



Point No Point Treaty Council

Port Gamble S'Klallam • Jamestown S'Klallam

2012

Point No Point Treaty Council In-Common Commercial Clam and Oyster Regulation for Public Tidelands Regulation #S12-001

December 22, 2011

The following regulation is promulgated by the Point No Point Treaty Council and shall govern commercial fisheries for clams and oysters conducted off-reservation and on public tidelands by the Port Gamble S'Klallam and the Jamestown S'Klallam Tribes (PNPTC Member Tribes). This regulation is intended to conform with agreements reached between the Point No Point Treaty Tribes and the State of Washington, as contained in the Annual 2012 Bivalve Management Plans for Public Tidelands in Region 1 (Strait of Juan de Fuca), Region 2 (San Juan Islands), Region 4 (Central Puget Sound), Region 5 (Admiralty Inlet), and Region 8 (Hood Canal). In the event the Management Plans for one or more Regions is not completed in a timely manner, emergency regulations will be filed under Paragraph 4.6 of *United States v. Washington*, 898 F. supp. 1453 (W.D. Wash. 1995), as amended by the Stipulation and Order Amending Shellfish Implementation Plan, dated April 8, 2002, (hereafter "Implementation Order") to control the harvest.

The term of this regulation is from January 1, 2012 through December 31, 2012. Annual subsistence fisheries shall be governed by separate regulation. On-reservation and ceremonial fisheries, as well as fisheries on private tidelands, shall be conducted under the provisions of the individual Tribal Fisheries Ordinances and Regulations. All areas not specifically opened by these regulations shall remain closed to commercial harvest of clams and oysters. Only gear and methods specifically authorized by these regulations may be legally used.

1. SPECIES

- A. Clams: Manila, native littleneck, butter, horse, cockle, inter-tidal geoduck, soft-shell, macoma, piddock.
- B. Oysters: Pacific.

2. AREAS

For the Jamestown S'Klallam and Port Gamble S'Klallam Tribes: Shellfish

Catch Reporting Areas 20B, 22A, 23A, 23B, 23C, 23D, 25A, 25B, 25C, 25D, 25E, 26A (all S'Klallam U&A within that portion of area 26A south and west of the southern tip of Possession Point on Whidbey Island), 27A, 27B (north of an east-west line from Ayock Point), 29.

3. **MANAGEMENT PERIOD**

January 1, 2012 through December 31, 2012

4. **LEGAL GEAR**

Only hand-held implements including forks, rakes, shovels, picks and prying tools will be allowed.

5. **FISHERY OPENINGS**

Commercial and ceremonial clam or oyster harvests shall be managed by beach specific openings and closures using emergency regulations. Tribal clam diggers and oyster pickers are responsible for knowing the current applicable regulations. Information on specific openings and closures shall be available at the Tribal Fisheries Office and the Point No Point Treaty Council Central Office.

6. **OTHER RESTRICTIONS**

- A. **Paralytic Shellfish Poisoning (PSP) Closures:** All public tidelands are subject to emergency closure for clam and oyster harvest due to risk of PSP. Before harvesting any oyster and clam species from any beach, fishers shall determine whether any new closures or openings are in effect due to changes in PSP by contacting the Tribal Fisheries Offices or the Point No Point Treaty Council Central Office.
- B. ***Vibrio parahaemolyticus* (V.p.) Restrictions:** In order to control the proliferation of *V.p.* during the months of June, July, August, and September, fishers harvesting oysters for commercial purposes will be required to keep their harvest cool after harvest occurs. The allowable methods and time frame for cooling will be developed jointly with the Washington State Department of Health, and will be contained in emergency regulations governing commercial oyster harvests during these months. Harvesters must comply with all restrictions implemented by their respective Tribal fisheries offices, which may include but not be limited to current DOH training and active harvest contracts/agreements.
- C. **Japanese Oyster Drill Restricted Areas:** Certain areas within Puget Sound are infested with the Japanese oyster drill. Harvest from drill-infested

beaches must be strictly controlled to prevent the spread of this organism to drill-free areas. Provisions regarding the handling and transfer of clams and oysters from drill-infested beaches will be described in emergency regulations as appropriate. The following areas have been designated as drill-infested areas and will require specific drill restrictions:

- 1) Dungeness Bay, Region 1, Strait of Juan de Fuca;
- 2) Quilcene Bay, Region 8, Hood Canal;
- 3) Tarboo Bay, Region 8, Hood Canal;
- 4) Point Whitney, Region 8, Hood Canal;
- 5) Duckabush River Mouth, Region 8, Hood Canal;
- 6) Dosewallips Delta, Region 8, Hood Canal;
- 7) Hamma Hamma Flats and Jorsted Creek, Region 8, Hood Canal;
- 8) Bywater Bay, Region 8, Hood Canal.

D. Beach Monitor Requirements

- 1) All tribal commercial clam fisheries require a harvest monitor to be present on the beach to observe the fishery and record total catch. Tribal commercial oyster fisheries on the following beaches also require the presence of a harvest monitor:
 - a) Wolfe Property State Park (250510)
 - b) Toandos Peninsula State Park (270080)
 - c) Point Whitney Tidelands (270170)
 - d) Dosewallips State Park (270201 and 270202)
 - e) Quilcene Bay Tidelands, West (270910), NE (270930) and SE (270940) Sections
 - f) Kitsap Memorial SP (270230)
 - g) Triton Cove Tidelands (270293)
 - h) Scenic Beach SP (270410)
 - i) Duckabush Tidelands (270286)
 - j) Dabob Broadspit (270801)
 - k) East Dabob (270802)
 - l) Sequim Bay SP North (250055)

During the months of June, July, August, and September, all oyster beaches opened for harvest will require a harvest monitor in order to satisfy *V.p.* requirements. Additional oyster beaches requiring the presence of a monitor will be identified in emergency regulations.

- 2) All public beaches will be closed to subsistence fishing 4 hours before the scheduled opening of a commercial clam or oyster fishery on the same beach. In addition, all public beaches will be closed to subsistence fishing 4 hours after the closure of a

commercial clam or oyster fishery on the same beach for Port Gamble fishers only.

- 3) Monitors are required to remain at a harvest site for a minimum of one hour after the scheduled opening of a fishery to determine whether any harvesters will show up. If no harvesters show up by the end of this period, the monitor may leave the harvest site, and the beach will be closed to harvest.
- 4) All harvesters must report their harvest amount to the beach monitor before leaving the beach. The harvest amount reported for oysters must be an actual count of oysters and not an estimate. For clam harvests, fishers have one of three options to have their catch recorded, as follows: 1) they can have their harvest measured in a large bucket manned by one of the monitors; 2) they can have their harvest weighed on a scale manned by one of the monitors; or 3) they can provide an accurate estimate of the harvest to the monitor. Additional details for these reporting requirements will be available at the respective tribal fisheries office. Leaving the beach without reporting to the monitor will be a violation of this regulation.
- 5) All harvesters must report to the monitor if they plan on selling another harvesters product. They must report whose product they will be selling and if that harvester is a minor.
- 6) Any harvest that takes place without the presence of a harvest monitor as provided for in this section will be a violation of this regulation.

E. Clam Harvest Restrictions:

- 1) Minimum Size Limit - No clams smaller than 1-1/2 inches in length (38 mm) shall be harvested in commercial fisheries, except in Quilcene Bay where the minimum size limit will be 1-1/4 inches (32 mm) , or except as specified by emergency regulations or prior agreement between the PNPTC Tribes and the State of Washington.
- 2) Backfilling - All holes made during clam digging must be backfilled prior to digging at another location.
- 3) Beach-specific harvest restrictions as identified in emergency regulations.

- 4) No harvest shall occur after a fishery closes (either by the monitor or by regulation). Harvesting includes digging, sorting or placing clams previously dug into buckets or bags.
- 5) Commercial take-home amounts intended for personal consumption shall not exceed the subsistence limits specified in PNPTC regulation #S12-002, unless specifically modified by emergency regulation.

F. Oyster Harvest Restrictions:

- 1) Only single oysters equal to or greater than 2-1/2 inches in length (64 mm) shall be harvested in commercial fisheries. These harvest limitations shall not apply to commercial cluster oyster fisheries as specified by emergency regulations.
- 2) Use of oyster barge – No commercial oyster harvest may occur by removing oysters from the beach to an oyster barge except as may be specified by emergency regulations.
- 3) Stockpiling oysters on a beach prior to a fishery opening is prohibited. Stockpiling includes grouping or bunching oysters in any manner in order to enhance harvest opportunity once the beach is opened.
- 4) No harvest shall occur after a fishery closes (either by the monitor or by regulation). Harvesting includes picking, sorting or placing oysters previously harvested into buckets or bags.
- 5) Beach-specific harvest restrictions as identified in emergency regulations.
- 6) Commercial take-home amounts intended for personal consumption shall not exceed the subsistence limits specified in PNPTC regulation #S12-002, unless specifically modified by emergency regulation.
- 7) Oyster harvests from beaches that do not require a monitor must be reported to the respective fisheries office immediately after the sale of the product, but no later than 24 hours after the close of the fishery.

G. Labeling: A label must be affixed to each bag or container of commercially harvested clams or oysters immediately after filling the bag or container. Labels will be available at the Tribal Fisheries Offices. The

labels will be issued only to Tribal members with a valid treaty fishing identification card and current annual fishing permit (sticker) attached to the card. Each label shall include the following information:

- 1) Tribe
- 2) Tribe Certification Number
 - a. Port Gamble – WA589HA
 - b. Jamestown – WA588HA
- 3) Harvester Name and/or ID Number
- 4) Harvest Date
- 5) DOH Growing Area Designation
- 6) Beach Number (BIDN)
- 7) Shellfish Type
- 8) Quantity Harvested
- 9) Tag Sequence Number

Required information on the labels shall be entered legibly using an indelible marker, like permanent markers.

- H. Littering: Beaches must be left in the same condition they were found in prior to the fishery opening. Any littering or willful destruction of public property by fishers while on any beach will be a violation of this regulation.
- I. Product Recall: All commercial clam and oyster sales must be made to a buyer listed with the Tribe in the event an emergency recall is necessary. Tribal members can obtain a list of approved buyers from their Fisheries Office. Any sale to a non-listed buyer must be reported to the Tribal Fisheries Office within 24 hours of the end of the harvest.
- J. Shellfish Sanitation Requirements: Tribal harvesters are required to comply with provisions of the “Settlement Agreement, Regulation of Treaty Shellfishing for Health Purposes”, between the Treaty Tribes and the Washington State Department of Health. As part of that compliance, tribal harvesters shall provide any information to harvest monitors deemed necessary to comply with provisions of the National Shellfish Sanitation Program Manual.
- K. Jamestown S’Klallam Tribal Harvester Restrictions: Each properly licensed Jamestown S’Klallam Tribal harvester may be assisted by no more than one assistant, provided that the assistant is either the harvester’s spouse, or a relative. Both the spouse and/or the relative assistant must possess the appropriate identification card issued by Jamestown Tribe.

7. **COMMERCIAL CATCH REPORTING**

All commercial catches shall be reported on Treaty Indian Fish Receiving Tickets as specified in Tribal Fisheries Ordinances. The beach location and beach identification number (BIDN) from applicable emergency regulations opening the beach must be recorded on the fish tickets at the time of sale. If a harvester sells product for more than one person (minor or otherwise) on their fish ticket, the harvest for each harvester must be listed as a separate line on the fish ticket with the harvesters name listed next to the harvest.

8. **POST-HARVEST ACTIVITIES**

All commercially harvested clams and oysters, once removed from the beach, shall be sold within a specified time period after harvest, as indicated on the emergency regulation. No product can be held, hung or soaked at a different location prior to being sold.

9. **EMERGENCY REGULATIONS**

The above regulations may be amended at any time by emergency regulations. Prior to harvest, each fisher shall check with the tribal fishery office or the Point No Point Treaty Council Central Office for emergency regulation changes.


10. **AUTHORITY**

The Point No Point Treaty Council, under the authority delegated by the member tribes, promulgates the above in-common regulations.



Randy Hatch, Sr. Treaty Area Shellfish Biologist, Point No Point Treaty Council

I CERTIFY THAT COPIES OF THIS DOCUMENT WERE
MAILED PREPAID ON 12-22-11 TO ALL PERSONS
REQUIRED BY FEDERAL DISTRICT COURT'S
ORDER OF MARCH 1, 1976

SIGNED: 
TITLE: IS manager