

# **Sanitary Shellfish Enforcement**

# Background

# Economy

- 86% of the West Coast of the United States (Including Alaska) Shellfish Production Comes from Washington State
- \$100,000,000 / Year Commercial Industry
- Economic Value of Recreational Harvest (?)

## ■ Public Safety

-Shellfish are filter feeders, up to 50 gallons /day

-Concentrate Contaminates

- fecal choliform
- biotoxins
- virus
- bacteria
- toxic chemical contaminates
- heavy metals



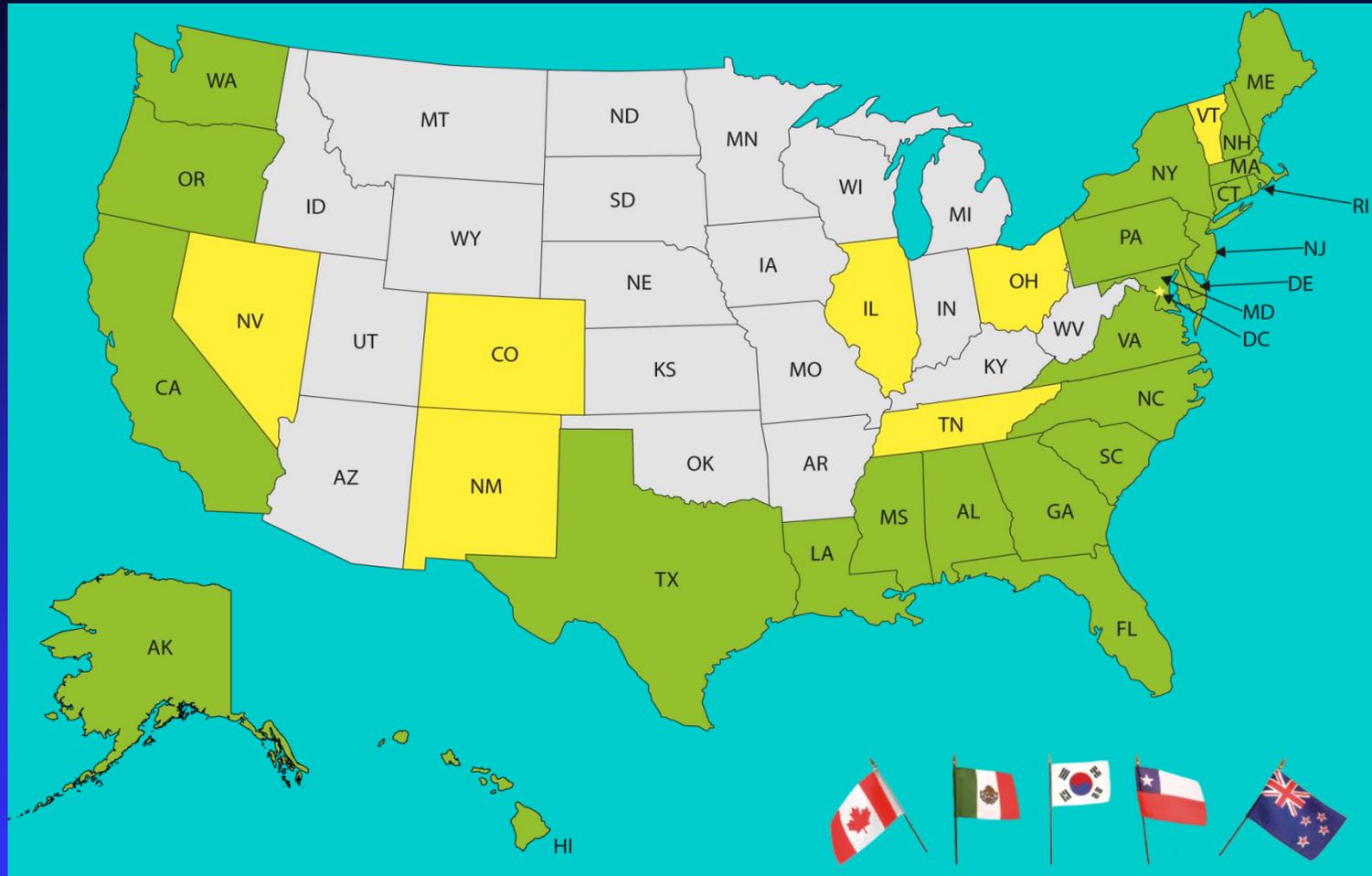
**NATIONAL SHELLFISH  
SANITATION PROGRAM  
(NSSP)**

# NSSP

- National Shellfish Sanitation Program
- A cooperative tripartite program monitored by the FDA, implemented at the State level, and followed by the shellfish industry.

Only participating states and countries (29 states, 5 countries) are permitted to engage in the interstate or international commerce of shellfish.

# NSSP State / Country Participation



non-participating states

participating / receiving states

participating / producing states





**INTERSTATE SHELLFISH  
SANITATION CONFERENCE  
(ISSC)**

# ISSC

- Interstate Sanitary Shellfish Conference
- The governing body responsible for developing, maintaining and modifying a standard set of guidelines for the sanitary control of shellfish.

# MODEL ORDINANCE

- Set of standardized guidelines developed and coordinated through the ISSC.
- WA DOH adopts the model ordinance in WAC for the technical regulations pertaining to shellfish processing, shipping, and growing area classifications.

# State Responsibilities

- ◆ Adopt adequate laws and regulations
  - ◆ Ensure safety of consumers
- ◆ Carry out the law through:
  - ◆ DOH - Growing area classifications
  - ◆ DOH – Sanitation Inspections
  - ◆ DOH – Company Licensing
  - ◆ WDFW - Enforcement Patrols via MOU

# Patrol Element of the Model Ordinance (Chapter VIII)

- Requires that states have adequate enforcement abilities in place to ensure compliance with NSSP.
- Requires a minimum patrol effort (frequency) on beaches closed to harvest.
- Requires documentation of performance of the frequency patrols.

# “Frequency Patrols”

- Growing Areas
- Patrol Areas
- Risk Assessment
- Frequency Patrol

# Patrol Areas

- State of Washington has 90 “Growing Areas” classified by DOH.
- These beaches have been combined into 51 separate “patrol areas”.
- Each Patrol Area has a Risk Classification (Low/Med/High)
- The Patrol Frequency is based on the Risk Classification



# Patrol Risk Assessment

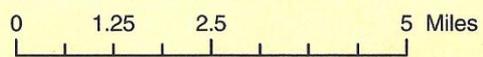
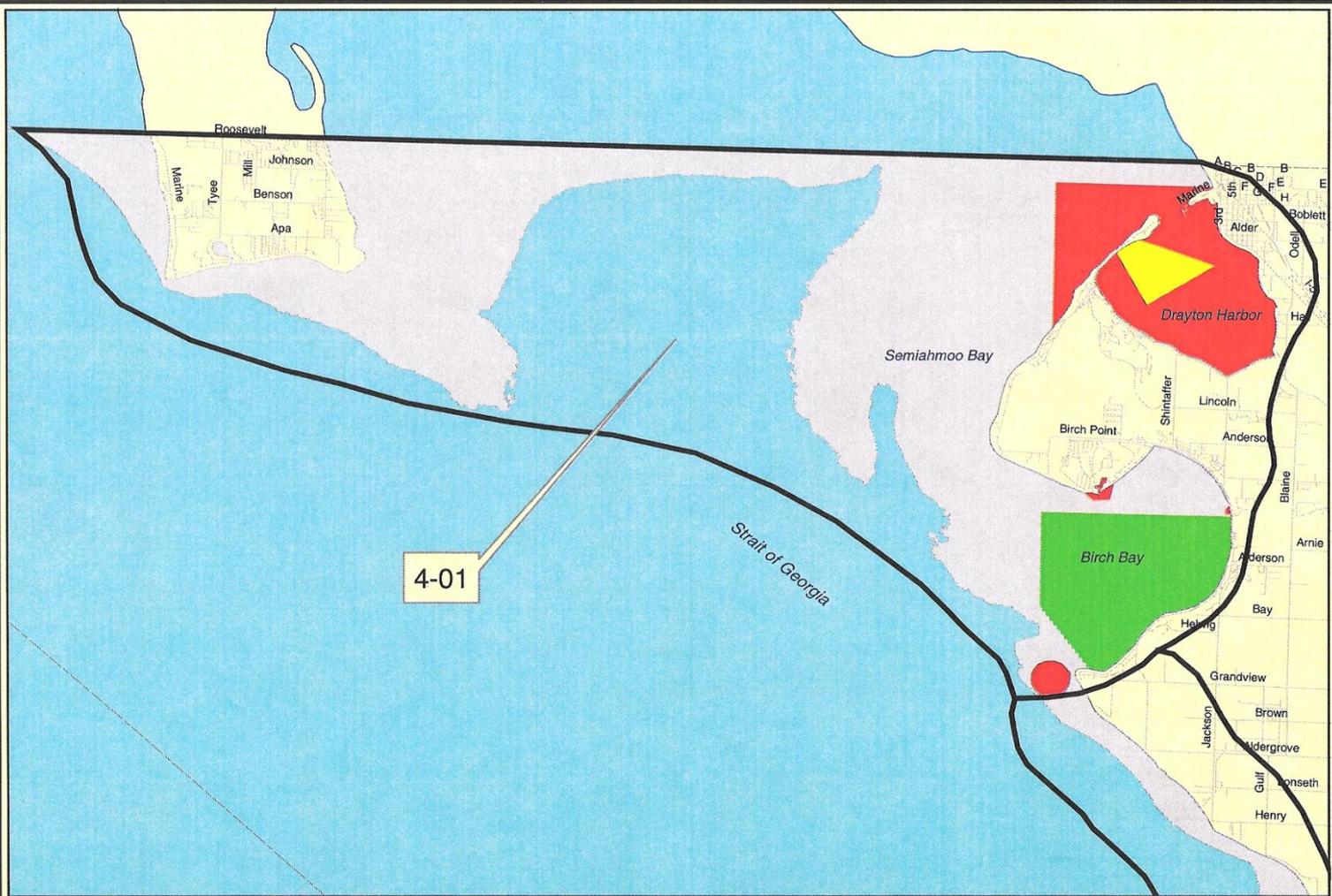
## Model Ordinance Chapter VIII

- Determine frequency of patrol by the risk of illegal harvesting based on rating certain criteria that could impact the level of risk such as:
  - ◆ amount of shellfish
  - ◆ ease of harvest
  - ◆ difficulty of patrol.

# Patrol of Growing Areas

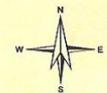
- Harvest areas in closed status shall be patrolled at sufficient intervals to deter illegal harvesting.
- Patrol activity shall include consideration of the need for night, weekend, and holiday patrols.
- At a minimum, these growing areas shall be patrolled at the following frequencies:

Risk Classification	Minimum frequency for Patrol
<b>LOW</b> Total score = Less than 3	4 times per 30 harvestable days
<b>MEDIUM</b> Total score = 3 or less than 4	8 times per 30 harvestable days
<b>HIGH</b> Total score = 4 or greater	16 times per 30 harvestable days



**Birch / Drayton Harbor  
PATROL AREA 4-01  
High Risk - 16X/30HD**

Legend			
	Patrol Areas		Prohibited
	County Boundaries		Conditional
	Water		Unclassified
			Upland
			>70ft
			Approved

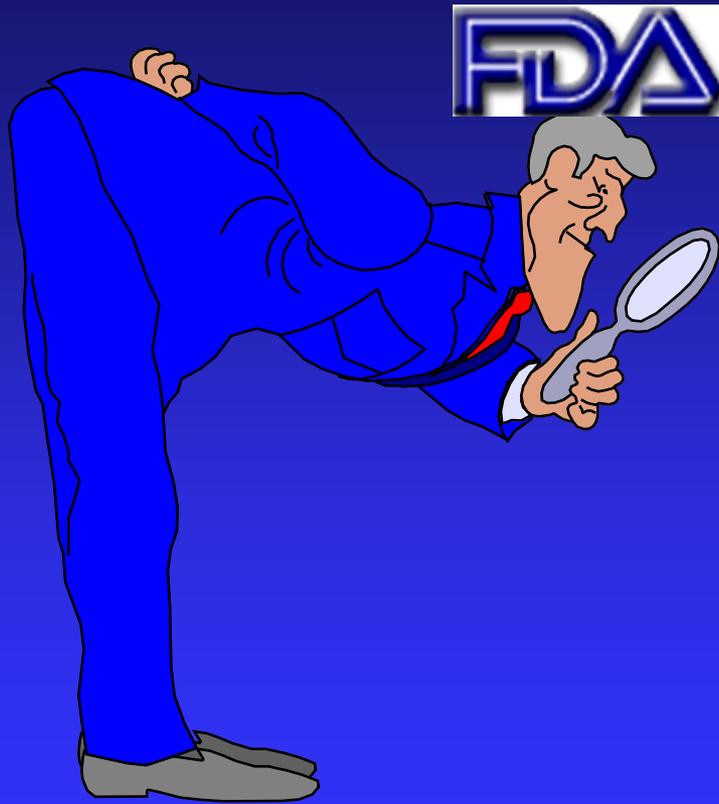


Office of Environmental Health Assessments

The Washington State Department of Health (DOH) does not warrant the accuracy, reliability or timeliness of any information published in this map and assumes no responsibility for errors in the content of the information provided. Persons or entities that rely on any information obtained from this map do so at their own risk.

Map created by Nancy West  
October 26, 2004  
...2004/shellfish/patrol\_areas/PA4-01\_10-04.mxd

# Patrol Element Evaluation



WDFW



# State's Failure to Meet NSSP Standards

- Deficiencies are addressed through Corrective Action Plans
- Continued deficiencies may result result in the state's removal from the NSSP, creating the potential for an ECONOMIC DISASTER!!

# WDFW ENFORCEMENT





■ *RCW 69.30 Sanitary Control of Shellfish*

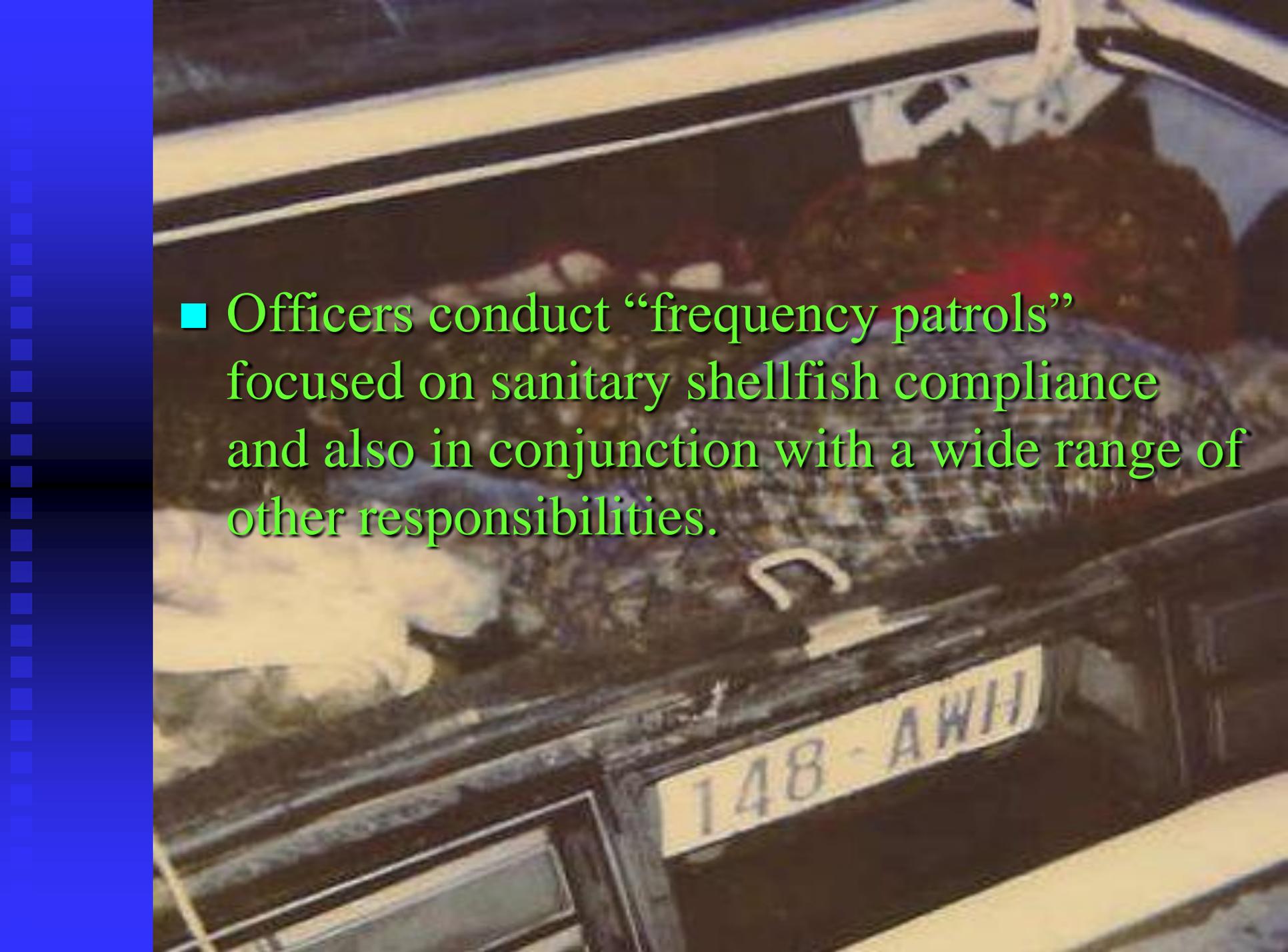
# Sanitary Shellfish Enforcement

- RCW 69.30 and WAC 246-282
- Fish and Wildlife Officers are identified as the primary enforcement entity for the criminal provisions of Sanitary Shellfish Control.





- Approximately 70 Officers are deployed throughout Western Washington Counties where shellfish activities occur.

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- Officers conduct “frequency patrols” focused on sanitary shellfish compliance and also in conjunction with a wide range of other responsibilities.



- “Emphasis Patrols” are organized to focus on specific problem areas during certain tides and seasons.

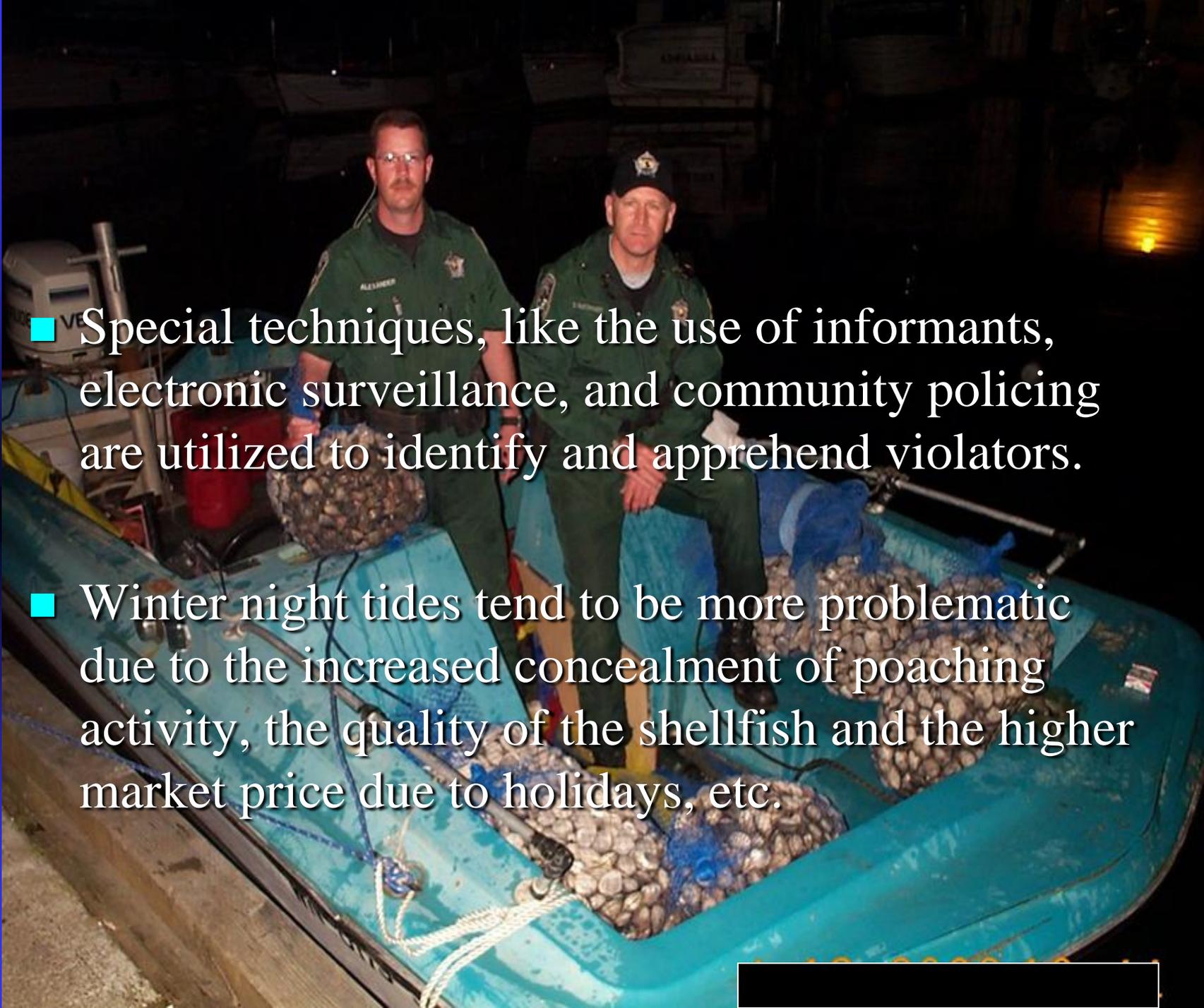
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- A dark-colored SUV is parked on a sandy beach. The sun is setting in the background, creating a warm, golden glow over the ocean. The sky is filled with soft, wispy clouds. The SUV's rear light is visible, and the word "FORD" is partially visible on the rear fender. The overall scene is serene and suggests a patrol or surveillance activity.
- Enforcement activities include patrol, surveillance, use of informants, undercover activities, complex investigation, border and airport inspections, market inspections, tracking product from beach to market, etc.

# Typical Patrol Activities

- Officers employ a wide variety of methods when patrolling for commercial shellfish poachers. These include patrols by vehicle, foot, boat and airplane.



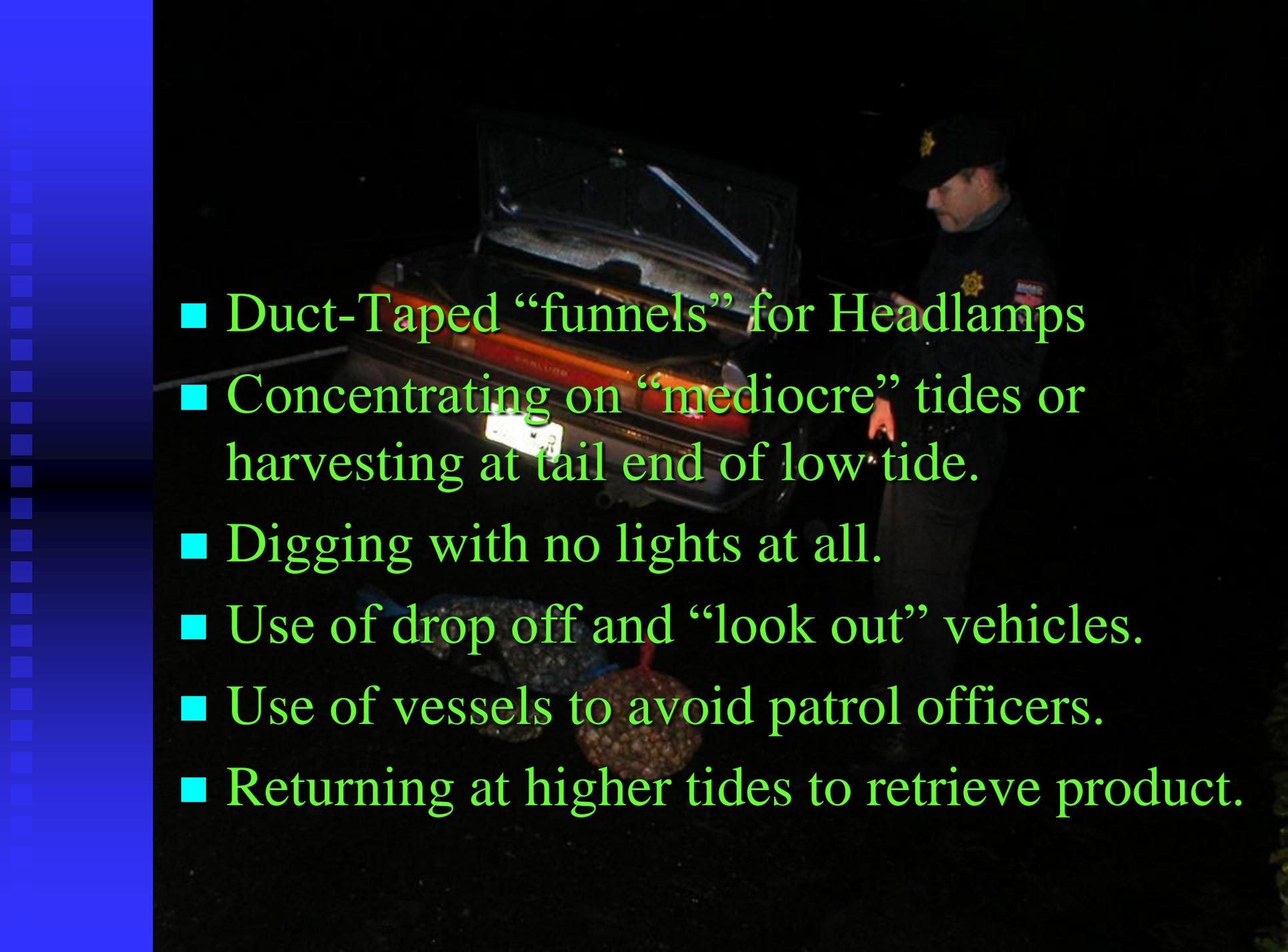
CITY OF SHELTON  
WASTEWATER  
TREATMENT PLANT

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- A photograph showing two law enforcement officers in green uniforms on a blue boat. The boat is filled with large quantities of shellfish, likely clams or mussels, which are piled up in several large mesh bags. The scene is illuminated by artificial lights, suggesting it is nighttime. The background is dark, and the boat's interior is visible, including a Yamaha outboard motor.
- Special techniques, like the use of informants, electronic surveillance, and community policing are utilized to identify and apprehend violators.
  - Winter night tides tend to be more problematic due to the increased concealment of poaching activity, the quality of the shellfish and the higher market price due to holidays, etc.

# Evolution of a Clam Poacher

- Over the past twenty years, the poacher has “evolved” in his techniques to harvest prohibited areas.
- Night Tides Emphasized
- Use of Lanterns
- Use of Headlamps
- Use of blankets or tarps to hide lights

468 LB

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- Duct-Taped “funnels” for Headlamps
  - Concentrating on “mediocre” tides or harvesting at tail end of low tide.
  - Digging with no lights at all.
  - Use of drop off and “look out” vehicles.
  - Use of vessels to avoid patrol officers.
  - Returning at higher tides to retrieve product.

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- A photograph showing a green equipment bag on the left and a night vision device on the right. The night vision device is a tan-colored unit with a lens and various controls. A label on the device reads "GOGGLES, NIGHT VISION". The background is dark, suggesting a night setting.
- Officers respond to these measures by avoiding counter-surveillance strategies to deploy themselves silently and invisibly into prohibited areas for surveillance and monitoring, using informants, and specialized equipment
  - Use of night vision is often critical to detection of poaching activity.



**FURUN**

**FURU**

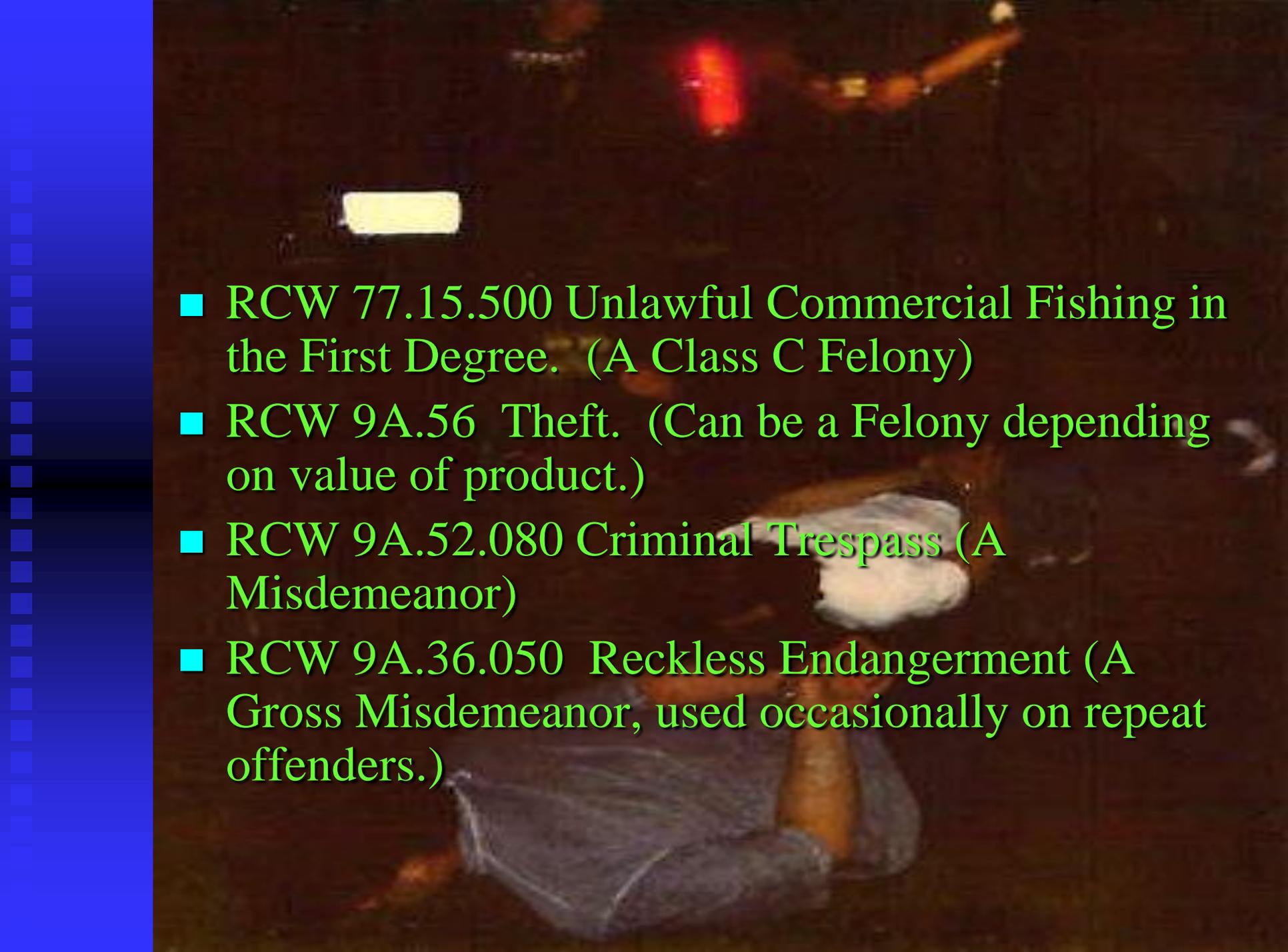






# “Cuffed and Stuffed”

- Once apprehended, the typical poacher is taken into custody and booked on a number of possible charges, including:
  - ◆ RCW 69.30.110 (and appropriate WACs) Possessing Commercial Quantities of Shellfish Without Valid DOH Certification. (A Gross Misdemeanor)

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- RCW 77.15.500 Unlawful Commercial Fishing in the First Degree. (A Class C Felony)
  - RCW 9A.56 Theft. (Can be a Felony depending on value of product.)
  - RCW 9A.52.080 Criminal Trespass (A Misdemeanor)
  - RCW 9A.36.050 Reckless Endangerment (A Gross Misdemeanor, used occasionally on repeat offenders.)

# WDFW Enforcement Role in the Legitimate Shellfish Industry

- Fish and Wildlife Officers conduct inspections of harvest site operations, facilities, and transports.
- Officers work closely with industry to identify problem issues.
- Industry cooperates in investigations, identifying trends and educating new officers of industry issues and practices.

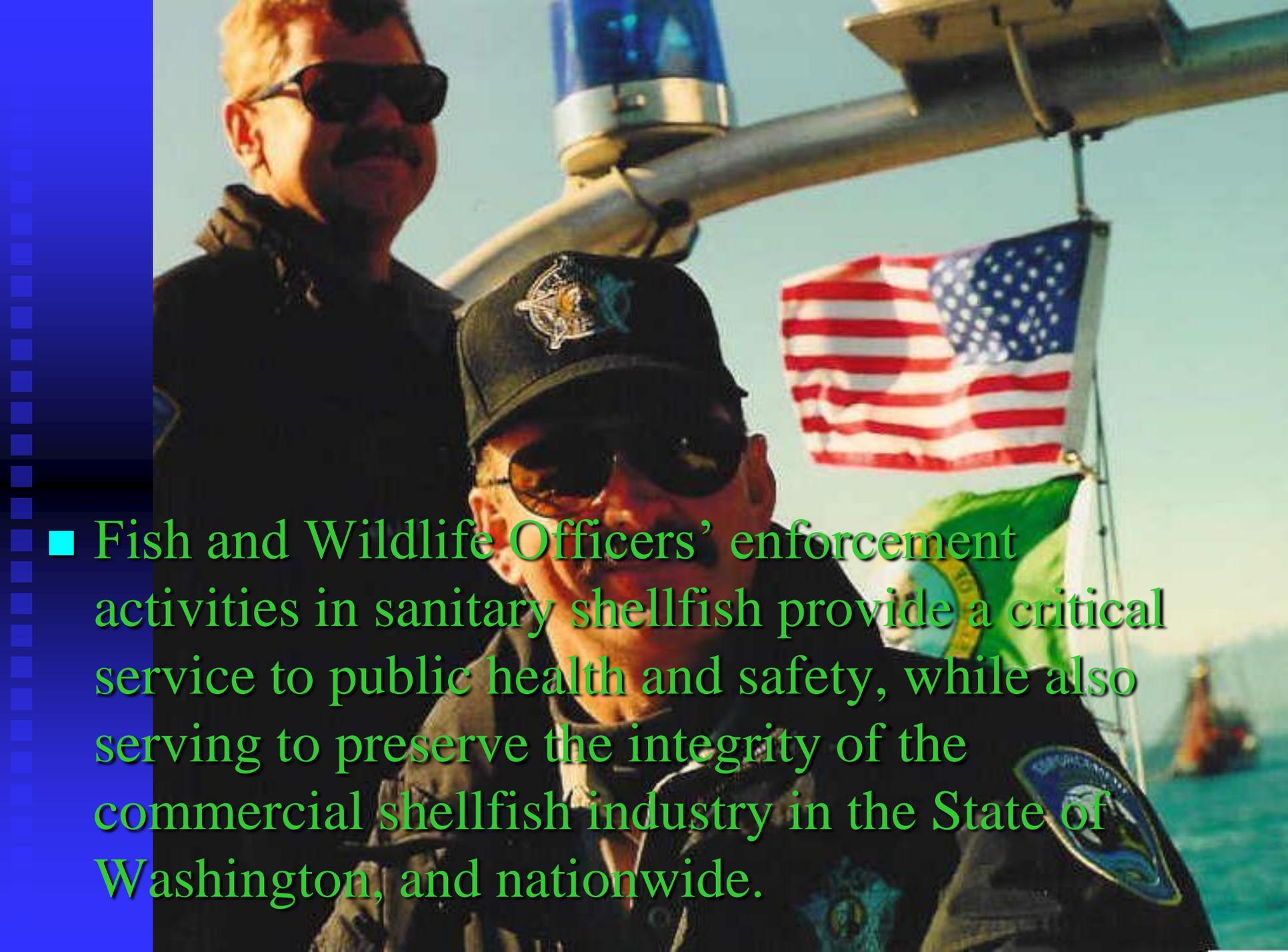


# Recent Investigations

- G&R Quality Seafoods Shellfish
- Elliot Bay Geoduck
- Oakland Bay/Shelton Prohibited Area

# Current Issues

- 2011 Legislation
- Commercial Bait Harvest
- In-River Recreational Fisheries
- Sanitation Facilities at Public Access Points
- Commercial Harvest of Varnish Clams

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- A photograph of two men on a boat. The man in the foreground is wearing a dark cap with a fish and wildlife emblem, sunglasses, and a dark jacket with a patch on the sleeve. The man behind him is also wearing sunglasses and a dark jacket. An American flag and a green flag are flying on the boat. A blue light is visible on a pole in the background. The background shows a blue sky and a body of water with a small boat in the distance.
- Fish and Wildlife Officers' enforcement activities in sanitary shellfish provide a critical service to public health and safety, while also serving to preserve the integrity of the commercial shellfish industry in the State of Washington, and nationwide.

End