Chapter 220-49 WAC

PUGET SOUND COMMERCIAL FORAGE FISH

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220-49-050 Puget Sound forage fish—Definitions—General provisions. (1) It is unlawful to fish for or possess Puget Sound forage fish taken for commercial purposes except at the times, during the seasons and using the gear provided for in this chapter.

(2) It is unlawful to fish for or possess candlefish taken for commercial purposes.

[Statutory Authority: RCW 75.08.080. 98-05-043, § 220-49-005, filed 2/11/98, effective 3/14/98; 94-12-009 (Order 94-23), § 220-49-005, filed 5/19/94, effective 6/19/94.]

WAC 220-49-005 Puget Sound forage fish—Definitions—General provisions. (1) It is unlawful to fish for or possess Puget Sound forage fish taken for commercial purposes except at the times, during the seasons and using the gear provided for in this chapter.

(2) It is unlawful to fish for or possess candlefish taken for commercial purposes.

[Statutory Authority: RCW 75.08.080. 98-05-043, § 220-49-005, filed 2/11/98, effective 3/14/98; 94-12-009 (Order 94-23), § 220-49-005, filed 5/19/94, effective 6/19/94.]

WAC 220-49-011 Herring, anchovy and smelt fishing—Lawful gear—Drag seine. (1) Lawful drag seine gear in the Puget Sound herring, anchovy and smelt fisheries shall not exceed 350 feet in length or contain meshes less than 1/2 inch stretch measure.

(2) Licensing: (a) A food fish drag seine fishery license is a license required to operate the gear provided for in this section and allows the operator to retain smelt and anchovy.
(b) A herring drag seine fishery license is a license required to operate the gear provided for in this section and allows the operator to retain herring.

[Statutory Authority: RCW 75.08.080. 98-05-043, § 220-49-014, filed 2/11/98, effective 3/14/98; § 220-49-017, filed 5/19/94, effective 6/19/94; Order 1105, § 220-49-011, filed 12/28/73.]

WAC 220-49-017 Herring, anchovy and smelt fishing—Otter trawl and gillnet. (1) It is unlawful to fish for herring, anchovy or smelt using otter trawl gear or gillnet gear except as authorized by permit issued by the director.

(2) Licensing: The permit issued by the director will specify the fishery license required to operate the permit.

[Statutory Authority: RCW 75.08.080. 98-05-043, § 220-49-017, filed 2/11/98, effective 3/14/98; 94-12-009 (Order 94-23), § 220-49-017, filed 5/19/94, effective 6/19/94; Order 89-48, § 220-49-017, filed 6/22/89; Order 1105, § 220-49-017, filed 12/28/73.]

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

(1) Area 20A.
   (a) Closed September 1 through May 31 to all commercial fishing gear except for the spawn on kelp fishery as provided for in WAC 220-49-063.
   (b) Closed June 1 through August 31 to all commercial fishing.

(2) It is unlawful to use purse seine gear in any Puget Sound area except 23A, 23B, 23C, 23D, and 29. Areas 23A, 23B, 23C, 23D and 29 are open to purse seine gear only during seasons set by emergency rule.

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

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

(5) The following areas are closed from January 16 through April 15, except to dip bag net gear:
   (a) Area 24A except for a year-round closure in Swinomish Channel in those waters between the bridge spanning the channel south of La Conner and a line perpendicular to the channel at the northeast end of the La Conner boat basin, 24B, and 24D.
   (b) Waters of Area 25C south of a line from Tala Point to Foulweather Bluff.
   (c) Area 25D.
   (d) Waters of Area 26B west of a line from Point Monroe to Point Jefferson.
   (e) Area 26C.
   (f) Waters of Area 26D north of a line from Neill Point to Piner Point.
   (g) Areas 27A, 27B and 27 C are closed year-round.
   (h) Waters of Area 28A west of a line projected true north-south through Treble Point on Anderson Island, including Henderson Inlet.
   (i) Waters of Area 28B west of a line projected true north from Penrose Point, including Mayo Cove and Von Geldern Cove.

[Statutory Authority: RCW 75.08.080. 98-05-043, § 220-49-014, filed 2/11/98, effective 3/14/98; 94-12-009 (Order 94-23), § 220-49-014, filed 5/19/94, effective 6/19/94; Order 77-14, § 220-49-014, filed 4/15/77; Order 1105, § 220-49-014, filed 12/28/73.]

WAC 220-49-012 Herring, anchovy and smelt fishing—Purse seine. (1) Lawful purse seine gear in the Puget Sound herring and anchovy fisheries shall not exceed 350 feet in length nor contain meshes less than 1/2 inch stretch measure.

(2) Lawful purse seine gear in the Puget Sound smelt fishery shall not exceed 36 inches across the frame. It is unlawful to operate a dip net from a vessel under power, and it is unlawful to operate more than one dip net at one time.

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

[Statutory Authority: RCW 75.08.080. 98-05-043, § 220-49-012, filed 2/11/98, effective 3/14/98; 94-12-009 (Order 94-23), § 220-49-012, filed 5/19/94, effective 6/19/94; Order 76-148, § 220-49-012, filed 12/2/76; Order 1105, § 220-49-012, filed 12/28/73.]

WAC 220-49-013 Herring, anchovy and smelt fishing—Dip bag net. (1) Lawful dip bag net gear in the Puget Sound herring and anchovy fisheries shall not exceed 18 square feet. Lawful dip bag net gear in the Puget Sound smelt fishery shall not exceed 36 inches across the frame. It is unlawful to operate a dip net from a vessel under power, and it is unlawful to operate more than one dip net at one time.

(2) Licensing:
   (a) A smelt dip bag net fishery license is a license required to operate the gear provided for in this section and allows the operator to retain smelt and anchovy.
   (b) A herring dip bag net fishery license is a license required to operate the gear provided for in this section and allows the operator to retain herring.

[Statutory Authority: RCW 77.12.047. 02-08-026 (Order 02-66), § 220-49-013, filed 12/28/73.]

WAC 220-49-014 Herring, anchovy and smelt fishing—Lampara. (1) Lawful lampara gear in the Puget Sound herring and anchovy fisheries shall not exceed 200 feet in length or contain meshes less than 1/2-inch stretch measure. Lampara gear is not lawful gear for taking smelt in Puget Sound.

(2) Licensing:
   (a) A baitfish lampara fishery license is a license required to operate the gear provided for in this section and allows the operator to retain anchovy.
   (b) A herring lampara fishery license is a license required to operate the gear provided for in this section and allows the operator to retain herring.

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


WAC 220-49-021 Smelt and herring for zoo food. (1) It is unlawful to take, fish for or possess smelt or herring for any purpose except human consumption or fishing bait, except that the director may authorize by permit the taking of smelt or herring in specified areas, quantities and times for emergency use as zoo food for animals. Application for a zoo food permit requires written certification from the zoo director that no other source of smelt or herring is available and the shortage of suitable zoo food will damage the health or well-being of zoo animals.

(2) Licensing: The permit issued by the director will specify the fishery license required to operate the permit.


WAC 220-49-023 Herring reporting. (1) Herring fishermen:

(a) All commercial herring fishermen are required to obtain a department-issued herring reporting monthly logbook, and, pursuant to this section, enter the required information and remit the department's copies of the monthly logs.

(b) It is unlawful for the operator of the harvest vessel to fail to keep the logbook aboard the vessel while the vessel is engaged in herring fishing or has herring onboard. Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.560.

(c) It is unlawful for any vessel operator engaged in herring fishing to fail to submit the department's copy of each month's log in which fishing activity occurs within ten days of the end of the month, as evidenced by the mailing date on the envelope or the fax date, except that the operator may submit all logs of monthly activity prior to the month in which fishing activity commences at one time, and, when fishing activity terminates for the year may submit the logs for the remainder of the year at one time. Harvest logs must be submitted in ascending consecutive order of log serial numbers. The logs are required to be mailed to: Department of Fish and Wildlife, Marine Resources, P.O. Box 1100, La Conner, WA 98257, or faxed to 360-466-0515. Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.560.

(d) Herring vessel operators responsible for submitting logs to the department must maintain the fisher's copy of all logs for one year, and have them available for inspection. It is unlawful for the vessel operator to fail to submit harvest logs for inspection upon request by fish and wildlife officers or authorized department marine fish-shellfish program employee. Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.360.

(e) It is unlawful for vessel operators engaged in commercial herring fishing or possessing herring, to fail to permanently and legibly record in ink the following information within the following time constraints:

(i) Before each vessel trip, record the operator name, operator phone number, license holder name, the department issued registration number, date of fishing trip.

(ii) Immediately after the completion of each set, and prior to making a new set, record the set number, set start time, Marine Fish-Shellfish Catch Area, nearest landmark type, gear type, and weight in pounds of herring retained.

(iii) Immediately after each landing of fish, record the fish receiving ticket serial number and the names of the receivers of fish landed or pen number delivered to if the vessel operator also holds a wholesale fish dealer license and is acting in the capacity of an original receiver. Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.560.

(2) Herring baitfish processors:

(a) It is unlawful for original receivers who sell herring as baitfish to fail to report by January 15th of each year the total number of dozens of herring sold the previous year. The report must be made on a department supplied herring baitfish report form, and must report sales by size class. The form is required to be mailed to: Department of Fish and Wildlife, Marine Resources, P.O. Box 1100, La Conner, WA 98257, or faxed to 360-466-0515. Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.560.

(b) Herring processors responsible for submitting herring baitfish report forms must maintain the processor's copy of the form for one year, and have it available for inspection. It is unlawful for the processor to fail to submit herring baitfish report forms for inspection upon request by fish and wildlife officers or authorized department marine fish-shellfish program employee. Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.360.

[Statutory Authority: RCW 77.12.047. 04-17-098 (Order 04-219), § 220-49-02, filed 8/16/04, effective 9/16/04. Statutory Authority: RCW 75.08.080. 94-12-009 (Order 94-23), § 220-49-02, filed 5/19/94, effective 6/19/94; 83-24-024 (Order 83-200), § 220-49-02, filed 11/30/83, effective 1/1/84; 81-02-053 (Order 81-3), § 220-49-02, filed 1/7/81; Order 77-147, § 220-49-02, filed 12/16/77; Order 77-14, § 220-49-02, filed 4/15/77; Order 76-148, § 220-49-02, filed 12/2/76; Order 1105, § 220-49-02, filed 3/4/75; Order 1105, § 220-49-02, filed 12/28/73.]

WAC 220-49-024 Herring, anchovy and pilchard fishing—Live boxes—Identification. All herring, anchovy and pilchard live boxes or other devices for holding live bait shall have attached thereto the fishery license number of the owner in plainly legible letters not less than 3 inches in height, clearly visible above the waterline. In the case of licensed dealers the dealer's license number shall be displayed as described above. It shall be unlawful to fail to identify live boxes as prescribed in this section.

[Statutory Authority: RCW 75.08.080. 98-05-043, § 220-49-024, filed 2/11/98, effective 3/14/98; 94-12-009 (Order 94-23), § 220-49-024, filed 5/19/94, effective 6/19/94; Order 1105, § 220-49-024, filed 12/28/73.]
WAC 220-49-056  Smelt fishing—Seasons. It shall be unlawful to take, fish for or possess smelt for commercial purposes in Puget Sound except during the following seasons:

1. Areas 20A and 21A - July 1 to April 15.
2. Area 22B - November 1 to April 15.
5. Areas 26B, 26C, 26D, 28B, and 28C - October 1 to April 15 except those waters within 200 feet of shore adjacent to department property at Ross Point in Area 26C are closed to commercial smelt harvest at all times, and those waters of Sinclair Inlet west of a line due south from the ferry dock in Bremerton are open only 8:01 a.m. Wednesday through 7:59 a.m. Friday of each week during the open period.
7. Areas 28A and 28D - September 1 to April 15.
8. All other areas open the entire year.

[Statutory Authority: RCW 77.12.047, 04-17-098 (Order 04-218), § 220-49-056, filed 8/17/04, effective 9/17/04; 02-08-026 (Order 02-66), § 220-49-056, filed 3/27/02, effective 4/27/02. Statutory Authority: RCW 75.08.080, 98-05-043, § 220-49-056, filed 2/11/98, effective 3/14/98; 94-12-009 (Order 94-23), § 220-49-056, filed 5/19/94, effective 6/19/94; 91-13-051 (Order 91-39), § 220-49-056, filed 6/14/91, effective 7/15/91; 83-24-024 (Order 83-200), § 220-49-056, filed 11/30/83, effective 1/1/84; 83-04-025 (Order 83-04), § 220-49-056, filed 1/27/83; Order 76-148, § 220-49-056, filed 12/2/76; Order 76-26, § 220-49-056, filed 1:45 p.m., 4/20/76; Order 1105, § 220-49-056, filed 12/28/73.]

WAC 220-49-057  Smelt fishing—Weekly periods. It is unlawful to fish for smelt for commercial purposes in Puget Sound except from 8:00 a.m. Sunday to 8:00 a.m. Friday and it is unlawful to possess smelt taken for commercial purposes during such closed period.

[Statutory Authority: RCW 75.08.080, 94-12-009 (Order 94-23), § 220-49-056, filed 5/19/94, effective 6/19/94; Order 91-08, § 220-49-063, filed 2/8/91, effective 3/11/91. Statutory Authority: RCW 75.08.080 and 75.28.245. 90-07-063 (Order 90-17), § 220-49-063, filed 3/8/90, effective 4/8/90.]

WAC 220-49-063  Spawn on kelp licenses (SOK license) contract conditions. (1) Spawn on kelp license (SOK license) contracts shall protect the environment, prevent waste, ensure compliance with applicable laws and regulations, and ensure faithful performance of lease terms and conditions.

(2) SOK licensees shall not sell any spawn on kelp to anyone who is not a licensed wholesale dealer, except that the licensee may be a licensed wholesale dealer, and, after completing a state of Washington fish receiving ticket, may sell the spawn on kelp to someone who is not a wholesale dealer.

(3) SOK licenses are transferrable only in the case of hardship and then only to any person holding a herring fishery license except the SOK license is not transferable to a person currently holding a SOK license. The transfer shall be made on a form provided by the department, and the transferee shall be subject to the same terms and conditions of the original SOK license. For purposes of this section, hardship means death or disablement of the licensee or loss of the licensee's vessel through no fault of the licensee.

(4) Every SOK licensee may surrender the SOK license and shall be relieved of any obligation under the license except as otherwise provided. The licensee must notify the department in writing of intention to surrender the license. If operations under the license have been conducted, the licensee shall correct any adverse environmental effects caused by the operations, including but not limited to, release of any entrapped herring, removal of any herring enclosure, and placement of any herring spawn upon habitat suitable for hatch and release of herring fry. If the license is surrendered, the department will retain the amount of the bid.

(5) The SOK license shall provide for revocation for noncompliance with the terms of the license.

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revocation for noncompliance shall include, but not be limited to, failure to provide catch records as required, failure to provide required data on fishing and harvesting related activities, and failure to notify the department of anticipated times of fishing and harvesting. The SOK licensee shall be notified, in writing, of noncompliance, the necessary corrective measures and the amount of time allowed to take corrective action. The licensee's remedying of the noncompliance within the specified time shall result in no revocation of the license. The licensee may appeal any cancellation under chapter 34.05 RCW.

(6) The SOK license contract shall allow the SOK licensee to conduct operations reasonably necessary for the production of spawn on kelp. Nothing in this section shall relieve the licensee of any responsibility under applicable laws or regulations.

[Statutory Authority: RCW 75.08.080. 94-12-009 (Order 94-23), § 220-49-064, filed 5/19/94, effective 6/19/94. Statutory Authority: 75.08.080 and 75.28.245. 90-07-003 (Order 90-17), § 220-49-064, filed 3/8/90, effective 4/8/90.]