

**6. FORAGE FISH COMMERCIAL TRIP LIMITS – (RULE BRIEFING & PUBLIC HEARING)**

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## **“GREEN SHEET”**

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**Meeting date:** January 8, 2010

**Agenda item #6:** Forage Fish: Commercial Trip Limits for the Columbia River, Willapa Bay, Grays Harbor and Ocean Fisheries; Housekeeping Rule Changes - (Briefing and Public Hearing)

**Staff Contact:** Lorna Wargo, Marine Fish Biologist, Fish Program

**Presenter(s):** Lorna Wargo, Marine Fish Biologist, Fish Program

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### **Background:**

Forage fish include anchovy, sardine, candlefish, and smelt among others. Of these, anchovy is one of the most important in the forage fish commercial fisheries along the coast – the ocean, Grays Harbor and Willapa Bay, and in the Columbia River. Historically anchovy have been caught by purse seine gear fishers supplying a live bait or sport bait market or caught by lampara gear fishers for use, usually their own, as bait in commercial tuna fishing. These are small, fisheries. Fewer than two dozen baitfish-lampara gear licenses and only a couple of baitfish-purse seine licenses are issued annually. Documented catch of anchovy has averaged about 240,000 pounds a year. Actual catch has likely been somewhat higher. Purse seine gear fishers sell their catch and thus generate fish receiving tickets, whereas lampara fishers don't because their catch is generally not sold. Anchovy are included in federal fishery management plans as a “monitored” or passively managed stock. Management at the state level is also passive. No recent stock assessments have been conducted to evaluate the status of the resource which is assumed to be healthy.

In late July and early August 2009, anchovy harvest by purse seine gear reached historically unprecedented levels due to new entrants in the fishery. The total catch during this time period exceeded 1.3 million pounds. Longtime fishers in the fishery accounted for less than 100,000 pounds of the total. In response, emergency regulations were enacted imposing a weekly trip limit of 22,000 pounds for anchovy and limiting the amount of anchovy that could be sold for reduction. This rendered the new fishing activity economically unviable.

To ensure long-term resource conservation, the Department proposes to adopt permanent rules limiting catch and disposition. The proposed rule changes would implement an 11K pound (5 metric ton) daily and 22K pound (10 metric ton) weekly trip limit, and limit the amount of anchovy for reduction to 15% of a landing. These trip limits were set at a level to accommodate traditional bait fishing activity. While addressing this emergent issue, it became apparent that the forage fish rules needed to be updated. The Department also proposes the following rule changes:

1) Reduce the incidental allowance of sardine from 25% to 20% of the landing by weight when fishing for anchovy and candlefish. Sardine is managed at the federal level, and the National Marine Fishery Service (NMFS) establishes the allowance for fisheries that incidentally harvest sardine. This allowance, currently at 20%, is not fixed, but can be modified. It is unlikely however that NMFS would set it below 20%. Since state rules cannot be more liberal than federal regulations, the Department proposes setting the incidental allowance at 20% to avoid being out of compliance with future federal regulations. If warranted, the Department can use an emergency rule to match increases to the federal incidental allowance;

2) Add language limiting the incidental allowance for non-targeted forage fish to the rules. As an example, no allowance of herring is currently provided for in fisheries targeting anchovy or candlefish, making the retention of any herring unlawful. The proposed rules would allow up to 5% of the landing by weight to be comprised of herring, smelt and/or shad, depending on the area;

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3) Eliminate some gears or fishing opportunities. In Grays Harbor, the use of herring weirs is eliminated. In both, Grays Harbor and Willapa Bay, provisions for drag seine gear or jig fishing for bottomfish are dropped; and

4) Address a variety of housekeeping issues. In some cases, the license needed to participate in a fishery was not identified; this has been corrected. Provisions that apply to salmon or sturgeon gill net fisheries have been deleted and will be incorporated into the appropriate sections for those fisheries. And to support enforcement of the rules, the statute authority is referenced in each subsection.

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

Does the Commission wish to limit the harvest of anchovy to ensure conservation of the resource while accommodating the needs of established baitfish fisheries?

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**Public involvement process used and what you learned:**

A letter describing the rule change proposals was mailed in November to baitfish- lampara, baitfish-purse seine, and foodfish drag seine license holders and Columbia River Commercial Advisory Group members. This letter also announced the public meeting held December 1, 2009 at the regional office at Montesano.

Comments from several license holders were received by telephone, the meeting itself was attended by a half-dozen license holders.

Participants in the baitfish fisheries support a limit on catch to prevent large-scale efforts from developing. However, some commented that the daily and weekly trip limits are set too low. They described the anchovy fishery as opportunistic – the fish may be there one week and not the next. Since these fish are held in net pens, the fishery can operate with fewer landings of larger volumes. They did not offer an alternative limit, but also did not ask for substantial increases. Comments were also received from license holders in varying stages of the process, but with the same objective of developing an anchovy product suitable for human consumption or of food-grade quality. As proposed, the trip limits would eliminate their opportunity to operate in Washington. Participants of the established baitfish fisheries adamantly object to the harvest of anchovy for reduction, and while not against the use of anchovy for food grade markets are not advocating for expansion of the fishery.

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**Action requested:**

This is the rule briefing and public hearing opportunity. The Commission will consider final adoption of the rule proposal at its February 5-6, 2010 meeting.

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**Draft motion language:**

NA

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**Justification for Commission action:**

The forage fish fishery for anchovy provides bait for valuable sport and commercial fisheries and has operated at a sustainable level without harvest controls. Allowing for the expansion of the bait fish fishery or the development of a food-grade fishery needs to be done in conjunction with an evaluation of the resource to ensure conservation needs are met and the viability of established fisheries is not compromised.

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**Communications Plan:**

1. Notify affected license holders and advisor group by mail; include proposed rule changes and rationale; announce public meeting.
2. Hold public meeting at Region 6 office at Montesano, December 1, 2009.
3. Distribute rules and CR 102 by December 7, 2009, include summary of comments from December 1 meeting; invite comments for the January Commission meeting.
4. Notify license holders of decision following February Commission meeting.

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*Form revised 10/16/2008 - sdy*





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

November 13, 2009

Dear License Holder or Advisory Group Member:

This letter is being sent to holders of the following licenses: baitfish-lampara, baitfish-purse seine, food fish-drag seine and smelt dip bag net, and members of the Columbia River Commercial Advisory Group 2009. The purpose of the letter is to notify you regarding rule changes the Washington Department of Fish and Wildlife (Department) is proposing for commercial forage fish (anchovy, candlefish, smelt, sardine, and herring) fishing for the ocean, Grays Harbor, Willapa Bay and Columbia River.

### *Meetings*

An informational meeting to discuss these rule change proposals has been scheduled for **Tuesday, December 1, at 2 p.m.** at the **WDFW Region 6 office** at Montesano. This proposal will be presented to the Washington Fish and Wildlife Commission at their January 8-9, 2010 meeting for their consideration. Public testimony will be taken at this meeting. A package of information including the proposed rule language, an issue statement (also known as the "green sheet"), and instructions for providing public comment and/or testimony will be mailed in early December.

### *Background*

In response to an unusually high level of anchovy harvest in the purse seine fishery in early August 2009, a weekly trip limit for anchovy and a limit on the amount of catch that can go to reduction were enacted by emergency regulation. The proposed rule changes would implement daily and weekly trip limits, and limits on the amount of anchovy for reduction into permanent rules. The trip limits were set at a level to ensure conservation of the resource, yet accommodate traditional bait fishing activity.

Several additional changes to the forage fish rules are also being put forward. First, the incidental allowance of sardine is being lowered from 25% to 20% of the landing by weight when fishing for anchovy and candlefish (also known as eulachon). State rules cannot be more liberal than federal regulations; they can be more restrictive. The National Marine Fishery Service (NMFS) sets the

allowance for fisheries that incidentally harvest sardines. This allowance, currently at 20%, is not fixed, but can be modified. It is unlikely however that NMFS would set it below 20%. The Department proposes setting the incidental allowance at 20% in permanent state rules to avoid being out of compliance with future federal regulations. If warranted, the Department can use a temporary (known as "emergency") rule to match increases to the federal incidental allowance.

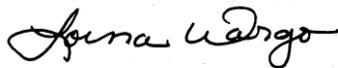
Second, language limiting the incidental allowance for non-targeted forage fish has been added to the rules. As an example, no allowance of herring is currently provided for in fisheries targeting anchovy or candlefish, making the retention of any herring unlawful. The proposed rules would allow up to 5% of the landing by weight to be comprised of herring, smelt and/or shad, depending on the area.

Third, the proposals include eliminating some gears or fishing opportunities. In Grays Harbor, the use of herring weirs has been eliminated. In both, Grays Harbor and Willapa Bay, provisions for drag seine gear or jig fishing for bottomfish have been dropped.

Finally, numerous housekeeping changes are addressed in the proposals. In some cases, the license needed to participate in a fishery was not identified; this has been corrected. Provisions that apply to salmon or sturgeon gill net fisheries have been deleted and will be incorporated into the appropriate sections for those fisheries. And to support enforcement of the rules, the statute authority is referenced in each subsection.

Please feel free to contact me if you have any questions at (360) 249-1221 or (360) 489-4679.

Sincerely,

A handwritten signature in black ink that reads "Lorna Wargo". The signature is written in a cursive, flowing style.

Lorna Wargo  
Marine Fisheries Biologist

cc: Michele Culver, WDFW, Regional Director  
Craig Burley, WDFW, Fish Program Division Manager

Enclosures (5)



# 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

- |   |   |
|---|---|
| <input checked="" type="checkbox"/> Preproposal Statement of Inquiry was filed as WSR 09-18-065; or | <input checked="" type="checkbox"/> Original Notice       |
| <input type="checkbox"/> Expedited Rule Making--Proposed notice was filed as WSR _____; or          | <input type="checkbox"/> Supplemental Notice to WSR _____ |
| <input type="checkbox"/> Proposal is exempt under RCW 34.05.310(4).                                 | <input type="checkbox"/> Continuance of WSR _____         |

**Title of rule and other identifying information:** (Describe Subject) WAC 220-20-010, General Provisions – Lawful and unlawful acts – Salmon, other fish and shellfish; WAC 220-33-060, Columbia River – Commercial fisheries below Bonneville Dam; WAC 220-36-03001, Grays Harbor – Seasons and lawful gear – Varieties other than salmon and sturgeon; WAC 220-40-030, Willapa Bay– Seasons and lawful gear – Varieties other than salmon and sturgeon; WAC 220-44-020, Coastal baitfish gear; WAC 220-69-240, Duties of commercial purchasers and receivers.

**Hearing location(s):**  
Natural Resources Building ~ First Floor, Room 172  
1111 Washington St. SE  
Olympia, Washington 98504

**Submit written comments to:**  
Name: Rules Coordinator  
Address: 600 Capitol Way No., Olympia, WA 98501-1091  
e-mail [Lori.Preuss@dfw.wa.gov](mailto:Lori.Preuss@dfw.wa.gov)  
fax (360) 902-2155 by (date) December 31, 2009

Date: January 8-9, 2010 Time: 8:45 a.m.

**Assistance for persons with disabilities:** Contact  
Susan Yeager by December 31, 2009  
TTY (360) 902-2207 or (360) 902-2267

**Date of intended adoption:** On or after February 5, 2010  
(Note: This is NOT the effective date)

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The Department wants to amend these rules so they are consistent with federal rule 50 CFR 660 Subpart I. The Department also wants to establish baitfish catch limits, to limit the use of anchovy for purposes other than human consumption or fishing bait, and to require commercial purchasers to indicate on fish receiving tickets the quantity in pounds of anchovy purchased for purposes other than human consumption.

**Reasons supporting proposal:** State laws and rules can be more restrictive than their federal counterparts, but not less restrictive. These changes will improve the enforceability of these rules, enhance resource and ecosystem protection, and ensure that the highest economic value is obtained from the use of baitfish resources.

**Statutory authority for adoption:** 77.12.047

**Statute being implemented:** 77.12.047

- Is rule necessary because of a:**
- |                         |                              |  |
|-------------------------|------------------------------|--|
| Federal Law?            | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Federal Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| State Court Decision?   | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
- If yes, CITATION:

**DATE**  
November 18, 2009

**NAME** (type or print)  
Lori Preuss

**SIGNATURE**

**TITLE**  
Rules Coordinator

### CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE:** November 18, 2009  
**TIME:** 10:03 AM

**WSR 09-23-116**

(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) The Washington Department of Fish and Wildlife

- Private
- Public
- Governmental

**Name of agency personnel responsible for:**

	Name	Office Location	Phone
Drafting.....	Lorna Wargo	1111 Washington Street, SE, Olympia, WA 98504	(360) 753-2600
Implementation	Jim Scott	1111 Washington Street, SE, Olympia, WA 98504	(360) 902-2651
Enforcement.....	Chief Bruce Bjork	1111 Washington Street, SE, Olympia, WA 98504	(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.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone ( ) \_\_\_\_\_

fax ( ) \_\_\_\_\_

e-mail \_\_\_\_\_

No. Explain why no statement was prepared. The proposed changes do not impose any additional burdens or costs on fishers or dealers participating in commercial baitfish fisheries.

**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: This proposal does not involve hydraulics.

AMENDATORY SECTION (Amending Order 07-266, filed 10/23/07, effective 11/23/07)

**WAC 220-20-010 General provisions--Lawful and unlawful acts--Salmon, other fish and shellfish.** (1) It shall be unlawful to take, fish for, possess or transport for any purpose fish, shellfish or parts thereof, in or from any of the waters or land over which the state of Washington has jurisdiction, or from the waters of the Pacific Ocean, except at the times, places and in the manners and for the species, quantities, sizes or sexes provided for in the regulations of the department.

(2) It shall be unlawful for any person to have in possession or under control or custody any food fish or shellfish within the land or water boundaries of the state of Washington, except in those areas which are open to commercial fishing or wherein the possession, control or custody of salmon or other food fish or shellfish for commercial purposes is made lawful under a statute of the state of Washington or the rules and regulations of the commission or director, unless otherwise provided.

(3) A person may fish for, possess, process and otherwise deal in food fish and fish offal or scrap for any purpose, provided that it shall be unlawful to use any of the following listed species for purposes other than human consumption or fishing bait:

Pacific halibut	<i>(Hippoglossus stenolepis)</i>
Pacific herring (except as prescribed in WAC 220-49-020)	<i>(Clupea harengus pallasii)</i>
<u>Anchovy</u> (except as provided for in WAC 220-33-060, 220-36-03001, 220- 44-020, and 220-40- 030)	<u><i>Engraulis mordax</i></u>
Salmon	
Chinook	<i>(Oncorhynchus tshawytscha)</i>
Coho	<i>(Oncorhynchus kisutch)</i>
Chum	<i>(Oncorhynchus keta)</i>
Pink	<i>(Oncorhynchus gorbuscha)</i>
Sockeye	<i>(Oncorhynchus nerka)</i>
Masu	<i>(Oncorhynchus masu)</i>
<del>(Pitchard)</del> <u>Sardine</u> (except as provided for in WAC 220-88C- 040)	<i>(Sardinops sagax)</i>

(4) It shall be unlawful for any person to fish for fish or shellfish while in possession in the field of fish or shellfish

that are in violation of the harvest regulations for the area being fished. This regulation does not apply to vessels in transit.

(5) It shall be unlawful for the owner or operator of any commercial food fish or shellfish gear to leave such gear unattended in waters of the state or in offshore waters unless said gear is marked.

(a) Shellfish pot, bottom fish pot, set line and set net gear must be marked with a buoy to which shall be affixed, in a visible and legible manner, the department approved and registered buoy brand issued to the license, provided that:

(i) Buoys affixed to unattended gear must be visible on the surface of the water except during strong tidal flow or extreme weather conditions.

(ii) When two or more shellfish pots are attached to a common ground line, the number of pots so attached must be clearly labeled on the required buoy.

(b) It is unlawful to operate any gill net, attended or unattended, unless there is affixed, within five feet of each end of the net, a buoy, float, or some other form of marker, visible on the cork line of the net, on which shall be marked in a visible, legible and permanent manner the name and gill-net license number of the fisher.

(c) It shall be unlawful at any time to leave a gill net unattended in the commercial salmon fishery.

(6) It shall be unlawful to place any commercial food fish or shellfish gear in any waters closed to commercial fishing, provided that this provision shall not apply to reef nets or brush weirs or to gear being tested under supervision of the department. In addition, it shall be unlawful to take, fish for or possess food fish with any type of commercial fishing gear in the waters of Carr Inlet north of north latitude 47°20', from August 15 through November 30, except as provided in chapter 220-47 WAC.

(7) It shall be unlawful for the owner or operator of any fishing gear to refuse to submit such gear to inspection in any manner specified by authorized representatives of the department.

(8) It shall be unlawful for any person taking or possessing fish or shellfish taken from any of the waters or beaches of the Columbia River, the state of Washington, or the Pacific Ocean, for any purpose, to fail to submit such fish or shellfish for inspection by authorized representatives of the department.

(9) It shall be unlawful for any person licensed by the department to fail to make or return any report required by the department relative to the taking, selling, possessing, transporting, processing, freezing and storing of fish or shellfish, whether taken within the jurisdiction of the state of Washington or beyond, or on Indian reservations or usual and accustomed Indian fishing grounds.

(10) It shall be unlawful to take, fish for, possess, injure, kill, or molest fish in any fishway, fish ladder, fish screen, holding pond, rearing pond, or other fish protective device, or to interfere in any manner with the proper operation of such fish protective devices.

(11) It shall be unlawful to club, gaff, snag, snare, dip net, harass, spear, stone, or otherwise molest, injure, kill, destroy, or shoot with a firearm, crossbow, bow and arrow, or compressed air gun, any fish or shellfish or parts thereof, or for any person to attempt to commit such acts, or to have any fish, shellfish or parts thereof so taken in possession, except as provided for in this subsection:

(a) A person may use a dip net or club in the landing of fish taken by personal-use angling, unless otherwise provided; and a person may use a gaff in the landing of tuna, halibut and dogfish, and a harpoon in the landing of halibut, in all catch record card areas.

(b) (i) A person may use a dip net, gaff, or club in the landing of food fish or shellfish taken for commercial purposes, except that it is unlawful to use a fish pew, pitchfork, or any other instrument that will penetrate the body of the fish or shellfish that are not going to be retained or are unlawful to possess.

(ii) It is unlawful under any circumstance to use a device that penetrates the body of a sturgeon whether legal to retain or not.

(c) A person may use a spear in underwater spear fishing, as provided for in WAC 220-56-160.

(d) A person may use a bow and arrow or spear to take carp, as provided for in WAC 220-56-280.

(e) A person may snag herring, smelt, anchovies, pilchard, sand lance, and squid when using forage fish jigger gear or squid jigs.

(f) A person may shoot halibut when landing them with a dip net, harpoon or gaff.

(12) It shall be unlawful to take or possess, for any purpose, any fish or shellfish smaller or larger than the lawful minimum or maximum size limits prescribed by department rule. Any such fish either snagged, hooked, netted or gilled must be immediately returned to the water with the least possible injury to the fish or shellfish.

(13) It shall be unlawful to allow salmon or sturgeon or fish unlawful to retain that are entangled in commercial nets to pass through a power block or onto a power reel or drum.

(14) Notwithstanding the exceptions listed in subsection (15) of this section, it shall be unlawful to possess, aboard any vessel engaged in commercial fishing or having commercially caught fish aboard, any food fish or shellfish in such condition that its species, length, weight or sex cannot be determined if a species, species group or category, length, weight, or sex limit is prescribed for said species. (~~(In addition,)~~)

(15) It is unlawful to possess food fish or shellfish mutilated in any manner such that the natural length or weight cannot be determined if a length or weight limit is prescribed for said species, except as follows:

(a) The food fish or shellfish have been legally taken for commercial purposes, are landed, and are properly accounted for on

a completed fish receiving ticket.

(b) A person may possess, transport through the waters of the state, or land dressed sablefish as defined in WAC 220-16-330.

(c) A person may possess, transport through the waters of the Pacific Ocean, or land dressed salmon caught during a legal commercial salmon troll fishery, provided that frozen Chinook salmon, dressed with the heads off, shall be 21 1/2 inches minimum; and frozen coho salmon, dressed with the heads off, shall be 12 inches minimum, measured from the midpoint of the clavicle arch to the fork of the tail.

(d) A person may possess, transport through the waters of the Pacific Ocean, or land dressed halibut if allowed by International Pacific Halibut Commission (IPHC) rules and such fish meet any IPHC size requirements. All halibut must be landed with the heads on.

(e) A person may possess, transport through the waters of the Pacific Ocean, or land dressed lingcod as defined by WAC 220-16-330 when taken during a lawful commercial fishery.

~~((15))~~ (16) It shall be unlawful to possess for any purpose any fish or shellfish in excess of catch or possession limits prescribed by department rule. Any such fish either snagged, hooked, netted or gilled must be immediately returned to the water with the least possible injury to the fish or shellfish.

~~((16) A person may possess, transport through the waters of the state, or land, dressed sablefish as defined by WAC 220-16-330.~~

~~(17) A person may possess, transport through the waters of the Pacific Ocean, or land, dressed salmon caught during a lawful commercial salmon troll fishery, provided that frozen Chinook salmon, dressed, heads off, shall be 21-1/2 inches minimum, and frozen coho salmon dressed, heads off, shall be 12 inches minimum, measured from the midpoint of the clavicle arch to the fork of the tail.~~

~~(18) A person may possess, transport through the waters of the Pacific Ocean, or land, dressed halibut if allowed by International Pacific Halibut Commission (IPHC) rules and such fish meet any IPHC size requirements.~~

~~(19))~~ (17) It shall be unlawful in any area to use, operate, or carry aboard a commercial fishing vessel a licensed net or combination of such nets, whether fished singly or separately, in excess of the maximum lawful size or length prescribed for a single net in that area, except as otherwise provided for in the rules and regulations of the department.

~~((20))~~ (18) It shall be unlawful for any permit holder to fail to comply with all provisions of any special permit or letter of approval issued to him under the authority of the director, or to perform any act not specifically authorized in said document or in the regulations of the commission or director.

~~((21))~~ (19) It shall be unlawful to use, place or cause to be placed in the waters or on the beaches or tidelands of the state any substance or chemical used for control of predators or pests affecting fish or shellfish or other aquatic marine organisms, without first having obtained a special permit to do so from the director.

~~((22))~~ (20) It shall be unlawful to test commercial fishing gear, except as follows:

(a) Bellingham Bay - inside and northerly of a line from Governor's Point to the south tip of Eliza Island to Point Frances, in waters 10 fathoms and deeper.

(b) Boundary Bay - north of a line from Birch Point to Point Roberts, and south of the international boundary, in waters 10 fathoms and deeper during times not under control of the Pacific Salmon Commission.

(c) San Juan Channel - within a 1-mile radius of Point Caution during times not under control of the Pacific Salmon Commission.

(d) Port Angeles - inside and westerly of a line projected from the east tip of Ediz Hook through buoy C "1" to the mainland.

(e) Port Gardner - within a 2-mile radius of the entrance to Everett breakwater, in waters 10 fathoms and deeper.

(f) Central Puget Sound - between lines from Meadow Point to Point Monroe, and Skiff Point to West Point, in waters 50 fathoms and deeper.

(g) East Pass - between lines from Point Robinson true east to the mainland, and from Dash Point to Point Piner, in waters 50 fathoms and deeper.

(h) Port Townsend - westerly of a line from the Coast Guard station in Port Townsend to Walan Point to Kala Point, in waters 10 fathoms and deeper.

(i) All tows or sets are limited to 20 minutes, exclusive of setting and retrieving time.

(j) All testing is to be accomplished between 8:00 a.m. and 4:00 p.m.

(k) Cod ends of trawl nets must be left open, all hooks of set line gear must be unbaited, and no lures or baited hooks shall be used with jig or troll gear.

(l) Any and all incidentally caught fish and shellfish must be returned to the waters immediately, and no fish or shellfish are to be retained aboard the vessel at any time during a gear test operation.

(m) It shall be unlawful for any person conducting such gear testing operations to fail to notify the fish and wildlife enforcement office in Olympia prior to testing.

~~((23))~~ (21) It is unlawful for any person or corporation either licensed by the department or bringing fish or shellfish into the state to fail to comply with the directions of authorized department personnel related to the collection of sampling data or material from fish or shellfish. It is also unlawful for any such person or corporation to fail to relinquish to the department, upon request, any part of a salmon or other fish containing coded-wire tags, including but not limited to, the snouts of those salmon that are marked by having clipped adipose fins.

~~((24))~~ (22) It is unlawful for any person to possess live bottom fish taken under a commercial fishery license.

~~((25))~~ (23) It is unlawful for any person to use chemical irritants to harvest fish, shellfish or unclassified marine invertebrates except as authorized by permit issued by the

department.

((+26)) (24) The lower Columbia River, Grays Harbor and Willapa Bay are closed to commercial sturgeon fishing, except as provided by emergency rule of the director. Sturgeon taken incidentally during an open commercial salmon fishing period may be retained for commercial purposes as described by department rule.

AMENDATORY SECTION (Amending Order 03-26, filed 2/18/03, effective 3/21/03)

**WAC 220-33-060 Herring and ((anchovies)) anchovy.** It is unlawful to fish for herring or ((anchovies)) anchovy in the lower Columbia River for commercial purposes or to possess herring or ((anchovies)) anchovy taken from those waters for commercial purposes, except as provided in this section:

#### **Gear**

(1) Purse seine and lampara gear may be used to fish for ((anchovies)) anchovy if the cork line of the gear does not exceed 1,400 feet in length and the mesh size of the gear is not less than one-half inch stretch measure.

(2) Lampara gear may be used to fish for herring if the cork line of the gear does not exceed 1,400 feet in length and the mesh size of the gear is not less than one-half inch stretch measure.

(3) It is unlawful to fish with purse seine or lampara gear in the waters of the Columbia River if any part of the purse seine or lampara is in waters that are less than 20 feet deep.

(4) A violation of subsections (1) through (3) of this section is punishable under RCW 77.15.520, Commercial fishing--Unlawful gear or methods--Penalty.

#### **Licensing**

~~((+4))~~ (5) (a) A baitfish purse seine fishery license is ~~((a license))~~ required to operate ~~((a))~~ gear as provided for in this section, and the license allows the operator to retain ((anchovies)) anchovy.

(b) A baitfish lampara fishery license is ~~((a license))~~ required to operate ~~((a))~~ gear as provided for in this section, and the license allows the operator to retain ((anchovies)) anchovy.

(c) A herring lampara ~~((fishery))~~ limited entry license is ~~((a license))~~ required to operate ~~((a))~~ gear as provided for in this section, and the license allows the operator to retain herring.

(6) A violation of any portion of subsection (5) of this section is punishable under RCW 77.15.500, Commercial fishing without a license--Penalty.

#### **Fishing periods**

~~((+5))~~ (7) (a) Purse seine and lampara gear may be used to fish for ((anchovies)) anchovy in Salmon Management and Catch Reporting Area (SMCRA) 1A, 7 days per week, from January 1 through December 31 of each calendar year.

(b) Lampara gear may be used to fish for herring in SMCRA 1A, 7 days per week, from January 1 through December 31 of each calendar year.

(8) A violation of subsection (7) of this section is punishable under RCW 77.15.550, Violation of commercial fishing area or time--Penalty.

### **General**

~~((+6))~~ (9) Species of fish other than herring ((or anchovies)), anchovy, ((except)) shad ((and pilchard)), or sardine, taken in the operation of ((the)) purse seine and lampara gear, shall be returned immediately to the water. ((Pilchard)) Sardine taken incidental to ((the)) herring ((and)) or anchovy fisheries as provided for in this section may not exceed ((twenty-five)) twenty percent of the weight of any landing. Herring taken incidental to an anchovy fishery as provided for in this section may not exceed five percent of the weight of any landing.

(10) It is unlawful for any person licensed to fish under a baitfish purse seine or baitfish lampara license to retain, possess, or deliver, to a place or port, regardless of catch area, anchovy in excess of 5 metric tons (11,023 pounds) in one day, or in excess of 10 metric tons (22,046 pounds) during any calendar week beginning 12:01 a.m. Sunday through 11:59 p.m. Saturday.

(11) It is unlawful to deliver anchovy, in excess of fifteen percent of the total landing weight, for the purposes of conversion into fish flour, fishmeal, fish scrap, fertilizer, fish oil, or other fishery products.

(12) A violation of subsections (9) through (11) of this section is punishable under RCW 77.15.550, Violation of commercial fishing area or time--Penalty.

AMENDATORY SECTION (Amending Order 03-26, filed 2/18/03, effective 3/21/03)

**WAC 220-36-03001 Grays Harbor--Seasons and lawful gear--**  
**(~~Varieties other than salmon and sturgeon~~) Forage fish.** (1) It is unlawful to fish for or possess anchovy, candlefish, herring, sardine, or smelt for commercial purposes in Marine Fish-Shellfish Management and Catch Reporting Area 60B (~~to fish for food fish, other than sturgeon and salmon, with purse seine or lampara gear exceeding 900 feet in length or having meshes of less than one-half inch stretch measure, or with drag seine gear exceeding 700 feet in length or having meshes less than 4-1/2 inches stretch measure, except as provided in WAC 220-36-03001(6).~~ It is unlawful to fish for or possess salmon or sturgeon taken with purse seine, lampara, or drag seine gear.

(2) ~~It is lawful to fish for and possess bottomfish in Marine Fish-Shellfish Management and Catch Reporting Area 60B at any time with set line and hand line jig gear.~~

(3) ~~It is lawful to retain for commercial purposes bottomfish taken incidental to any lawful commercial salmon fishery in Grays Harbor Salmon Management and Catch Reporting Areas 2A, 2B, 2C, and 2D, and it is lawful to retain bottomfish taken incidental to any lawful sturgeon fishery in Marine Fish-Shellfish Management and Catch Reporting Area 60B.~~

(4) ~~It is lawful to take, fish for and possess smelt taken for commercial purposes in all waters of Grays Harbor except it is unlawful to take smelt for commercial purposes during weekly closed periods extending from 8:00 a.m. Thursday to 8:00 p.m. Saturday.~~

(5) ~~It is lawful to fish for and possess herring, anchovies, candlefish, or pilchards taken for commercial purposes with dip bag net gear at any time in the waters of Marine Fish-Shellfish Management and Catch Reporting Area 60B.~~

(6) (a) ~~June 1 through October 31 - It is lawful to fish for and possess anchovies, candlefish, or pilchards with purse seine or lampara in the waters of Grays Harbor, provided it is unlawful to use gear exceeding 1,400 feet in length or containing meshes of less than 1/2-inch stretch measure. It is lawful to fish for herring with lampara gear in the waters of Grays Harbor, provided it is unlawful to use gear exceeding 1,400 feet in length or containing mesh less than 1/2-inch stretch measure. All species of fish other than herring, pilchard, candlefish, and anchovy taken in operation of such purse seine or lampara gear must be immediately returned to the water.~~

(b) ~~February 1 through April 15 - Closed to all commercial herring, anchovy, candlefish, or pilchard fishing except dip bag net.~~

(7) ~~It is lawful to take, fish for and possess herring,~~

~~candlefish, pilchards, or anchovies taken for commercial purposes with a herring weir from April 1 through September 30 in the waters of Marine Fish-Shellfish Management and Catch Reporting Area 60B, provided that the lead shall not exceed 300 feet in length or extend into any navigation channel or customary gill net drifting lane. It shall be unlawful for any person to install or operate a herring weir without obtaining written permission from the director of fisheries.~~

~~(8) It is unlawful to fish with purse seine or lampara gear at all times in the waters of Marine Fish-Shellfish Management and Catch Reporting Area 60B if any part of the purse seine or lampara is in waters that are less than 20 feet deep.)) except as provided for in this section.~~

#### **General**

(2) It is unlawful to fish for or possess salmon or sturgeon taken with purse seine or lampara gear.

(3) It is unlawful to fish with purse seine or lampara gear at all times in the waters of Marine Fish-Shellfish Management and Catch Reporting Area 60B if any part of the purse seine or lampara is in waters that are less than 20 feet deep.

(4) It is unlawful to fail to immediately return to the water, unharmed, all species of fish other than herring, anchovy, candlefish, and sardine taken in operation of purse seine, lampara, dip bag net, or hand net gears.

(5) A violation of subsections (1) through (4) of this section is punishable under RCW 77.15.520, Commercial fishing--Unlawful gear or methods--Penalty; and RCW 77.15.550, Violation of commercial fishing area or time--Penalty.

#### **Anchovy and candlefish**

##### **Licensing**

(6) A baitfish purse seine fishery license is required to operate purse seine gear for anchovy or candlefish as provided for in this section.

(7) A baitfish lampara fishery license is required to operate lampara gear for anchovy or candlefish as provided for in this section.

(8) A smelt dip bag license is required to operate dip bag net gear for anchovy or candlefish as provided for in this section.

(9) A violation of subsections (6) through (8) of this section is punishable under RCW 77.15.500, Commercial fishing without a license--Penalty.

##### **Fishing period**

(10) It is unlawful to fish for or to possess anchovy, candlefish, sardine, or smelt with the use of purse seine or lampara gear at any time except January 1 through January 31, and April 16 through December 31, of any calendar year.

(11) Dip bag net gear may be used for anchovy or candlefish at all times.

(12) A violation of subsection (10) or (11) of this section is punishable under RCW 77.15.550, Violation of commercial fishing area or time--Penalty.

##### **Landing limitations**

(13) It is unlawful to deliver anchovy, in excess of fifteen percent of the total landing weight, for the purposes of conversion into fish flour, fishmeal, fish scrap, fertilizer, fish oil, or other fishery products.

(14) It is unlawful for any person licensed to fish under a baitfish purse seine or baitfish lampara license to retain, possess, or deliver, to a place or port, regardless of catch area, anchovy in excess of 5 metric tons (11,023 pounds) in one day, or in excess of 10 metric tons (22,046 pounds) during any calendar week beginning 12:01 a.m. Sunday through 11:59 p.m. Saturday.

(15) A violation of subsection (13) or (14) of this section is punishable under RCW 77.15.550, Violation of commercial fishing area or time--Penalty.

#### **Gear**

(16) It is unlawful to fish for anchovy or candlefish with purse seine or lampara gear with a mesh size of less than one-half inch stretch measure.

(17) It is unlawful to fish with purse seine or lampara gear for anchovy or candlefish if the cork line exceeds 900 feet in length, except: From June 1 through October 31, it is permissible to use gear in which the cork line does not exceed 1,400 feet in length.

(18) It is unlawful to fish for anchovy or candlefish with dip bag net gear that exceeds 18 square feet.

(19) A violation of subsections (16) through (18) of this section is punishable under RCW 77.15.520, Commercial fishing--Unlawful gear or methods--Penalty.

#### **Incidental catch**

(20) It is unlawful to retain sardine taken incidental to a lawful anchovy or candlefish fishery if the sardine exceeds twenty percent of the weight of the total landing.

(21) It is unlawful to retain smelt or herring taken incidental to a lawful anchovy or candlefish fishery if individual or combined weight of smelt and/or herring exceeds five percent of the weight of the total landing.

(22) A violation of subsections (20) through (21) of this section is punishable under RCW 77.15.550, Violation of commercial fishing area or time--Penalty.

#### **Herring**

##### **Licensing**

(23) A herring lampara limited entry license is required to operate lampara gear for herring as provided for in this section.

(24) A herring dip bag net limited entry license is required to operate dip bag net gear for herring as provided for in this section.

(25) A violation of subsection (23) or (24) of this section is punishable under RCW 77.15.500, Commercial fishing without a license--Penalty.

##### **Fishing period**

(26) It is unlawful to fish for or possess herring with lampara gear at any time except January 1 through January 31, and April 16 through December 31, of any calendar year.

(27) Dip bag net gear may be used for herring at all times.

(28) A violation of subsection (26) or (27) of this section is punishable under RCW 77.15.550, Violation of commercial fishing area or time--Penalty.

**Incidental catch**

(29) It is unlawful to retain anchovy, candlefish, smelt, or sardine incidental to a lawful herring fishery if the individual or combined weight of anchovy, candlefish, smelt, or sardine exceeds five percent of the total landing. A violation of this subsection is punishable under RCW 77.15.550, Violation of commercial fishing area or time--Penalty.

**Gear**

(30) It is unlawful to fish for or to possess herring taken for commercial purposes with lampara gear with a cork line that exceeds 1,400 feet in length and a mesh size of less than one-half inch stretch measure.

(31) It is unlawful to fish for herring with dip bag net gear that exceeds 18 square feet.

(32) A violation of subsection (30) or (31) of this section is punishable under RCW 77.15.520, Commercial fishing--Unlawful gear or methods--Penalty.

**Sardine**

**Licensing**

(33) A smelt dip bag net fishery license is required to operate the dip bag net gear for sardine as provided for in this section. A violation of this subsection is punishable under RCW 77.15.500, Commercial fishing without a license--Penalty.

**Fishing period**

(34) Dip bag net gear may be used for sardine at all times. A violation of this subsection is punishable under RCW 77.15.550, Violation of commercial fishing area or time--Penalty.

**Gear**

(35) It is unlawful to fish for sardine with dip bag net gear that exceeds 18 square feet. A violation of this subsection is punishable under RCW 77.15.520, Commercial fishing--Unlawful gear or methods--Penalty.

**Smelt**

**Licensing**

(36) A smelt dip bag net fishery license is required to operate the hand dip net gear for smelt as provided for in this section. A violation of this subsection is punishable under RCW 77.15.500, Commercial fishing without a license--Penalty.

**Fishing period**

(37) It is unlawful to take smelt with hand dip net gear for commercial purposes during weekly closed periods extending from 8:00 a.m. Thursdays to 8:00 p.m. Saturdays. A violation of this subsection is punishable under RCW 77.15.550, Violation of commercial fishing area or time--Penalty.

**Gear**

(38) It is unlawful to take, fish for, and possess smelt taken with hand dip nets exceeding 72 inches maximum frame width. A violation of this subsection is punishable under RCW 77.15.520,

Commercial fishing--Unlawful gear or methods--Penalty.

AMENDATORY SECTION (Amending Order 03-26, filed 2/18/03, effective 3/21/03)

**WAC 220-40-030 Willapa Bay--(~~Seasons and lawful gear--~~  
~~Varieties other than salmon and sturgeon~~) Forage fish.** (~~(1) It is unlawful in Marine Fish-Shellfish Management and Catch Reporting Area 60C to fish for food fish, other than sturgeon and salmon, with purse seine or lampara gear exceeding 900 feet in length or having meshes of less than one-half inch stretch measure, or with drag seine gear exceeding 700 feet in length or having meshes of less than 4-1/2 inches stretch measure, except as provided in WAC 220-40-030(3). It is unlawful to fish for or possess salmon or sturgeon taken with purse seine, lampara, or drag seine gear.~~

~~(2) It is lawful to fish for and possess bottomfish taken for commercial purposes in Marine Fish-Shellfish Management and Catch Reporting Area 60C, at anytime with set line and hand line jig gear.~~

~~(3)(a) June 1 through October 31 -- It is lawful to fish for and possess anchovy, candlefish, or pilchards taken for commercial purposes with purse seine or lampara in the waters of Willapa Bay, provided it is unlawful to use gear exceeding 1,400 feet in length or containing meshes less than one-half inch stretch measure. It is lawful to fish for and possess herring taken for commercial purposes with lampara gear from the waters of Willapa Bay, except it is unlawful to use lampara gear exceeding 1,400 feet in length or containing mesh less than 1/2-inch stretch measure. All species of fish other than herring, anchovy, candlefish and pilchard taken in operation with such purse seine or lampara gear must be immediately, with care, returned to the water.~~

~~(b) February 1 through March 15 -- Closed to all commercial herring, anchovy, candlefish or pilchard fishing except dip bag net.~~

~~(c) It is lawful to fish for, take and possess herring, anchovy, candlefish, or pilchards with dip bag net gear at any time in the waters of Willapa Bay.~~

~~(4) It is lawful to retain for commercial purposes bottomfish taken incidental to any lawful commercial salmon fishery in Willapa Bay Salmon Management and Catch Reporting Areas 2G, 2H, 2J, 2K, and 2M, and it shall be lawful to retain bottomfish taken incidental to any lawful sturgeon fishery in Marine Fish-Shellfish Management and Catch Reporting Area 60C.~~

~~(5) It is lawful to take, fish for and possess smelt taken with hand dip nets in any of the waters of Willapa Bay except it is unlawful to take smelt for commercial purposes during weekly closed periods extending from 8:00 a.m. Thursday to 8:00 p.m. Saturday.~~

~~(6) It is lawful to take bottom fish with drag seine in Marine Fish-Shellfish Management and Catch Reporting Area 60C from March~~

~~1 through June 30.~~

~~(7) It is unlawful to fish with purse seine or lampara gear at all times in the waters of Marine Fish-Shellfish Management and Catch Reporting Area 60C if any part of the purse seine or lampara is in waters that are less than 20 feet deep.)~~ (1) It is unlawful to fish for or possess anchovy, candlefish, herring, sardine, or smelt taken for commercial purposes from Marine Fish-Shellfish Management and Catch Reporting Area 60C except as provided for in this section.

#### **General**

(2) It is unlawful to fish for or possess salmon or sturgeon taken with purse seine or lampara gear.

(3) It is unlawful to fish with purse seine or lampara gear at all times in the waters of Marine Fish-Shellfish Management and Catch Reporting Area 60C if any part of the purse seine or lampara is in waters that are less than 20 feet deep.

(4) It is unlawful to fail to immediately return to the water, unharmed, all species of fish other than herring, anchovy, candlefish, and sardine taken in the operation of purse seine, lampara, dip bag net, or hand net gears.

(5) A violation of subsections (1) through (4) of this section is punishable under RCW 77.15.520, Commercial fishing--Unlawful gear or methods--Penalty; and RCW 77.15.550 Violation of commercial fishing area or time--Penalty.

#### **Anchovy and candlefish**

##### **Licensing**

(6) A baitfish purse seine fishery license is required to operate purse seine gear for anchovy and candlefish as provided for in this section.

(7) A baitfish lampara fishery license is required to operate lampara gear for anchovy and candlefish as provided for in this section.

(8) A smelt dip bag license is required to operate dip bag net gear for anchovy and candlefish as provided for in this section.

(9) A violation of subsections (6) through (8) of this section is punishable under RCW 77.15.500, Commercial fishing without a license--Penalty.

##### **Fishing period**

(10) It is unlawful to fish for or possess anchovy, candlefish, sardine, or smelt with the use of purse seine or lampara gear during any time, except January 1 through January 31, and March 16 through December 31, of any calendar year.

(11) Dip bag net gear may be used for anchovy and candlefish at all times.

(12) A violation of subsection (10) or (11) of this section is punishable under RCW 77.15.550, Violation of commercial fishing area or time--Penalty.

##### **Landing limitations**

(13) It is unlawful to deliver anchovy, in excess of fifteen percent of the total landing weight, for the purposes of conversion into fish flour, fishmeal, fish scrap, fertilizer, fish oil, or other fishery products.

(14) It is unlawful for any person licensed to fish under a baitfish purse seine or baitfish lampara license to retain, possess or deliver, to a place or port, regardless of catch area, anchovy in excess of 5 metric tons (11,023 pounds) in one day, or in excess of 10 metric tons (22,046 pounds) during any calendar week beginning 12:01 a.m. Sunday through 11:59 p.m. Saturday.

(15) A violation of subsection (13) or (14) of this section is punishable under RCW 77.15.550, Violation of commercial fishing area or time--Penalty.

#### **Gear**

(16) It is unlawful to fish for anchovy or candlefish with purse seine or lampara gear with mesh size less than one-half inch stretch measure.

(17) It is unlawful to fish with purse seine or lampara gear if the cork line exceeds 900 feet in length, except: From June 1 through October 31, it is permissible to use gear in which the cork line does not exceed 1,400 feet in length.

(18) It is unlawful to fish for or possess anchovy or candlefish with dip bag net gear that exceeds 18 square feet.

(19) A violation of subsections (16) through (18) of this section is punishable under RCW 77.15.520, Commercial fishing--Unlawful gear or methods--Penalty.

#### **Incidental catch**

(20) It is unlawful to retain sardines taken incidental to a lawful anchovy or candlefish fishery that exceeds twenty percent of the weight of the total landing.

(21) It is unlawful to retain smelt or herring incidental to a lawful anchovy or candlefish fishery if the individual or combined weight of smelt and/or herring exceeds five percent of the total landing.

(22) A violation of subsection (20) or (21) of this section is punishable under RCW 77.15.550, Violation of commercial fishing area or time--Penalty.

#### **Herring**

##### **Licensing**

(23) A herring/lampara limited entry license is required to operate lampara gear for herring as provided for in this section.

(24) A herring dip bag net limited entry license is required to operate dip bag net gear for herring as provided for in this section.

(25) A violation of subsection (23) or (24) of this section is punishable under RCW 77.15.500, Commercial fishing without a license--Penalty.

##### **Fishing period**

(26) It is unlawful to fish for or possess herring with lampara gear during any time except January 1 through January 31, and March 16 through December 31, of any calendar year.

(27) Dip bag net gear may be used for herring at all times.

(28) A violation of subsection (26) or (27) of this section is punishable under RCW 77.15.550, Violation of commercial fishing area or time--Penalty.

#### **Incidental catch**

(29) It is unlawful to retain anchovy, candlefish, smelt, or sardine incidental to a lawful herring fishery if the individual or combined weight of anchovy, candlefish, smelt, or sardine exceeds five percent of the total landing. A violation of this subsection is punishable under RCW 77.15.550, Violation of commercial fishing area or time--Penalty.

**Gear**

(30) It is unlawful to fish for and possess herring taken for commercial purposes with lampara gear with a cork line that exceeds 1,400 feet in length and a mesh size less than one-half inch stretch measure.

(31) It is unlawful to fish with dip bag net gear that exceeds 18 square feet.

(32) A violation of subsection (30) or (31) of this section is punishable under RCW 77.15.520, Commercial fishing--Unlawful gear or methods--Penalty.

**Sardine**

**Licensing**

(33) A smelt dip bag net fishery license is required to operate dip bag net gear for sardine as provided for in this section. A violation of this subsection is punishable under RCW 77.15.500, Commercial fishing without a license--Penalty.

**Fishing period**

(34) Dip bag net gear may be used for sardine at all times.

**Gear**

(35) It is unlawful to fish with dip bag net gear that exceeds 18 square feet. A violation of this subsection is punishable under RCW 77.15.520, Commercial fishing--Unlawful gear or methods--Penalty.

**Smelt**

**Licensing**

(36) A smelt dip bag net fishery license is required to operate dip bag net gear for smelt as provided for in this section. A violation of this subsection is punishable under RCW 77.15.500, Commercial fishing without a license--Penalty.

**Fishing period**

(37) It is unlawful to take smelt for commercial purposes during weekly closed periods extending from 8:00 a.m. Thursday to 8:00 p.m. Saturday. A violation of this subsection is punishable under RCW 77.15.550, Violation of commercial fishing area or time--Penalty.

**Gear**

(38) It is unlawful to take, fish for, and possess smelt taken with hand dip nets exceeding 72 inches maximum frame width. A violation of this subsection is punishable under RCW 77.15.520, Commercial fishing--Unlawful gear or methods--Penalty.

AMENDATORY SECTION (Amending Order 07-279, filed 11/7/07, effective 12/8/07)

**WAC 220-44-020 (~~(Coastal baitfish gear.)~~) Ocean forage fish.**

(1) It is unlawful to fish for or possess smelt, (~~(anchovies)~~) anchovy, candlefish, herring, or (~~(pilchard)~~) sardine taken for commercial purposes from (~~(Marine Fish Shellfish Management and Catch Reporting Areas 58B, 59A-1, 59A-2, 59B, 60A-1, or 60A-2)~~) offshore waters, except as provided for in this section.

~~((1)(a) It is unlawful to fish for or possess smelt taken for commercial purposes except by hand net gear not exceeding 72 inches maximum frame width. It is unlawful to take smelt for commercial purposes during weekly closed periods from 8:00 a.m. Friday to 8:00 a.m. Sunday.~~

~~(b) Licensing: A smelt dip bag net fishery license is the license required to operate the gear provided for in this section.~~

~~(c) Incidental catch:)) **General**~~

(2) It is unlawful to fail to immediately return to the water, unharmed, all species of fish other than herring, anchovy, candlefish, shad, and sardine taken in operation of purse seine, lampara, dip bag net, or hand net gears.

(3) A violation of subsection (1) or (2) of this section is punishable under RCW 77.15.550, Violation of commercial fishing area or time--Penalty.

**Smelt**

**Licensing**

(4) A smelt dip bag net fishery license is required to operate hand net gear as provided for in this section. A violation of this subsection is punishable under RCW 77.15.500, Commercial fishing without a license--Penalty.

**Fishing period**

(5) It is unlawful to take smelt for commercial purposes during weekly closed periods from 8:00 a.m. Friday to 8:00 a.m. Sunday. A violation of this subsection is punishable under RCW 77.15.550, Violation of commercial fishing area or time--Penalty.

**Gear**

(6) It is unlawful to fish for or possess smelt taken for commercial purposes except by hand net gear not exceeding 72 inches maximum frame width. A violation of this subsection is punishable under RCW 77.15.520, Commercial fishing--Unlawful gear or methods--Penalty.

**Incidental catch**

(7) It is (~~(lawful)~~) permissible to retain only (~~(anchovies)~~) anchovy and candlefish taken incidental to a lawful smelt fishery.

~~((2)(a)) **Anchovy and Candlefish**~~

**Licensing**

(8) A baitfish lampara fishery license is required to operate

the lampara gear for anchovy and candlefish as provided for in this section.

(9) A baitfish purse seine fishery license is required to operate the purse seine gear for anchovy and candlefish as provided for in this section.

(10) A smelt dip bag net fishery license is required to operate the hand dip net gear for anchovy and candlefish as provided for in this section.

(11) A violation of subsections (8) through (10) of this section is punishable under RCW 77.15.500, Commercial fishing without a license--Penalty.

#### **Landing limitations**

(12) It is unlawful to deliver anchovy, in excess of fifteen percent of the total landing weight, for the purposes of conversion into fish flour, fishmeal, fish scrap, fertilizer, fish oil, or other fishery products.

(13) It is unlawful for any person licensed to fish under a baitfish purse seine or baitfish lampara license to retain, possess or deliver, to a place or port, regardless of catch area, anchovy in excess of 5 metric tons (11,023 pounds) in one day, or in excess of 10 metric tons (22,046 pounds) during any calendar week beginning 12:01 a.m. Sunday through 11:59 p.m. Saturday.

(14) A violation of subsection (12) or (13) of this section is punishable under RCW 77.15.550, Violation of commercial fishing area or time--Penalty.

#### **Gear**

(15) It is unlawful to take, fish for, or possess anchovy or candlefish ((or anchovies)) taken ((for commercial purposes)) with ((any gear except)) purse seine or lampara ((not exceeding 1,400 feet in length nor having)) gear with mesh size less than ((1/2)) one-half inch((, or dip bag net not exceeding 72 inches maximum frame width.

(b) Licensing:

(i) A baitfish lampara fishery license is the license required to operate the lampara gear provided for in this section.

(ii) A baitfish purse seine fishery license is the license required to operate the purse seine gear provided for in this section.

(iii) A smelt dip bag net fishery license is the license required to operate the hand dip net gear provided for in this section.

(c) Incidental catch: It is lawful to retain only shad and pilchard taken incidental to a lawful anchovy or candlefish fishery. Pilchard may not exceed twenty-five percent of the weight of the landing. Any sturgeon must be released unharmed.

(3)(a) It is unlawful to fish for or possess herring or pilchard taken for commercial purposes except as authorized by permit issued by the director, except pilchard taken incidental to candlefish and anchovy.

(b) Licensing:

(i) An emerging commercial fishery license is the license required for a permittee to fish for or retain pilchard.

~~(ii) Herring dip bag net, herring drag seine, herring gill net, herring lampara, or herring purse seine are the licenses required for a permittee to fish for or to retain herring.~~

~~(4) (a) Violation of licensing requirements under this section is punishable pursuant to RCW 77.15.500.~~

~~(b) Violation of gear requirements under this section is punishable pursuant to RCW 77.15.520.~~

~~(c) Violation of catch requirements under this section is punishable pursuant to RCW 77.15.550)) stretch measure.~~

(16) It is unlawful to fish for or possess candlefish or anchovy with purse seine or lampara gear if the cork line exceeds 1,400 feet in length.

(17) It is unlawful to take, fish for, or possess anchovy or candlefish with dip bag net gear that exceeds 18 square feet.

(18) A violation of subsections (15) through (17) of this section is punishable under RCW 77.15.520, Commercial fishing--Unlawful gear or methods--Penalty.

#### **Incidental catch**

(19) It is unlawful to retain sardine taken incidental to a lawful anchovy or candlefish fishery that exceeds twenty percent of the weight of the total landing.

(20) It is unlawful to retain herring taken incidental to a lawful anchovy or candlefish fishery that exceeds five percent of the weight of the total landing.

(21) It is permissible to retain shad incidental to a lawful anchovy or candlefish fishery.

(22) A violation of subsection (19) or (20) of this section is punishable under RCW 77.15.550, Violation of commercial fishing area or time--Penalty.

#### **Herring**

##### **Licensing and permit**

(23) It is unlawful to fish for or to possess herring taken for commercial purposes except as authorized by permit issued by the director. A violation of this subsection is punishable under section 14, chapter 333, Laws of 2009 (SHB 1778).

(24) Herring dip bag net, herring drag seine, herring gill net, herring lampara, or herring purse seine are the limited entry licenses required for a permittee to fish for or to retain herring. A violation of this subsection is punishable under RCW 77.15.500, Commercial fishing without a license--Penalty.

AMENDATORY SECTION (Amending Order 07-278, filed 11/7/07, effective 12/8/07)

**WAC 220-69-240 Duties of commercial purchasers and receivers.**

(1) It is unlawful for any person originally receiving fresh or iced fish or shellfish or frozen fish or shellfish that have not been previously delivered in another state, territory, or country, except purchases or receipts made by individuals or consumers at retail, to fail to be a licensed wholesale fish dealer or fish buyer, and to fail to immediately, completely, accurately, and legibly prepare the appropriate state of Washington fish receiving ticket for each and every purchase or receipt of such commodities. Each delivery must be recorded on a separate fish receiving ticket. Failure to be licensed under this subsection is punishable under RCW 77.15.620.

(2) It is unlawful for any person originally receiving fresh or iced fish or shellfish previously delivered in another state, territory, or country, to fail to be a licensed wholesale fish dealer or fish buyer, and to fail to immediately, completely, accurately, and legibly prepare the appropriate state of Washington fish receiving ticket for each and every purchase or receipt of such commodities. Failure to prepare a fish receiving ticket under this subsection is punishable under RCW 77.15.630.

(3) It is unlawful for any original receiver of crab or spot shrimp to fail to record all crab or spot shrimp aboard the vessel making the delivery to the original receiver. The poundage of any fish or shellfish deemed to be unmarketable, discards, or weigh backs must be shown on the fish receiving ticket and identified as such, but a zero dollar value may be entered for such fish or shellfish. Failure to prepare a fish receiving ticket under this subsection is punishable under RCW 77.15.630.

(4) Any employee of a licensed wholesale dealer who has authorization to receive or purchase fish or shellfish for that dealer on the premises of the primary business address or any of its plant locations as declared on the license application, shall be authorized to initiate and sign fish receiving tickets on behalf of his employer. The business, firm, and/or licensed wholesale fish dealer who the buyers are operating under shall be responsible for the accuracy and legibility of all such documents initiated in its name.

(5) It is unlawful for the original receiver to fail to initiate the completion of the fish receiving ticket upon receipt of any portion of a commercial catch. Should the delivery of the catch take more than one day, the date that the delivery is completed must be entered on the fish receiving ticket as the date of delivery. If, for any reason, the delivery vessel leaves the delivery site, the original receiver must immediately enter the

current date on the fish receiving ticket. Violation of this subsection is punishable under RCW 77.15.630.

(6) Forage fish: It is unlawful for any person receiving forage fish to fail to report the forage fish on fish receiving tickets initiated and completed on the day the forage fish are delivered. Herring are also required to be reported on herring harvest logs. The harvested amount of forage fish must be entered upon the fish ticket when the forage fish are off-loaded from the catcher vessel. An estimate of herring, candlefish, anchovy, or (~~(pilchards)~~) sardine caught but not sold due to mortality must be included on the fish ticket as "loss estimate." In the coastal (~~(pilchard)~~) sardine fishery, the amount of (~~(pilchards)~~) sardine, by weight, purchased for the purposes of conversion into fish flour, fishmeal, fish scrap, fertilizer, fish oil, other fishery products, or by-products for purposes other than human consumption or fishing bait, must be included on the fish ticket as "reduction." In any forage fish fishery, the amount of anchovy, by weight, purchased for the purposes of conversion into fish flour, fishmeal, fish scrap, fertilizer, fish oil, other fishery products, or by-products for purposes other than human consumption or fishing bait, must be included on the fish ticket as "reduction."

Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.640.

(7) Geoduck: It is unlawful for any person receiving geoducks, regardless of whether or not the receiver holds a license as required under Title 77 RCW, to fail to accurately and legibly complete the fish receiving ticket initiated on the harvest tract immediately upon the actual delivery of geoducks from the harvesting vessel onto the shore. This fish receiving ticket shall accompany the harvested geoducks from the department of natural resources harvest tract to the point of delivery. Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.640.

(8) Pacific whiting: It is unlawful for the original receiver of Pacific whiting to fail to enter an estimated weight of Pacific whiting on the fish receiving ticket immediately upon completion of the delivery. The exact weights of whiting, by grade, and all incidental species in the delivery must be entered on the fish receiving ticket within twenty-four hours of the landing. Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.640.

(9) Puget Sound shrimp - Pot gear: It is unlawful for the original receiver of shrimp other than ghost shrimp taken from Puget Sound by pot gear to fail to report to the department the previous week's purchases by 10:00 a.m. the following Monday. For harvest in Crustacean Management Regions 1 or 2, reports must be made to the La Conner district office by phone at 360-466-4345, extension 245, or by fax at 360-466-0515. For harvest in Crustacean Management Regions 3, 4, or 6, reports must be made to the Point Whitney Shellfish Laboratory by phone at 1-360-796-4601, option 1, or by fax at 360-586-8408. All reports must specify the serial numbers of the fish receiving tickets on which the previous

week's shrimp were sold, plus the total number of pounds caught by gear type, the Marine Fish-Shellfish Management and Catch Reporting Area (Catch Area), and the species listed on each ticket. Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.560.

(a) It is unlawful for any person originally receiving or purchasing shrimp, other than ghost shrimp, harvested from Catch Area 23A, to fail to record either 23A-C, 23A-E, 23A-W, or 23A-S on shellfish receiving tickets based on the location of harvest and the boundary definitions specified in WAC 220-52-051. Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.640.

(b) It is unlawful for any person originally receiving or purchasing shrimp, other than ghost shrimp, harvested from Catch Area 26A, to fail to record either 26A-E or 26A-W on shellfish receiving tickets based on the location of harvest and the boundary definitions specified in WAC 220-52-051. Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.640.

(c) It is unlawful for any person originally receiving or purchasing shrimp, other than ghost shrimp, harvested from Catch Area 26B, to fail to record either 26B-1 or 26B-2 on shellfish receiving tickets based on the location of harvest and the boundary definitions specified in WAC 220-52-051. Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.640.

(d) It is unlawful for any person originally receiving or purchasing shrimp, other than ghost shrimp, harvested from Catch Areas 20B, 21A, and 22A, to fail to record either 1A-20B, 1A-22A, 1B-20B, 1B-21A, 1B-22A, or 1C-21A on shellfish receiving tickets based on the location of harvest and the boundary definitions specified in WAC 220-52-051. Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.640.

(10) Puget Sound shrimp - Trawl gear: It is unlawful for the original receiver of shrimp other than ghost shrimp taken from Puget Sound by trawl gear to fail to report to the department the previous day's purchases by 10:00 a.m. the following morning. For harvest in Crustacean Management Region 1, reports must be made to the La Conner district office by phone at 360-466-4345, extension 245, or by fax at 360-466-0515. For harvest in Crustacean Management Region 3, reports must be made to the Point Whitney Shellfish Laboratory by phone at 1-360-796-4601, option 1, or by fax at 360-586-8408. All reports must specify the serial numbers of the fish receiving tickets on which the previous day's shrimp were sold, the total number of pounds caught by gear type, the Marine Fish-Shellfish Management and Catch Reporting Area, and the species listed on each ticket. Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.560.

(11) Puget Sound crab: It is unlawful for any wholesale dealer acting in the capacity of an original receiver of Dungeness crab taken by nontreaty fishers, from Puget Sound, to fail to report to the department the previous day's purchases by 10:00 a.m. the following business day. Reports must be made to the Point Whitney Shellfish Laboratory by fax at 360-586-8408 or by phone at

1-866-859-8439, option 5, and must specify the dealer name; dealer phone number; date of delivery of crab to the original receiver; and the total number of pounds of crab caught by nontreaty fishers, by Crab Management Region or by Marine Fish-Shellfish Management and Catch Reporting Area. The fish receiving ticket reporting requirement of WAC 220-69-240 remains in effect. Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.560.

(12) Salmon and sturgeon:

(a) During any Puget Sound fishery opening that is designated as "quick reporting required," per WAC 220-47-001:

(i) It is unlawful for any wholesale dealer acting in the capacity of an original receiver to fail to report all purchases of salmon and sturgeon made on the previous calendar day, or for a direct retail endorsement (DRE) holder to fail to report all salmon offered for retail sale on the previous calendar day.

(ii) The report must include dealer or DRE holder name and purchasing location, date of purchase, each fish ticket number, including alpha, used on the purchasing date, and the following catch data for each fish ticket used: Total number of days fished, gear, catch area, species, number, and total weight for each species purchased and all take home fish not purchased (wholesale dealer) or sold (DRE).

(iii) When quick reporting is required, Puget Sound reports must be submitted by 10:00 a.m. on the day after the purchase date. Submission of a report is not complete until the report arrives at the designated department location. Reports can be submitted via fax at 360-902-2949; via e-mail at [psfishtickets@dfw.wa.gov](mailto:psfishtickets@dfw.wa.gov); or via phone at 1-866-791-1279. In fisheries under Fraser Panel Control within Fraser Panel Area Waters (area defined under Art. XV, Annex II, Pacific Salmon Treaty 1985), other reporting requirements not listed in this subsection may be necessary under Subpart F of the International Fisheries Regulations, 50 CFR Ch. III § 300.93.

(b) During any coastal troll fishery opening that is designated by rule as "quick reporting required":

(i) It is unlawful for any wholesale dealer acting in the capacity of an original receiver to fail to report all purchases of salmon and sturgeon made on the previous calendar day, or for a direct retail endorsement (DRE) holder to fail to report all salmon offered for retail sale on the previous calendar day.

(ii) The report must include dealer or DRE holder name and purchasing location, date of purchase, each fish ticket number, including alpha, used on the purchasing date, and the following catch data for each fish ticket used: Total number of days fished, gear, catch area, species, number, and total weight for each species purchased and all take home fish not purchased (wholesale dealer) or sold (DRE).

(iii) When quick reporting is required, coastal troll reports must be submitted by 10:00 a.m. on the day after the purchase date. Submission of a report is not complete until the report arrives at the designated department location. Reports can be made via fax at 360-902-2949; via e-mail at [trollfishtickets@dfw.wa.gov](mailto:trollfishtickets@dfw.wa.gov); or via phone at 1-866-791-1279.

(c) During any Grays Harbor or Willapa Bay fishery opening that is designated by rule as "quick reporting required":

(i) It is unlawful for any wholesale dealer acting in the capacity of an original receiver to fail to report all purchases of salmon and sturgeon made on the previous calendar day, or for a direct retail endorsement (DRE) holder to fail to report all salmon offered for retail sale on the previous calendar day.

(ii) The report must include dealer or DRE holder name and purchasing location, date of purchase, each fish ticket number, including alpha, used on the purchasing date, and the following catch data for each fish ticket used: Gear, catch area, species, number, and total weight for each species purchased and all take home fish not purchased (wholesale dealer) or sold (DRE).

(iii) When quick reporting is required, Grays Harbor and Willapa Bay reports must be submitted by 10:00 a.m. on the day after the purchase date. Submission of a report is not complete until the report arrives at the designated department location. Reports can be made via fax at 360-664-0689; e-mail at harborfishtickets@dfw.wa.gov; or phone at 1-866-791-1280.

(d) During any Columbia River fishery opening that is designated by rule as "quick reporting required":

(i) It is unlawful for any wholesale dealer acting in the capacity of an original receiver to fail to report all purchases of salmon and sturgeon, or for a direct retail endorsement (DRE) holder to fail to report all salmon offered, for retail sale.

(ii) The report must include dealer or DRE holder name and purchasing location, date of purchase, each fish ticket number, including alpha, used on the purchasing date, and the following catch data for each fish ticket used: Gear, catch area, species, number, and total weight for each species purchased and all take home fish not purchased (wholesale dealer) or sold (DRE).

(iii) When quick reporting is required, Columbia River reports must be submitted within 5, 8, 12, or 24 hours of closure of the designated fishery. The time frame for submitting reports will be established by the department at the time of adoption of the quick reporting fishery. Adoption and communication of the quick reporting regulations for a given fishery will occur in conjunction with the adoption of said fishery through the Columbia River Compact. Submission of a report is not complete until the report arrives at the designated department location. Reports can be made via fax at 360-906-6776 or 360-906-6777; via e-mail at crfishtickets@dfw.wa.gov; or via phone at 1-866-791-1281.

(e) Faxing a copy of each fish receiving ticket used, within the previously indicated time frames specified per area, satisfies the reporting requirement.

(f) Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.560.

(13) (a) Sea urchins and sea cucumbers: It is unlawful for any wholesale dealer acting in the capacity of an original receiver and receiving sea urchins or sea cucumbers from nontreaty fishers to fail to report to the department each day's purchases by 10:00 a.m. the following day. For red sea urchins, the report must specify

the number of pounds received from each sea urchin district. For green sea urchins and sea cucumbers, the report must specify the number of pounds received from each Marine Fish-Shellfish Management and Catch Reporting Area. For sea cucumbers, the report must specify whether the landings were "whole-live" or "split-drained." The report must be made by fax at 360-902-2943, or by toll-free telephone at 866-207-8223.

(b) It is unlawful for the original receiver of red sea urchins to fail to record on the fish receiving ticket the sea urchin district where the red sea urchins were taken, and it is unlawful for the original receiver of any sea urchins to fail to record on the fish receiving ticket the name of the port of landing where the sea urchins were landed ashore.

(c) It is unlawful for the original receiver of sea cucumbers to fail to record on the fish receiving ticket whether the sea cucumbers were delivered "whole-live" or "split-drained."

(d) Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.560.

(14) Coastal spot shrimp: It is unlawful for any original receiver of spot shrimp taken from Marine Fish Management and Catch Reporting Area 60A-1 to fail to record separately on the fish receiving ticket spot shrimp taken north or south of 47°04.00' north latitude. Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.640.

Henry "Skip" McMaster

December 29, 2009

Department of Fish and Wildlife  
Washington  
[Lori.Preuss@dfw.wa.gov](mailto:Lori.Preuss@dfw.wa.gov)

Dear Ms. Preuss:

I understand that the Washington Department of Fish and Wildlife is proposing a new set of rules governing the use of bait fish. I am a commercial albacore fisherman. As an important part of my business, I use bait for both chum in the jig fishery and live bait in the pole/line fishery. I am greatly concerned that the new rules could affect my business and my ability to get bait in Washington.

Many albacore fishermen have long-term historic use of this bait in their fisheries, as do I. We catch an awful lot of albacore for a relatively small amount of bait. Our albacore fishery and the bait fishery are sustainable. Our ability to catch and buy bait is essential; therefore, it drives our decisions on where to unload.

I'm sure you are aware of the economic impact albacore fishermen have on the local economies. The fleet is very careful not to harm the resource because we know its importance in our businesses.

We would appreciate your careful consideration as you deliberate this very important issue.

Sincerely,

Henry "Skip" McMaster  
F/V Captain Banjo



**AMERICAN ALBACORE FISHING ASSOCIATION**

www.AmericanAlbacore.com

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Bonita, CA 91902

P (619) 941 2307 F (619) 863 5046 Toll Free (866) 851 3918

December 18, 2009

VIA EMAIL TO: [Lori.Preuss@dfw.wa.gov](mailto:Lori.Preuss@dfw.wa.gov)

Attn.: Rules Coordinator  
Fish & Wildlife Commission  
600 Capitol Way No.  
Olympia, WA 98501-1091

Re: Proposed Rule Making - CR-102 Related to Commercial Coastal Baitfish Gear, et al

Dear Commissioners:

The American Albacore Fishing Association (AAFA) represents commercial fishing vessels of the west coast pole & line (bait boat) and troll albacore fisheries.<sup>1</sup> These vessels are responsible for a significant majority of the albacore delivered along the west coast.

AAFA has long supported responsible management actions in order to maintain sustainable fisheries and to provide a brighter future for fishermen, fishing families and the vital coastal communities that depend on them.

**Reliable access to baitfish (principally northern anchovy) is vitally important to the continued operation of this U.S. fleet.**

Albacore vessels capture bait with a degree of care rarely encountered in commercial fishing. Through every step of the process, the baitfish are handled gently so as not to harm them. Albacore fishermen know that the anchovies they catch need to be healthy and lively when they reach the fishing grounds. The success of the fishing trip depends on it.

**The ability to catch baitfish plays a significant role in selecting a port for offloading.**

Once in port, the vessels offloading their albacore catch and buy groceries and fuel. Often, repairs or other services are needed. In essence, the albacore fleet provides a significant economic engine that contributes greatly to the coastal communities of Washington State.

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<sup>1</sup> AAFA is founded upon the belief that, by promoting the benefits of the U.S. "pole & troll" albacore fishery and the health benefits of tuna consumption, the economic viability of this traditional fishery can be improved.

Attn.: Rules Coordinator  
Washington Fish & Wildlife Commission  
Re: Proposed Rule Making - CR-102 Related to Commercial Coastal Baitfish Gear, et al  
(Cont'd)

AAFA appreciates the Commission's recognition of the importance of sustainable baitfish resources. AAFA urges the Commission to establish effective measures that protect and maintain the traditional, sustainable use of baitfish by the U.S. albacore fishery and the high economic value obtained through this use.

The longstanding and sustainable anchovy fishery for purposes of fishing bait is a use that should be granted preferred consideration, particularly in light of the high economic value it generates for Washington State and the coastal communities that rely on the U.S. albacore fleet.

AAFA supports the proposed rule change to the extent it recognizes the economic significance of the U.S. albacore fleet's continued access to well-managed baitfish resources. Without such access, Washington ports would lose one of the biggest incentives for attracting the business of the albacore fleet. The loss of this economic activity would have a strong negative impact on Washington's coastal communities.

Please give appropriate consideration to the needs and traditions of this sustainable fishery and the economic benefits it generates for fishermen, their families and coastal communities. Thank you.

Sincerely,  
**Natalie  
Webster**

Digitally signed by Natalie Webster  
DN: cn=Natalie Webster, o=American Albacore  
Fishing Association, ou=Director of Operations,  
email=nataliewebster@americanalbacore.com,  
c=US  
Date: 2009.12.18 12:32:23 -08'00'

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Natalie Webster  
Director of Operations  
American Albacore Fishing Association

## Tsou, Tien-Shui (DFW)

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**From:** Wargo, Lorna L (DFW)  
**Sent:** Monday, January 04, 2010 11:46 AM  
**To:** Tsou, Tien-Shui (DFW)  
**Subject:** FW:

Another print job...

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**From:** Preuss, Lori (DFW)  
**Sent:** Mon 1/4/2010 8:35 AM  
**To:** Wargo, Lorna L (DFW)  
**Subject:** FW:

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**From:** DAVID SHOGREN  
**Sent:** Friday, January 01, 2010 6:21 PM  
**To:** Preuss, Lori (DFW)  
**Cc:**  
**Subject:**

This email is in regards to the proposed Bait fish limits and the limits on the use of anchovies.

Please allow me to point out that I am a commercial albacore fisherman and during the summer months I work out of Washington ports. My sole summer income is based on bait. If you limit the access to bait then I will have to move my business south to Oregon and California waters for better bait grounds. Limited access to bait simply means less money generated and less reasons to base our operations out of the state of Washington.

Please be advised that my business generates about \$400,000 per season. Much of that money is spent in the state of Washington for fuel, groceries, repairs and supplies. I employ 5 men representing 6 families including my own.

Proposed rules on commercial coastal bait fish is not a good idea because the consequences negatively affect our fisheries, and our economy and our traditional means of fishing.

Thank you for your time.

David Shogren

Aleution Storm