4628 FAX (360) 664-0689

March 7, 2008

Dear Spot Shrimp Permit Holder:

This letter is being sent to provide current fishery information, alert you to upcoming management actions, and update you on work underway.

The coastal spot shrimp fishery will open Thursday, March 15, 2008. Gear cannot be set in advance of this date. The fishery will close September 15, 2008. Your permit has been processed and is available from WDFW Licensing. Contact me if you are going to fish with a vessel different from the one designated last year. I can generate an updated permit, but you will need to allow for some time for the permit to be signed before it is available from Licensing.

Permit Conditions

Recall that the following conditions were added to your coastal spot shrimp permit last year. (If you designate an alternate operator, *please* make sure they are aware of these requirements.)

Advance Notice: Fishers are required to provide at least 24 hours advance notice before landing. If mobile phone coverage is a concern while at sea, I recommend calling and providing notification of your fishing activity prior to leaving port. The number to call is (360) 480-8596. This is a cell phone dedicated for this purpose. If necessary, please leave a message detailing when and where you plan to land.

Sampling whole shrimp: Fishers are required to make whole spot shrimp available for sampling when requested. This does not mean that all spot shrimp caught must be kept whole. Rather, 100 spot shrimp, randomly selected from your catch, need to be kept in the round.

To minimize the impact of this on fishers landing tailed spot shrimp it is possible for us to collect samples of whole shrimp from those fishers who have them available – if they generally fishing during the same general period and in the same general area. (This does introduce some bias to the data: an analysis of length data shows slight differences in average

shrimp size among fishers.) However, if the only active fishing is by fishers landing tailed shrimp, it will be necessary for them to retain 100 whole shrimp for sampling. We will notify you when this situation occurs.

Fishery and Catch Data

The total pounds of spot shrimp landed for 2007 was 35,800. This up considerably from 2006 but still relatively low compared to past years. An updated catch data table is enclosed. Seven permit holders made a combined total of 30 landings. Of these landings, 22 were sampled to collect biological data.

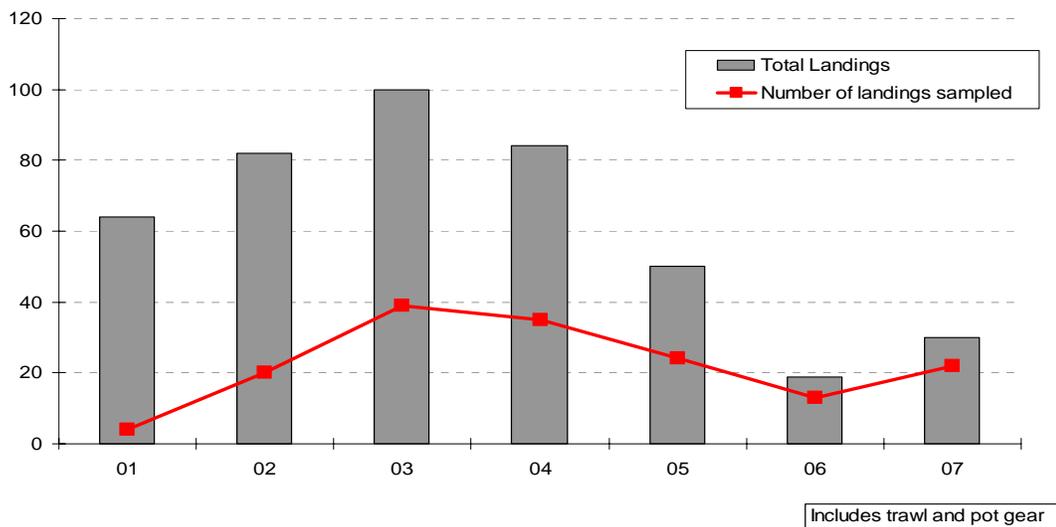


Figure1. Coastal Spot Shrimp, Total Landings and Number of Landing Sampled.

Average catch per unit of effort (CPUE) calculated from logbook data for all fishers improved in 2007 compared to 2006. Average CPUE for the northern fishing grounds (Nitinat Canyon and Juan de Fuca Canyon) was approximately 1.4 pounds compared to 1.0 pounds in 2006. In and around Grays Canyon, average CPUE increased from 0.75 pounds in 2006 to 1.0 pounds last year.

Logbook Analysis

Dr. Henry Cheng, a WDFW biometrician and Nick Lowry, a University of Washington doctoral candidate, have both completed analyses of coastal spot shrimp logbook data. Using different models, each assessed the data to determine a total allowable catch (TAC). Despite the differences in approach, the results produced were similar.

Based on these analyses, the Department is recommending a rule change that will reduce the current 250,000 pound TAC to 200,000 pounds. Further, the new

rule would split the TAC, assigning 100,000 pounds to the area south of 47°04.00' N. latitude and 100,000 pounds north of this line.

The current rule (WAC 220 – 88b – 030) states that the area south of 47°04.00' N. latitude will close when harvest from that area reaches 100,000 pounds. The current rule does not limit the number of pounds that could be harvested north of this line, so in theory the entire 250,000 pound TAC could be taken from the north. This arrangement made sense when most effort was directed at Grays Canyon. However, over time, effort has shifted northward (Figure 2). To provide protection for both areas, the new rule creates two TAC's that apply to each area separately. Enclosed is the draft of the proposed rule language changes and Small Business Impact Statement.

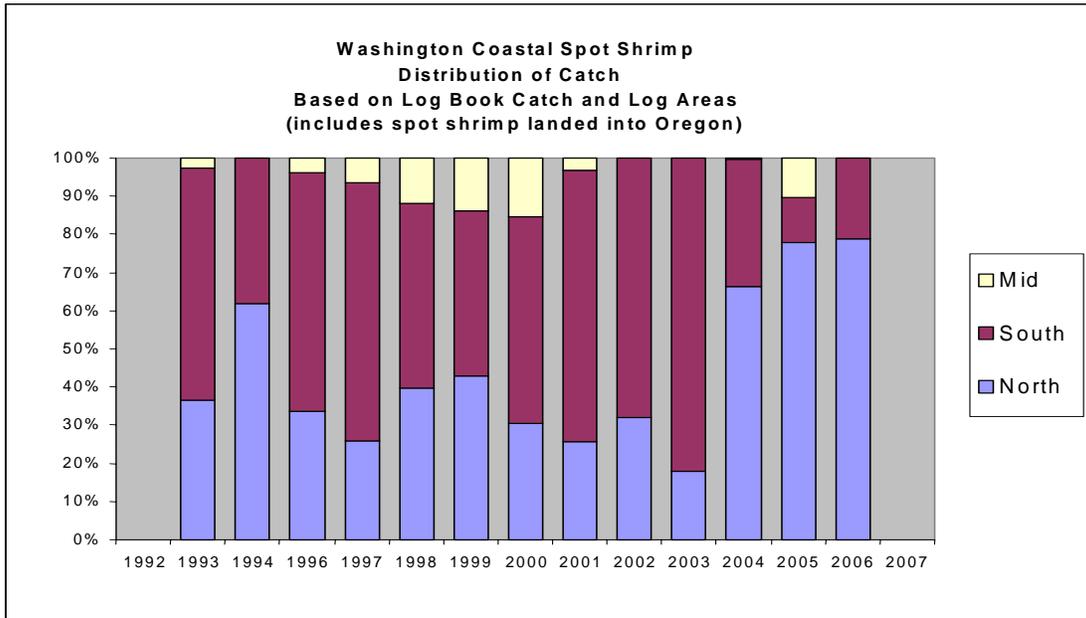


Figure 2. Distribution of logbook reported coastal spot shrimp catch by log area.

The Department will be presenting this recommendation to the WDFW Commission for their consideration when they meet June 6th and 7th at Ocean Shores. Opportunity for public comment is provided at this meeting. Written comments may also be submitted in advance. See the enclosed form, "Proposed Rule Making, CR 102", for additional location information and the address to send written comments.

The analysis of logbook data will be repeated in three to five years. Your continued efforts to provide reliable logbook data are appreciated and essential.

Survey Questionnaire

A questionnaire mailed in November asked all eight permit holders for their input on two issues: one, whether fishers supported moving the fishery from emerging commercial fishery rules to standard, limited entry regulation; and two whether or

not the minimum landing requirement should be dropped. Seven permit holders responded to the survey.

Six permit-holders responded favorably to moving the fishery to standard, limited entry regulations, except one noted that the license should be non-transferable. One respondent was not in favor of moving to standard limited entry regulations indicating a concern that the fishery would be overcapitalized with eight licenses under typical limited entry rules.

Five respondents favored dropping the minimum-landing requirement, commenting that most fisheries do not have landing requirements, and that meeting the requirement, at times, precluded pursuing more lucrative fishing opportunities. Those opposed to lifting the landing requirement felt it had been and would continue to reduce speculative participation.

WDFW believes that the minimum-landing requirement has minimal functional value. There are other strategies that can be employed to ensure the economic viability of the fishery and these will be included in up-coming discussions for establishing the fishery under permanent rules.

As a result, WDFW is moving forward to recommend dropping the minimum-landing requirement. The notice for this action has been filed with the state code reviser. If possible, this action will be combined with the request for the new TAC rule to go before the WDFW Commission in June. Additional information and the proposed rule language change will be sent to you at a later date.

Please feel free to call if you need any assistance or have any questions. My phone number is (360) 249-1221. If you need a logbook one can be mailed upon request.

Sincerely,

Lorna Wargo
Coastal Shellfish/Marine Fish Biologist

cc: Dr. Morris Barker
Dan Ayres



PROPOSED RULE MAKING

CR-102 (June 2004)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Department of Fish and Wildlife

- Preproposal Statement of Inquiry was filed as WSR 08-01-048 _____ ;
- 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 08-06-026
- Continuance of WSR _____

Title of rule and other identifying information: (Describe Subject) WAC 220-88B-030 Emerging commercial fishery—Eligibility for coastal experimental fishery permits—Terms and conditions of use—Renewal—Vessel restriction—Incidental catch.

Hearing location(s):
Shilo Inn
707 Ocean Shores Blvd NW
Ocean Shores, WA 98569

Submit written comments to:
Name: Rules Coordinator
Address: 600 Capitol Way No., Olympia, WA 98501-1091
e-mail: preuslmp@dfw.wa.gov

fax: (360)902-2155 _____ by (date) June 5, 2008 _____

in
v
: 8:00 A

Date: June 6-7, 2008 _____ Time: Time: 8:00 AM

Assistance for persons with disabilities: Contact

Susan Yeager _____ by May 23, 2008 _____

TTY (360) 902-2207_ or (360) 902-2267 _____

Date of intended adoption: July 20, 2008 via Conference Call _____

(Note: This is NOT the effective date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The total allowable harvest is reduced as a precautionary action to match up with estimates of population production, corresponding to known habitat. Modifies existing rule to further restrict the amount of harvest that can occur in a specified geographical area. This geographical restriction will limit the area impacts to prevent over harvest of the spot shrimp stocks within the sub-areas of the Washington coast. Removes the requirement for a continuing landing provision to maintain a valid permit.

Reasons supporting proposal: New analysis suggests that the Total Allowable Catch is set at too high a level and that harvest is not being proportionately harvested from the existing habitat. Further reduction in active permits is unlikely as the fleet size has stabilized and fishers are unwilling to relinquish their permits.

Statutory authority for adoption: RCW 77.12.047

Statute being implemented: RCW 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:

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: March 26, 2008

TIME: 1:36 PM

WSR 08-08-041

DATE
March 26, 2008

NAME (type or print)
Lori Preuss

SIGNATURE

TITLE
Rules Coordinator

(COMPLETE REVERSE SIDE)

Small Business Economic Impact Statement

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

Rule will cap the allowable harvest coast wide, set sub-area quotas within the overall cap and drop the requirement for continuing landing provision to maintain a permit.

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

None required.

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

Some fisheries will experience increased costs if they have to travel further from port to harvest the product – this only applies to those who are currently not making the further trips from port. Those fishers who choose not to fish will not have their permit cancelled and this will save them the legal costs of administrative appeals.

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

Some fishers may chose not to travel further from port to access the available harvest and they will forego that harvest opportunity which may reduce their revenue from sales

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:

1. Cost per employee;
2. Cost per hour of labor; or
3. Cost per one hundred dollars of sales.

There are less that 20 permit holders operating in this fishery and this does not qualify as ten percent under the defined business category.

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

The agency has not taken any special steps to reduce the cost of these rules on small businesses – the decrease in the allowable catch is to a level the fleet is not currently harvesting and the geographic shift to capping sub-areas will present only a minor hardship for a few vessels.

AMENDATORY SECTION (Amending Order 04-21, filed 2/10/04, effective 3/12/04)

WAC 220-88B-030 Emerging commercial fishery--Eligibility for coastal experimental fishery permits--Terms and conditions of use--Renewal--Vessel restriction--Incidental catch. (1) No individual may hold more than one Washington coastal spot shrimp experimental fishery permit.

(2) Coastal spot shrimp experimental fishery permits are not transferable. Only the vessel designated on the emerging commercial fishery license and coastal spot shrimp experimental fishery permit may be used to fish for or deliver spot shrimp.

(3) A coastal spot shrimp experimental fishery permit will be issued only to a natural person who (~~+~~

~~(a)) held such a permit the previous year (~~+~~ and~~

~~(b) Can demonstrate by valid Washington fish receiving tickets that at least 1,000 cumulative round weight pounds of spot shrimp taken from waters of the Pacific Ocean adjacent to the state of Washington were landed from the person's designated vessel or vessels during the previous two calendar years. Landings of spot shrimp reported as "tails" on fish receiving tickets will be converted to round pounds by multiplying the reported weight of tails by two).~~

(4) Coastal spot shrimp experimental fishery permits may be revoked by the director, and future permits denied by the director, for failure to comply with conditions specified in the permits or violations of other fishing regulations. A coastal spot shrimp experimental fishery permit will not be renewed if the emerging commercial fishery license is revoked or future fishing privileges of the licensee are suspended.

(5) The director may issue a coastal spot shrimp experimental fishery permit to another person if a permittee fails to make the requisite landings, if the person's experimental coastal spot shrimp experimental fishery permit is revoked, or if no application for an emerging commercial fishery license is received by March 31st of each year. The total number of permits issued, including replacement permits, shall not exceed fifteen. Selection of persons to receive replacement permits shall be by gear or gear replacement type, and replacement permits will be offered in descending order first to persons who made the largest total of Washington coastal spot shrimp landings in each gear type during the original qualifying period, and then in descending order to persons who made the largest total of Washington coastal spot shrimp landings in each gear type. If no persons with coastal spot shrimp landings wish to participate, the director may offer a replacement permit by random drawing.

(6) Coastal spot shrimp experimental fishery permits are only

valid for the year issued and expire on December 31st of the year issued with the expiration of the emerging commercial fishery license.

(7) The total allowable catch of spot shrimp taken from Washington territorial waters west of the Bonilla-Tatoosh line and from adjacent waters of the Pacific Ocean during a calendar year is ~~((250,000))~~ 200,000 pounds round weight, provided that not more than 100,000 pounds ~~((may))~~ be taken south of 47°04.00' N. latitude and no more than 100,000 pounds be taken north of 47°04.00' N. latitude.

~~(8) ((Beginning January 1, 2003, through December 31, 2005, the allowable catch shall be allocated as follows: 175,000 pounds available to all permit holders and 75,000 pounds available to fishers who were converted from trawl to pot permits. Beginning January 1, 2006, the allowable catch is available to all permit holders.~~

~~(9))~~ Vessel restriction: A coastal spot shrimp experimental fishery permit will not be issued to a person who designates a vessel greater than ten feet longer than the vessel designated as of March 31, 2003, provided that if the vessel designated as of March 31, 2003, is ten or more feet greater than the vessel used by the person to initially qualify for a coastal spot shrimp experimental fishery permit, the person may not designate a vessel greater in length than the vessel designated as of March 31, 2003.

~~((+10))~~ (9) Incidental catch:

(a) It is unlawful to retain more than 50 pounds round weight of other shrimp species. It is ~~((lawful))~~ permissible to retain octopus and squid.

(b) It is unlawful to retain salmon.

(c) It is unlawful to retain any bottomfish species.