

14. PUGET SOUND COMMERCIAL FISHING REGULATIONS – RULE ACTION

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“GREEN SHEET”

Meeting:	February 5, 2011, Commission Meeting
Agenda item#14:	Puget Sound Commercial Fishing Regulations (Rule Adoption)
Staff Contact:	Craig Burley, Fish Management Division Manager, Fish Program
Presenter(s):	Craig Burley, Fish Management Division Manager, Fish Program

Background:

On July 27, 2010, the federal Department of Commerce’s decision to list three species of rockfish in Puget Sound under the Endangered Species Act became effective. Two species (yelloweye and canary rockfishes) are listed as “Threatened” and one species (bocaccio) is listed as “Endangered”. It has now become unlawful to take bocaccio rockfish without an Incidental Take Permit issued by the Department of Commerce. The Department also recently published an assessment of rockfish stocks in Puget Sound showing that many stocks are in poor condition.

The Department is proposing regulatory actions to reduce the take of all rockfish species including the three federally listed species in Puget Sound by commercial gears. We propose to close fishing for rockfish by prohibiting their retention by commercial fishers, close fisheries that have a high potential to capture listed and other rockfishes, close inactive fisheries that have a potential to take rockfish, and require trawlers fishing for shrimp to have a permit from the Director requiring on board observers during a portion of the fishing days.

Several commercial gears used for foodfish have been responsible for harvesting tens of thousands of pounds of ESA-listed rockfishes since 1970. NOAA Fisheries has recognized the threat of these and several other gears to listed rockfish species for the Distinct Population Segment in Puget Sound. As a conservation measure and to protect listed rockfish near the DPS, we are proposing to implement these regulations for Puget Sound east of Cape Flattery. The Department has closed several of these fisheries by emergency regulation. These actions will result in a loss of one to three jobs in the commercial fishing industry and will result in higher costs to participants in the shrimp trawl fishery to pay for a fisheries observer.

Earlier this year, changes were made in recreational fisheries to reduce fishing impacts on rockfish in Puget Sound. The rule changes included; prohibiting the retention of all rockfish in Puget Sound except allowing a reduced daily limit for black and blue rockfish in Marine Areas 4B and 5, and restricting fishing for bottomfish to the waters shallower than 120 feet (20 fathoms).

Policy issues:

These actions are needed to protect and restore rockfish in Puget Sound including the three species of rockfish that are ESA-listed. The requested actions are consistent with the Puget Sound Groundfish Management Policy (C3003) and the agency mission to protect, restore, and enhance fish and wildlife and their habitats.

Public involvement process and outcome:

We conducted two meetings with commercial fishers and the processing industry that would be most affected by these proposed rule changes. The first meeting was held on June 18, 2010 prior to the time the emergency regulation was adopted to temporarily close trawl, set net, and set line, bottomfish pot, and smelt purse seine gears. A second meeting was held on November 18th with the fishers and industry to collect feedback on the permanent rule proposals. There are three commercial fishers who trawl in Puget Sound and are opposed to the emergency and permanent rule changes as the rules would impact their livelihoods. Public testimony was received at the December 4 Commission meeting.

Action requested:

Consideration for adoption as proposed by staff.

Draft motion language:

Move to adopt permanent amendments to:

WAC 220-48-005 Puget Sound bottomfish--general provisions;

WAC 220-48-015 Beam trawl and otter trawl—seasons;

WAC 220-48-029 Set net--dogfish—seasons;

WAC 220-48-032 Set line—seasons;

WAC 220-48-071 Bottomfish pots--gear and seasons;

WAC 220-48-062 Drag seines—seasons;

WAC 220-52-051 Shrimp fishery--Puget Sound;

WAC 220-52-069 Scallop fishery--Puget Sound; and

To repeal:

WAC 220-48-011 Beam trawl and otter trawl – gear;

WAC 220-48-013 Beam trawl and otter trawl logbooks;

WAC 220-48-016 Pelagic trawl – gear – licensing;

WAC 220-48-017 Pelagic trawl – seasons;

WAC 220-48-028 Set net – dogfish – gear; and

WAC 220-48-031 Set line – gear as presented by staff.

Justification for Commission Action:

These changes are needed to comply with provisions the Endangered Species Act (ESA) and to provide protection for rockfish species in Puget Sound. On July 27, 2010, a federal decision to list two species of rockfish as Threatened, and one species of rockfish as Endangered in Puget Sound became effective. The intent of these regulations is to comply with the ESA and to protect the listed species from capture in the specified fisheries. While the ESA listing does not cover all of Puget Sound, the agency has concluded it is necessary to make these restrictions effective in all Puget Sound Marine Fish-Shellfish Reporting Areas due to concern that leaving a small portion of Puget Sound open to these commercial fishing gears will concentrate fishing effort in the remaining open area leading to conservation and orderly fishery problems.

Communications Plan:

The Department has sent letters and conducted two meetings with commercial fishers and industry members and has filed proposed regulation changes on the agency's website. Public comments were solicited through December 4, 2010.



PROPOSED RULE MAKING

CR-102 (June 2004)

(Implements RCW 34.05.320)
Do NOT use for expedited rule making

Agency: Washington Department of Fish and Wildlife

Preproposal Statement of Inquiry was filed as WSR 10-16-046 on July 27, 2010 or
 Expedited Rule Making--Proposed notice was filed as WSR _____; or
 Proposal is exempt under RCW 34.05.310(4).

Original Notice
 Supplemental Notice to WSR _____
 Continuance of WSR _____

Title of rule and other identifying information: (Describe Subject). WAC 220-52-069 Scallop fishery—Puget Sound. Commercial fishing for scallop using trawl gear.

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

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

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

Submit written comments to:

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

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

Assistance for persons with disabilities:

Contact: Susan Yeager by: November 15, 2010
TTY: (360) 902-2207 or (360) 902-2267

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

The intent of this proposal is to close the otter trawl fishery for scallops in all areas of Puget Sound, due to concerns over the adverse impacts of otter-trawl fishing on other species of aquatic life. The commercial dive fishery for scallops will not be affected by this proposal.

Reasons supporting proposal

In 2010, the National Marine fisheries Service listed three species of rockfish under the federal Endangered Species Act (ESA). This action by the federal government resulted in a review of commercial and recreational fisheries that might impact the listed species. The trawl fishery for scallops was judged to pose an unacceptably high risk to the listed species. Closure of the trawl fishery will provide needed conservation benefits to rockfish. Alternate harvest measures (collecting scallops by hand) exist that do not pose a risk to ESA-listed rockfish.

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

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

Is rule necessary because of a:

Federal Law? Yes No
Federal Court Decision? Yes No
State Court Decision? Yes No
If yes, CITATION:
50 CFR, Parts 223 and 224

DATE
October 20, 2010

NAME (type or print)
Lori Preuss

SIGNATURE

TITLE
Rules Coordinator

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: **October 20, 2010**
TIME: **11:54 AM**

WSR 10-21-122

(COMPLETE REVERSE SIDE)

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

None.

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

- Private
- Public
- Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting.....	Greg Bargmann	1111 Washington St., Olympia	(360) 902-2825
Implementation....	James Scott	1111 Washington St., Olympia	(360) 902-2736
Enforcement.....	Bruce Bjork	1111 Washington St., Olympia	(360) 902-2373

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

Yes. Attach copy of small business economic impact statement.

No. Explain why no statement was prepared.

This fishery has been inactive in Puget Sound for at least ten years; no landings of scallops taken by otter trawl gear have been reported during this time. Therefore, closure of the fishery will have no economic impact on any existing businesses.

Is a cost-benefit analysis required under RCW 34.05.328?

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

Name:
Address:

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

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

AMENDATORY SECTION (Amending Order 00-153, filed 8/16/00, effective 9/16/00)

WAC 220-52-069 Scallop fishery--Puget Sound. It is unlawful to fish for or possess scallops taken for commercial purposes from Puget Sound except as provided for in this section:

(1) (a) Rock scallops and weathervane scallops. It is unlawful at any time to take or possess rock or weathervane scallops taken for commercial purposes from Puget Sound unless a person has first obtained a scallop brood stock permit issued by the department. The permit will specify the species, location, time, and quantity of scallops that can be taken for brood stock or culture purposes.

(b) Licensing:

~~((i))~~ A shellfish dive fishery license is a license that allows a permittee to retain rock and weathervane scallops for brood stock purposes.

~~((ii) Shrimp trawl--Puget Sound and food fish trawl--Puget Sound fishery licenses are licenses that allow a permittee to retain weathervane scallops for brood stock purposes.)~~

(2) Pink scallops and spiny scallops.

(a) General provisions:

(i) Pink and spiny scallops may be harvested from Puget Sound at any time.

(ii) The minimum commercial pink or spiny scallop size is 2 inches in length from the hinge to the outer margin of the shell.

(iii) Persons fishing for pink or spiny scallops must have approval of the Washington state department of health. Scallops may only be taken from areas approved by the department of health and any fisher taking pink or spiny scallops must have on board the harvesting vessel a valid department of health shellfish toxin sampling agreement.

(iv) No other shellfish except octopus and squid (~~(or food fish)~~) may be retained while scallop fishing or while scallop are possessed aboard the scallop fishing vessel.

(b) Trawl gear provisions: Otter trawl gear may not be used to fish for scallops in Puget Sound at any time.

~~((i) Trawlers may only use single beam trawls not exceeding ten feet in width and having mesh size no smaller than two inches in the intermediate portion and cod end of the trawl.~~

~~(ii) Trawling for scallops is prohibited in waters less than 120 feet below mean lower low water.~~

~~(iii) Trawling for scallops is prohibited in the following areas:~~

~~(A) All waters closed to bottomfish trawl in WAC 220-48-015.~~

~~(B) Shrimp Districts 1 and 3 as defined in WAC 220-52-051.~~

~~(C) Sea Urchin Districts 1 and 2 closed waters defined in WAC 220-52-073 (1) (a) (i), (ii), and (1) (b) (ii).~~

~~(iv) Licensing: A food fish trawl--Puget Sound fishery license is the license required to operate the gear provided for in this section.)~~

(c) Shellfish diver gear provisions:

(i) Diving for scallops is prohibited in Sea Urchin Districts

1 and 2 closed waters as defined in WAC 220-52-073 (1) (a) (i), (ii), (1) (b) (i), and (ii).

(ii) Licensing: A shellfish dive fishery license is the license required to take scallops with shellfish diver gear.

[Statutory Authority: RCW 77.12.047. 00-17-108 (Order 00-153), § 220-52-069, filed 8/16/00, effective 9/16/00. Statutory Authority: RCW 75.08.080. 94-12-009 (Order 94-23), § 220-52-069, filed 5/19/94, effective 6/19/94; 93-15-051, § 220-52-069, filed 7/14/93, effective 8/14/93; 91-10-024 (Order 91-22), § 220-52-069, filed 4/23/91, effective 5/24/91; 87-15-022 (Order 87-69), § 220-52-069, filed 7/8/87; 86-08-056 (Order 86-14), § 220-52-069, filed 3/28/86; 84-08-014 (Order 84-24), § 220-52-069, filed 3/27/84; 82-03-045 (Order 82-6), § 220-52-069, filed 1/19/82; Order 807, § 220-52-069, filed 1/2/69, effective 2/1/69. Formerly WAC 220-52-060(7).]



PROPOSED RULE MAKING

CR-102 (June 2004)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Washington Department of Fish and Wildlife

Preproposal Statement of Inquiry was filed as WSR 10-13-085 on June 15, 2010 or

Expedited Rule Making--Proposed notice was filed as WSR _____; or

Proposal is exempt under RCW 34.05.310(4).

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

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

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

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

Submit written comments to:

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

Assistance for persons with disabilities:

Contact: Susan Yeager by: November 25, 2010
 TTY: (360) 902-2207 or (360) 902-2267

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

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

Reasons supporting proposal: See Attachment 1

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

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

Is rule necessary because of a:

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

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

DATE
 October 20, 2010

NAME (type or print)
 Lori Preuss

SIGNATURE

TITLE
 Rules Coordinator

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
 STATE OF WASHINGTON
 FILED

DATE: October 20, 2010

TIME: 11:30 AM

WSR 10-21-118

(COMPLETE REVERSE SIDE)

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

None.

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

- Private
- Public
- Governmental

Name of agency personnel responsible for:

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

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

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Is a cost-benefit analysis required under RCW 34.05.328?

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Name:
Address:

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

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

Small Business Impact Statement

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

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

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

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

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

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

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

Sections 1-3 will not increase costs.

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

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

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

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

- (a) cost per employee;
- (b) cost per hour of labor; or
- (c) cost per \$100 of sales.

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

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

Section 2 would cost:

- (a) \$60.63 per \$100 in sales for the otter trawl fishery;
- (b) \$3.78 per \$100 in sales for the set line fishery; and
- (c) \$24.23 per \$100 in sales for the set net fishery.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

RECOMMENDED ADJUSTMENTS

Puget Sound Commercial Fishing Regulations

The following recommended adjustments are a result of proposed changes to WACs filed in the CR 102 (WSR 10-21-118) based on public comment and implementing the Governor's Executive Order 10-06 suspending non-critical rule development and adoption making through December 2011.

Attachment 1

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

WAC 220-48-005 Puget Sound bottomfish--General provisions.

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

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

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

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

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

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

(7) Incidental catch.

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

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

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

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

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

(9) Pacific cod.

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

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

(10) Sablefish. It is unlawful to take more than 300 pounds of sablefish per vessel trip or more than 600 pounds of sablefish per two-month cumulative limit from open Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas. A two-month cumulative limit is the maximum amount of fish that may be taken and retained, possessed or landed per vessel per two-fixed calendar month period. The fixed two-month periods are January-February, March-April, May-June, July-August, September-October and

November-December.

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

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

[Statutory Authority: RCW 77.12.047. 02-08-026 (Order 02-66), § 220-48-005, filed 3/27/02, effective 4/27/02. Statutory Authority: RCW 75.08.080. 98-05-043, § 220-48-005, filed 2/11/98, effective 3/14/98; 94-12-009 (Order 94-23), § 220-48-005, filed 5/19/94, effective 6/19/94; 93-15-051, § 220-48-005, filed 7/14/93, effective 8/14/93; 92-11-011 (Order 92-28), § 220-48-005, filed 5/12/92, effective 6/12/92; 85-08-023 (Order 85-24), § 220-48-005, filed 4/1/85; 83-24-024 (Order 83-200), § 220-48-005, filed 11/30/83, effective 1/1/84; 82-24-080 (Order 82-215), § 220-48-005, filed 12/1/82, effective 1/1/83; 82-14-056 (Order 82-72), § 220-48-005, filed 7/1/82.]

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

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

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

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

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

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

~~((e))~~ Areas 20A, 20B, 21A, 22A and 22B are closed in waters deeper

~~than 40 fathoms from 12:01 a.m. September 15 through December 31 except if the Pacific cod quota for these waters has not been taken by September 15, these waters may be opened by emergency rule for the taking of the Pacific cod quota.~~

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

~~(g) Area 23C is closed to otter trawl Wednesday, Saturday and Sunday, January 1 through August 31, and closed to all otter trawl September 1 through December 31.~~

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

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

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

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

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

~~(4) It is unlawful to take, fish for or possess bottomfish taken with bottom trawl or beam trawl gear in Marine Fish-Shellfish Management and Catch Reporting Areas 21B, 23D, 24A, 24B, 24C, 24D,~~

~~25C, 25D, 25E, 26A, 26B, 26C, 26D, 27A, 27B, 27C, 28A, 28B, 28C, 28D,
and 29 the entire year.~~

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

[Statutory Authority: RCW 77.12.047. 01-10-001 (Order 01-58), §
220-48-015, filed 4/18/01, effective 5/19/01; 01-02-060 (Order
00-266), § 220-48-015, filed 12/29/00, effective 1/29/01.
Statutory Authority: RCW 75.08.080. 98-05-043, § 220-48-015,
filed 2/11/98, effective 3/14/98; 97-07-053 (Order 97-52), §
220-48-015, filed 3/17/97, effective 4/17/97; 94-19-001 (Order
94-96), § 220-48-015, filed 9/7/94, effective 10/8/94; 94-12-009
(Order 94-23), § 220-48-015, filed 5/19/94, effective 6/19/94;
91-13-051 (Order 91-39), § 220-48-015, filed 6/14/91, effective
7/15/91; 89-14-010 (Order 89-48), § 220-48-015, filed 6/22/89;
87-04-003 (Order 87-03), § 220-48-015, filed 1/22/87; 85-08-023
(Order 85-24), § 220-48-015, filed 4/1/85; 84-08-014 (Order 84-24),
§ 220-48-015, filed 3/27/84; 83-24-024 (Order 83-200), § 220-48-015,
filed 11/30/83, effective 1/1/84; 83-04-025 (Order 83-04), §
220-48-015, filed 1/27/83; 82-24-080 (Order 82-215), § 220-48-015,
filed 12/1/82, effective 1/1/83; 82-14-056 (Order 82-72), §
220-48-015, filed 7/1/82.]

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

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

- ~~(a) Areas 20A and 20B - November 1 through June 15.~~
- ~~(b) Area 21A - March 1 through June 15.~~
- ~~(c) Areas 21B, 22A, 22B, 23A, and 23B - Closed all year.~~
- ~~(d) Areas 23C and 23D - September 16 through June 15.~~
- ~~(e) Areas 24A, 24B, and 24D - September 16 through June 15.~~
- ~~(f) Area 24C - September 16 through June 15, except those waters south of a line projected due east of East Point on Whidbey Island are closed all year.~~
- ~~(g) Areas 25A, 25B and that portion of Area 25C west of a line from Twin Spits to the Port Gamble Millstack - September 16 through June 15.~~
- ~~(h) Area 25D and that portion of 25C east of line from Twin Spits to the Port Gamble Millstack - Closed all year.~~
- ~~(i) Area 25E - Closed all year.~~
- ~~(j) Area 26A - September 16 through June 15, except those waters southerly and westerly of a line between the ferry dock at Mukilteo~~

~~and the ferry dock at Clinton are closed all year.~~

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

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

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

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

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

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

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

~~(2) Incidental catch: It is unlawful to retain any shellfish~~

~~or fish other than bottomfish)).~~

[Statutory Authority: RCW 77.12.047. 04-17-098 (Order 04-218), § 220-48-029, filed 8/17/04, effective 9/17/04; 03-05-063 (Order 03-27), § 220-48-029, filed 2/18/03, effective 3/21/03. Statutory Authority: RCW 75.08.080. 91-13-051 (Order 91-39), § 220-48-029, filed 6/14/91, effective 7/15/91; 89-14-010 (Order 89-48), § 220-48-029, filed 6/22/89; 84-08-014 (Order 84-24), § 220-48-029, filed 3/27/84; 82-24-080 (Order 82-215), § 220-48-029, filed 12/1/82, effective 1/1/83; 82-14-056 (Order 82-72), § 220-48-029, filed 7/1/82.]

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

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

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

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

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

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

~~(d) That portion of Area 28A east of a line projected due north from the northwest tip of Fox Island, and north of a line projected due east from Fox Point on Fox Island is closed all year.~~

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

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

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

[Statutory Authority: RCW 77.12.047. 04-17-098 (Order 04-218), § 220-48-032, filed 8/17/04, effective 9/17/04; 03-05-063 (Order 03-27), § 220-48-032, filed 2/18/03, effective 3/21/03. Statutory Authority: RCW 75.08.080. 98-05-043, § 220-48-032, filed 2/11/98, effective 3/14/98; 87-04-003 (Order 87-03), § 220-48-032, filed 1/22/87; 82-24-080 (Order 82-215), § 220-48-032, filed 12/1/82, effective 1/1/83; 82-14-056 (Order 82-72), § 220-48-032, filed 7/1/82.]

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

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

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

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

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

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

[Statutory Authority: RCW 75.08.080. 98-05-043, § 220-48-071, filed 2/11/98, effective 3/14/98; 94-12-009 (Order 94-23), § 220-48-071, filed 5/19/94, effective 6/19/94; 84-08-014 (Order 84-24), § 220-48-071, filed 3/27/84; 82-24-080 (Order 82-215), § 220-48-071, filed 12/1/82, effective 1/1/83; 82-14-056 (Order 82-72), § 220-48-071, filed 7/1/82.]

REPEALER

The following sections of the Washington Administrative Code are repealed:

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

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

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

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

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

[Statutory Authority: RCW 77.12.047. 04-17-098 (Order 04-218), § 220-48-062, filed 8/17/04, effective 9/17/04. Statutory Authority: RCW 75.08.080. 89-14-010 (Order 89-48), § 220-48-062, filed 6/22/89; 82-24-080 (Order 82-215), § 220-48-062, filed 12/1/82, effective 1/1/83; 82-14-056 (Order 82-72), § 220-48-062, filed 7/1/82.]

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

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

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

(a) Gear restrictions -

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

(ii) In all areas:

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

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

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

(D) It is unlawful to set or pull shrimp pot gear from one hour

after official sunset to one hour before official sunrise.

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

(c) Area restrictions:

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

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

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

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

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

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

(b) It is unlawful to retain spot shrimp.

(c) Area restrictions:

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

(ii) Shrimp trawl fishing closed in Lopez Sound south of a line

projected true east-west from the northern tip of Trump Island from the season opening through July 9th.

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

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

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

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

(ii) Closed in waters shallower than 20 fathoms.

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

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

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

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

(4) All shrimp taken in the Puget Sound commercial shrimp fishery must be landed and recorded on Washington state fish

receiving tickets within 24 hours of harvest. No fisher may land shrimp without immediate delivery to a licensed wholesale dealer, or if transferred at sea, without transfer to a licensed wholesale dealer. A fisher who is a licensed wholesale dealer may complete and return a fish receiving ticket to satisfy the requirements of this subsection.

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

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

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

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

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

(iii) 23A-C (central) is those waters of Catch Area 23 south of 48°22.5'N. Lat. and east of a line projected 335° true from the Dungeness lighthouse.

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

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

(i) 26A-E (east) is those waters of Catch Area 26A north and

east of a line projected 110 degrees true from the southern tip of Possession Point on Whidbey Island to the shipwreck on the opposite shore.

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

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

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

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

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

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

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

(b) Shrimp Management Area 1B: Waters of Catch Area 20B east of a line from Point Doughty on Orcas Island to the bell buoy at the international boundary, and waters of Catch Area 22A east of a line

projected true north and south from the western tip of Crane Island, east of a line projected from the number 2 buoy at the entrance to Fisherman Bay to the southern tip of Shaw Island, and east of a line projected true south from Point Colville, and all waters of Catch Area 21A north and west of a line from the southern tip of Sinclair Island to Carter Point on Lummi Island.

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

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

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

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

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

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

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

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

[Statutory Authority: RCW 77.12.047. 06-01-013 (Order 05-275), §

220-52-051, filed 12/9/05, effective 1/9/06; 03-05-064 (Order 03-28), § 220-52-051, filed 2/18/03, effective 3/21/03; 02-01-068, § 220-52-051, filed 12/14/01, effective 1/14/02; 01-03-016 (Order 00-271), § 220-52-051, filed 1/5/01, effective 2/5/01. Statutory Authority: RCW 74.08.080 and 1999 c 239. 00-01-124 (Order 99-217), § 220-52-051, filed 12/17/99, effective 1/17/00. Statutory Authority: RCW 75.28.740 and 75.30.220. 94-07-092 (Order 94-14), § 220-52-051, filed 3/17/94, effective 4/17/94. Statutory Authority: RCW 75.08.080. 93-15-051, § 220-52-051, filed 7/14/93, effective 8/14/93; 91-18-030 (Order 91-73), § 220-52-051, filed 8/28/91, effective 9/28/91; 87-23-006 (Order 87-187), § 220-52-051, filed 11/6/87.]

WASHINGTON FISH AND WILDLIFE COMMISSION

PUBLIC TESTIMONY FORM

Complete a separate Public Testimony Form for each topic. In order to testify, you **MUST** give your completed form to the Commission Assistant at the registration desk **prior** to the start of discussion on the agenda item.

DATE: 12/4/2010

AGENDA ITEM #: 19

NAME: Bear Holmes
(Please print clearly)

CITY: Kent

REPRESENTING CCA
(If testifying on behalf of an organization, please identify)

SUMMARIZE THE MAIN POINTS OF YOUR TESTIMONY:

Deerlet pet loss reporting



Bear Holmes

Public Input #19

Coastal Conservation Association

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December 3, 2010

Chair Wecker, Commissioners and Director Anderson

We are pleased the department is considering reducing the impacts of the 19 commercial fisheries on Puget Sound rockfishes. Up until this time most of the attention appears to have been focused on the recreational fishery.

However, we do want to call your attention to what appears to be a very significant omission relating to commercial fishing impacts on Puget Sound rockfishes. The department's 2009 report, *Biology and Assessment of Rockfishes in Puget*, indicates 61,000 rockfish could be killed annually by derelict commercial fishing nets. This loss far exceeds the combined incidental and directed recreational catch.

The recent NMFS biological opinion relating to Puget Sound also recognizes derelict nets as the major source of fishing related rockfish mortality. Because of these and other horrific losses from derelict nets, CCA Washington has been a strong supporter of the Northwest Straits Commission derelict gear recovery program, which is supposed to rely heavily on the voluntary lost net reporting system established by RCW 77.12.870.

The problem is that the voluntary reporting system doesn't work. The manager of the net recovery program reports that gill net fishers (tribal and non-tribal combined) have reported only two lost nets since 2003. This year alone 12 "fresh" nets have been located and recovered which is obviously only a fraction of those lost.

The solution is mandatory marking and reporting of lost nets. We call your attention to the previously mentioned NMFS biological opinion, issued on 5/28/10, mandating that *"The BIA, USFWS and NMFS in collaboration with the Washington State Department of Fish and Wildlife, and tribes, shall ensure that commercial fishers report the loss of any fishing gear immediately to appropriate authorities."*

What is the status of this apparent "requirement"?

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As a member of the WDFW Puget Sound Rockfish Conservation Plan advisory group I can tell you mandatory net reporting and marking is one of the very few issues on which we all agreed.

This seems like a no brainer and quite frankly, we don't understand the resistance.

Attached are some written documents for your review.

Sincerely,



Robert "Bear" Holmes
Chair CCA Puget Sound Marine Enhancement Committee

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From: Jeff June <jjune@nrccorp.com>
Date: Thu, 02 Dec 2010 15:12:00 -0800
To: "Dan.Tonnes@noaa.gov" <Dan.Tonnes@noaa.gov>
Cc: Ginny Broadhurst <broadhurst@nwstraits.org>, Tom Cowan
<cowan@nwstraits.org>, Joan Drinkwin <drinkwin@nwstraits.org>
Conversation: Puget Sound Gillnet Effort and New Net Loss
Subject: Puget Sound Gillnet Effort and New Net Loss

Dan:

Attached is an Excel workbook with our analyses of Puget Sound gillnet fishing effort and likely net loss.

Lower and upper estimates of annual net loss are based on interviews I conducted early on in the project with gillnetters contacted by a long-term gillnetter that was on one of the MRCs. The non-Treaty gillnetters we interviewed suggested that between 3 and 5% of boat lost some portion of gillnet each season. We have applied these values to the number of active boats each year to get estimates of annual lost nets.

Where we have data since 2003 we have compared our total number of reported to the number we estimate were lost. **The data show that the public only finds about 10 to 15% of the nets that are newly lost each year and 25 to 45 nets will accumulate each year if Treaty and non-Treaty commercial fishers do not report nets via the reporting system.** We estimate that we could remove over 90% of the nets reported (others may be too deep or may move and not be found).

As a check on our 3 to 5% estimate of annual net loss, we went back and calculated annual net loss since 1968 based on the number of active boats in the fishery (second spreadsheet). We had non-Treaty only boats from 1968 to 1976 and expanded (doubled) the counts to account for Treaty boats during that period of time. From 1977 on we have accurate counts of non-Treaty boats and reasonably good estimates of Treaty boats (gillnet only, set nets excluded). The total number of nets estimated lost range from a low of 2,829 to 4,716. Since 2002 we have removed 3,829 nets and believe there may be 1,200 to 1,300 nets remaining in Puget Sound based on public reports and our sidescan sonar surveys for a total of just over 5,000 derelict nets fairly consistent with the upper (5%) loss rate estimated for Puget Sound gillnetters. This indicates that our range of annual loss estimates are reasonable close to what has actually occurred and our projections of future net loss are probably reasonably good.

Give Kyle or I a call if you have any questions.

Cheers, Jeff and Kyle

-- Jeffrey A. June

Natural Resources Consultants, Inc.

4039 21st Ave West, Suite 404

Seattle, WA 98199-1252

Phone: 206-285-3480

Mobile: 206-948-5347

Fax: 206-283-8263

Email: jjune@nrccorp.com

WWW: <http://www.nrccorp.com>

Number of gillnet boats actively fishing, low (3%) and high (5%) estimates of the number of net loss events and number of newly lost nets reported by the public annually in Puget Sound since the inception of the net loss reporting system in 2003. Source: WDFW and Northwest Straits Initiative

(Note: gillnet fishers have reported 2 newly lost nets since project inception, one in 2004 and one in 2006).

YEAR	Total # Gillnet Boats	Estimated Lost Nets		Number of Nets Reported by Public
		Low	High	
2003	776	23	39	-
2004	861	26	43	4
2005	781	23	39	8
2006	898	27	45	4
2007	953	29	48	6
2008	1,081	32	54	7
2009	969	29	48	6
2010	unknown	unknown	unknown	12
Total 2003-2009		189	316	35

WASHINGTON FISH AND WILDLIFE COMMISSION

PUBLIC TESTIMONY FORM

Complete a separate Public Testimony Form for each topic. In order to testify, you **MUST** give your completed form to the Commission Assistant at the registration desk **prior** to the start of discussion on the agenda item.

DATE: 12-4-10

AGENDA ITEM #: 19

NAME: RONI GARNER
(Please print clearly)

CITY: MONROE

REPRESENTING PUGET SOUND ANGLER
(If testifying on behalf of an organization, please identify)

SUMMARIZE THE MAIN POINTS OF YOUR TESTIMONY:

ADD TAG PROGRAM TO NETS

REPORT LOST NETS WITHIN 24 HRS

WASHINGTON FISH AND WILDLIFE COMMISSION

PUBLIC TESTIMONY FORM

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DATE: 12-4-10

AGENDA ITEM #: 19

NAME: Keith Johnson CITY: Bellingham
(Please print clearly)

REPRESENTING Keith Johnson Fish
(If testifying on behalf of an organization, please identify)

SUMMARIZE THE MAIN POINTS OF YOUR TESTIMONY:

Trawl Closure

WASHINGTON FISH AND WILDLIFE COMMISSION

PUBLIC TESTIMONY FORM

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DATE: 12/4

AGENDA ITEM #: 19

NAME: ROBERT KENOE
(Please print clearly)

CITY: SEATTLE

REPRESENTING PURSE SEINE VESSEL OWNERS ASS'N
(If testifying on behalf of an organization, please identify)

SUMMARIZE THE MAIN POINTS OF YOUR TESTIMONY:

QUESTION NEED FOR ELIMINATION

OF PURSE SEINE FORAGE FISH LIMITED

ENTRY PERMITS

WASHINGTON FISH AND WILDLIFE COMMISSION

PUBLIC TESTIMONY FORM

Complete a separate Public Testimony Form for each topic. In order to testify, you **MUST** give your completed form to the Commission Assistant at the registration desk **prior** to the start of discussion on the agenda item.

DATE: 12/4/10

AGENDA ITEM #: 19

NAME: Doug Myers
(Please print clearly)

CITY: Yelm

REPRESENTING People For Puget Sound
(If testifying on behalf of an organization, please identify)

SUMMARIZE THE MAIN POINTS OF YOUR TESTIMONY:

Need better stock assessment data
on herring, anchovy and smelt to address
critical food web pathway for higher order
consumers in P.S., including larger fish, birds,
marine mammals

Keith Johnson Fish Inc.
2327 Utter St.
Bellingham, Wa.

11-23-10

Washington Dept. of Fish and Wildlife
c/o Craig Burley

Dear Mr. Burley,

Please reconsider the Depts. proposal to close bottom trawl fishing on the North Sound and Western Juan de Fuca Strait. At a recent meeting with the Dept. we should have been discussing seasons, poundage quotas and area restrictions not elimination of the fishery. I would hope there is still time to change course. This fishery can provide fresh seafood for local markets. It was utilized by the Federal Gov. during WWII to provide vitamin A for our pilots. Recently markets have waned however it has been a constant fishery for nearly 100 years. We in the industry would like it to be a fishery we can take some pride in. We are willing to use best fishing practices such as limiting the length of time of tows in some areas, using larger mesh codends for some flounder fisheries and live boxes for emergency rockfish catch and release. Use a low-rise, light footrope net such as the one I fish with. Removal of lost fishing gear. We are willing to take fishery observers for a reasonable cost and number of days. I have a 30 year history of bottom trawling and seining on the sound. I started fishing in 1966. My vessel has a history back to 1920. I feel I have earned the privilege to continue in this trawl fishery.

Sincerely,
Keith Johnson



Keith Johnson Fish
360 319-3899
360 734-1216

Bargmann, Gregory G (DFW)

From: Thursday, June 24, 2010 6:12 AM
To: Bargmann, Gregory G (DFW)
Subject: Re: Bargmann e-mail address

6/14/10

Keith Johnson Fish Inc.

2327 Utter St. Bellingham, Wa. 98225

To: WDFW

Dear Mr. Bargmann,

I will take a stand against the proposed closure of the bottom trawl fishery. As you know my fishery is a pounder and sole fishery. It's a strong fishery, however it has been improperly controlled. The inside bottom trawl fishery should have limited entry permit, daily and monthly catch limits; example- for area 20B Orcas North Shore 1500 # daily, monthly cumulative 5000 # harvest limit. Close other parts of area 20B. Limit duration of time of tows; example- area 20B tow length limit of 75 minutes. Other areas such as 21A and 20A(waters less than 25 fathoms) 3250 # daily catch limit, 25000 # monthly catch limit. Yearly cap. Limited fishery in the deeper waters of area 20A. Vessel length and horsepower, trawl door weight and net configuration should be considered.

The whole eastern portion of Juan de Fuca Strait and the entire south sound are a closed area. The portion of the north sound which is repeatedly towed is less than 1% or could be less than 1% of the entire area.

I have spent hundreds of thousands of dollars over the last thirty years to keep and maintain my vessel (tens of thousands of dollars per year to this day). It's a lot to contribute to the local economy (including license fees and state sales tax). Countless hours. With markets for my fish waning and fuel prices per gallon creeping toward five dollars over the last few years it seemed like a good time to diversify. Some state agencies have hurt my fish selling possibilities (I will explain later).

I have kept myself active in the industry. I can bring fish buying customers to the fore. They see it as part of their health care. My goal is to be able to provide a filleted product, perhaps in the form of a fresh frozen packaged fillet. Sales will be vibrant.

As a self-employed person I have to make my own retirement and health care. The bottom trawl fishery of the north sound is how I intend to do that.

If the bottom trawl fishery is flat closed I will expect compensation. However I do not see what any state or federal agency stands to gain from closing the fishery.

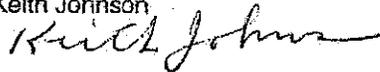
Keith Johnson Fish Inc. 1-4-11
2327 Utter st.
Bellingham, Wa. 98225

Washington Department of Fish and Wildlife
c/o Philip Anderson

Dear Mr. Anderson,

I would like to submit to you a navigation chart with bottom trawl fishing areas for the North Sound. It will show general open areas for trawling as well as the most repeated fished areas or primary areas and secondary or less fished areas. Also it will show "no fish" areas. Best fishing practices should include a opening time of 6:00am and a daily closing time of 6:00pm for the North Sound with an earlier opening time for the Western Juan de Fuca Strait. Please consider the science of fish stocks the Dept. gets from continuing the fishery. I am concerned about the cost of an observer program. Fuel prices are rising. While working on a purse seiner this fall on Hood Canal I asked an observer if he was working for the Dept. which he was. This would help greatly and if there were more than one boat fishing an area, with your vessel you could check the catches. Just a thought. Also possibly a citizen observer program.

Sincerely,
Keith Johnson



Keith Johnson Fish
360 319-3899
360 734-1216

Keith Johnson Fish Inc.
2327 Utter St.
Bellingham, Wa.

1-12-11

Washington Dept. of Fish and Wildlife
c/o Philip Anderson

Dear Mr. Anderson,

I have sent you a chart of trawl fishing areas for the North Sound. The purple loops represent the most necessary tows. I feel I could survive by just fishing the bays if I had to. However the deeper areas are very important such as Orcas North Shore and the Breadline (that name has some interesting connotations). The fish buying public generally would prefer the deeper fish. I do have confidence in the shallow flounder and sole for human consumption.

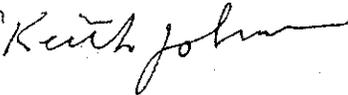
Please support this fishery for a few boats. I'm worried about the perceived sport fishing slant of the Fish and Wildlife Commission and how they might rule on this fishery.

The large dots representing canary rockfish on your catch charts in Northern Bellingham Bay are deceptive. They must be from many years ago.

If designing a chart for the fishery with proper waypoints is difficult or expensive I may be able to help. What I do for the spring crab closure areas is enter the closed area as a route in my GPS then I can see it clearly.

Thank you for listening.

Sincerely,
Keith Johnson



360 319-3899
360 734-1216

RECEIVED

JAN 13 2011

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