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LOWER ELWHA KLALLAM 2019 Annual In-Common Shrimp Regulation S19-016

The following regulation is promulgated by the Lower Elwha Klallam Tribe and shall govern the conduct of off-reservation commercial and subsistence fisheries for shrimp by members of the Lower Elwha Klallam Tribe. The term of this regulation is from March 1, 2019 through February 28, 2020. This regulation is intended to comply with provisions of the Pandalid Shrimp Harvest Management Plans for Catch Management Region 1 (North Puget Sound), Catch Management Region 2 West (Admiralty Inlet), Catch Management Region 3 (Strait of Juan de Fuca) and Catch Management Region 5 (Hood Canal) for the 2019 season. In the event one or more of these Puget Sound Shrimp Plans are not completed before the projected start of tribal fisheries for the shrimp management region in question, 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"). These emergency regulations will be subsequently superceded when the appropriate Puget Sound Shrimp Plan is finalized. Ceremonial fisheries shall be conducted under the provisions of the Lower Elwha Klallam Fishing Ordinance Third Edition. All areas not specifically opened by these regulations shall remain closed to the harvest of shrimp. Only gear and methods specifically authorized by these regulations may be legally used.

1. SPECIES

Spot shrimp (*Pandalus platyceros*)
Coonstrip shrimp (*Pandalus danae*)
Pink Shrimp (*Pandalus borealis*)
Smooth pink shrimp (*Pandalus jordam*)
Humpback shrimp (*Pandalus hypsinotus*)
Sidestripe shrimp (*Pandalopsis dispar*)

2. FISHING AREAS

A. Harvest areas for the Lower Elwha Klallam Tribe include Catch Reporting Areas: 20B, 22A, 23A, 23B, 23C, 23D, 25A, 25B, 25C, 25D, 25E, 26A (all Klallam U&A within that portion of area 26A south and west of Possession Point on Whidbey Island) 27A, 27B (north of an east-west line from Ayock Pt.), and 29.

- B. The northern boundary of Catch Area 23A is modified to include a portion of Catch Area 22A as follows: Those waters southerly of a line due east from the international boundary to Lime Kiln Point light on San Juan Island, then south along the shoreline of San Juan Island from Lime Kiln Point to Cattle Point, thence to Davis Point on Lopez Island and continuing along the shoreline to Point Colville. Additionally, for **shrimp pot fisheries** Catch Area 23A is further subdivided into an east, a west, a central, and a south sub-area as follows:

Sub-Area 23A (east): those waters of Catch Area 23A east and the described portion of 22A north of a line projected $48.22.50^{\circ}$ N latitude and east of a line projected 122.57° W longitude;

Sub-Area 23A (west): those waters of Catch Area 23A and the described portion of 22A north of a line projected $48.22.50^{\circ}$ N latitude and west of a line projected 122.57° W longitude;

Sub-Area 23A (central): those waters of Catch Area 23A south of a line projected $48.22.50^{\circ}$ N latitude and east of a line projected 335° true from the Dungeness lighthouse.

Sub-Area 23A (south): those waters of Catch Area 23A west of a line projected 335° degrees true from the Dungeness lighthouse.

For **shrimp trawl fisheries**, Catch Area 23A and the described portion of 22A is further subdivided into an east and west sub-area as follows:

Sub-Area 23A (east): those waters of Catch Area 23A east of a line drawn true north from the Dungeness lighthouse.

Sub-Area 23A (west): those waters of Catch Area 23A west of a line drawn true north from the Dungeness lighthouse.

- C. Catch Areas 20B and 22A are combined into Area 1A and Area 1B as follows:

Area 1A: Includes all waters of catch area 20B west of a line from Point Doughty on Orcas Island to 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.

Area 1B: Includes all waters of catch areas 20B east of a line from Point Doughty on Orcas Island to bell buoy at the international boundary, and all 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.

3. OPEN AREAS AND TIMES

A. Commercial and Subsistence Spot Shrimp Pot Fisheries

Commercial and subsistence spot shrimp fishery from Catch Management Region 2 West (Admiralty Inlet) may open beginning April 1 through September 15, 2019, or until the Tribal harvest quota is taken. Commercial and subsistence spot shrimp pot fisheries may open beginning April 16 through September 15, 2019 in Catch Management Region 1 (North Sound), and Catch Management Region 3 (Strait), or until Tribal harvest quotas are taken within each Region, whichever comes first. The commercial and subsistence spot shrimp pot fishery in Catch Management Region 5 (Hood Canal) may open beginning May 1 through August 31, 2019, or until the Tribal harvest quota is taken, whichever comes first. For all Catch Management regions, specific Catch Areas may open sooner according to the provisions of Subsection E of this section. Actual fishery openings and closures will be announced by emergency regulation. Closed areas are listed in section 4 of this regulation.

Setting and pulling shrimp pots is permitted from one hour before sunrise until one hour after sunset daily.

Subsistence: The maximum daily limit is 20 pounds per fisher.

B. Commercial and Subsistence Non Spot Shrimp Pot Fisheries Open Areas and Times

1. The commercial pot fisheries for shrimp other than spot shrimp open beginning May 1 through October 15, 2019 or until Tribal harvest quotas are taken, whichever comes first, in all areas. Actual fishery openings and closures will be announced by emergency regulations. Exceptions to the general season are as follows:

a. The commercial seasons for non-spot shrimp in Management Area 1A and catch Area 23A may open on May 1 or when respective spot shrimp harvest shares are reached, whichever comes later. These fisheries will be opened by emergency regulation at a later date.

2. Setting and pulling of shrimp pots is permitted from one hour before sunrise until on hour after sunset daily.

C. Shrimp Trawl Fisheries

1. Trawl fisheries may open in waters deeper than 100 feet in catch areas 20B and 22A beginning May 16 through October 15, 2019, or until Tribal harvest quota is taken, whichever comes first, subject to the following restrictions.

- a. That portion of area 22A east of a line projected 122.47 degrees W longitude in Rosario Strait may open May 1 if trawl catches are sampled by a technician within four days of commencement of fishing. If the mean weight of all Dungeness crab does not exceed 4% of the total catch per tow, then the area will remain open without further testing (note that only pandalid shrimp and Dungeness crab are included in the total catch weight). If the Dungeness crab by-catch limit is exceeded, then the fishery in that area will cease and the opening requirements will follow the restrictions below.
 - b. Management Area 1B may open May 16, 2019 if trawl catches taken from May 16 to May 25 are sampled by a technical observer within four days of the commencement of fishing. If the mean weight of legal-sized male Dungeness crab in soft shell condition does not exceed 6% of the total weight of the catch per tow, and if the mean weight of all Dungeness crab does not exceed 12% of the total weight of the catch per tow, then the sampled Catch Area will remain open without further testing (note that only pandalid shrimp and Dungeness crab are included in the total catch weight). A minimum of three tows will be sampled. If either of the Dungeness crab by-catch limits is exceeded, the fishery in that Catch Area will close until May 25, and the reopen with the same testing procedure. If either of the crab by-catch limits is again exceeded, the fishery will remain closed until June 16, at which time the fishery may proceed without further testing.
2. Trawl fisheries may open in waters deeper than 120 feet in catch areas 23A, 23B, 23C, 25A, and 29 beginning May 1 through October 31, 2019 or until Tribal harvest quota is taken, whichever comes first. During any week of the Tribal fishery, one to three days catch of pink shrimp may be sampled, collecting the count per pound and the percent ovigery. Five one-pound samples will be required from each day's catch for this testing. If these combined samples show a count per pound in excess of 160 shrimp or an ovigery rate greater than 2%, additional sampling will be devised for the remainder of the season. Also for trawl fisheries in 25A,
 3. The Tribes will provide onboard observers for trawl fishery trips conducted in Region 3, Catch Area 25A for each vessel participating. The percentage of trips requiring onboard observers will be based on the inclusion or exclusion of bycatch reduction device (BRD) on the trawl gear. Vessels using trawl gear without BRDs are required to have 10% observer coverage for the vessel unit 50,000 pounds are landed by the vessel and then 5% coverage for the remainder of the harvest season.

The 2019 Tribal and State shrimp trawl fisheries in Region 3, Catch Area 25A will have a maximum allowable spot shrimp bycatch of 6,000 pounds (3,000 pounds for each party). If the maximum spot shrimp bycatch is reached in the Tribal trawl fishery, the fishery will close for the remainder of the season in this Catch Area. A 100 percent mortality rate will be assumed as the estimated spot shrimp bycatch mortality rate for vessels using large trawl nets (26-60 feet wide)

and a 20% mortality rate will be assumed as the estimated spot shrimp bycatch mortality for vessels using small nets (< 26 feet wide).

5. Trawl fisheries are closed in those areas listed in section 4 below.

D. South Lopez Sound Management Area

The commercial pot seasons for the South Lopez Sound Management Area (a portion of catch area 22A south of a line projected east and west from the northern tip of Trump Island) are open from July 10 through October 15, or until harvest shares are taken, whichever comes first.

E. Early Spot Shrimp Fishery Openings

Any catch area may open to commercial spot shrimp harvest before the designated start of the season if test fishing indicates that less than 3% of spot shrimp with a carapace length of 34 mm or larger are ovigerous. Random samples from at least two sampling locations in each Catch Area with a combined minimum of approximately 300 spot shrimp with a carapace length of 34 mm or larger are required unless otherwise agreed. A fishery biologist and/or technician that does not commercially fish for shrimp must be present when pots are pulled, for the test to be considered valid. Ovigerity sampling plans will be shared with all affected parties at least two working days prior to sampling and the results will be shared with all affected parties at least two working days prior to an early opening. Areas opened under these conditions will be by emergency regulation, and will remain open through October 15 or until harvest shares are reached, whichever comes first.

Any fishery conducted for spot shrimp after the designated end of the season must be sampled for percent ovigerity in a manner similar to the ovigerity testing procedure summarized above, with the following modifications: 1) random samples from at least two commercial landings within each Catch Area, with a combined minimum of approximately 300 spot shrimp having a carapace length of 34 mm or larger, are required; 2) samples should be collected weekly throughout the duration of the fishery. If percent ovigerity exceeds three percent of spot shrimp sampled during any one week, the fishery will be closed. Catch Management Region 2 West will not be available for extended harvest after September 15.

4. CLOSED AREAS

- A. The following areas will remain closed to all shrimp harvest:

1. San Juan Island Marine Preserves:

False Bay: The waters of False Bay beginning at a marker 400 feet east of the east entrance of False Bay and extending to the entrance of False Bay. All University of Washington bedlands beginning at the U of W marker on the shore at the east entrance of False Bay, projected 500 yards offshore, then northwesterly to a point 500 yards offshore along a line projected from a University of Washington marker on the shore at the west side of a small peninsula at the west entrance of False Bay, then to shore along the line to the marker, and all University of Washington owned tidelands west of marker to a University of Washington marker 600' west of the small peninsula.

Friday Harbor: Bedlands beginning 500 yards north of Point Caution, then 500 yards offshore, then south and east following the shoreline to the intersection with a line projected from a University of Washington Marker located 100 feet north of the north entrance of the floating breakwater of the Port of Friday Harbor and projected towards Reid Island, then along the shore of San Juan Island.

Yellow and Low Islands: All bedlands with 300 yards of Yellow Island and 300 yards of Low Island.

Shaw Island: Those bedlands within a line beginning at a University of Washington marker on the shore at Hicks Bay, 122°, 58', 15" west longitude, then due south 500 yards, then north and west at a distance of 500 yards from shore to the intersection with a line projected 261° true from a University of Washington marker on the shore of Parks Bay, then along the line to the shore of Shaw Island, including all tidelands and bedlands of Parks Bay south of the line.

B. The following areas will remain closed to trawl fishing:

1. Shrimp District 1: (Protection Island, Discovery Bay) Waters south of a line from McCurdy Point on the Quimper Peninsula to the northern tip of Protection Island then to Rocky Point on the Miller Peninsula, and all waters of Discovery Bay.
2. Sequim Bay.
3. Catch Areas 23D, 25B, 25C, 25D, 26A, 27A and 27B.

5. GEAR LIMITATIONS

A. Legal gear includes shrimp pots, ring nets, and hand dip nets, beam trawls and otter trawls. Each operator is permitted to operate one vessel per day. Shrimp pots registered to a particular vessel must be set and pulled by that vessel, unless otherwise approved by the Fisheries Office.

B. Shrimp Pot Design Requirements

1. Maximum shrimp pot size cannot exceed 12 ½ feet in perimeter, and cannot exceed 13 cubic feet in volume.
2. The minimum mesh size for shrimp pots and ring nets will be 1 inch, unless a different mesh size requirement is provided in emergency regulations. A 1 inch minimum mesh size implies that 1 inch is the minimum mesh size on the bottom, sides and top of each pot, and must freely permit the passage of a 7/8 inch square peg through each mesh opening without changing the shape of the opening, except for (web) mesh pots where the mesh must be a minimum of 1 ¾ inch stretch measure. Stretch measure will be defined as the distance between the inside of one knot to the outside of the opposite vertical knot of one mesh when the mesh is stretched vertically. There is no minimum mesh size for the entry tunnels, but tunnels must be located on the sides of the pots only. The sum of the maximum widths of all entrance tunnels must not exceed ½ the perimeter of the bottom of the pot.
3. Pots must be equipped with a biodegradable escape device that consists of one of the following:
 - a. Attachment of the pot lid hooks or tie-down straps with a single loop of untreated cotton cord or other natural fiber no larger than thread size 120 so the pot lid will open freely if the cord or fiber is broken, or
 - b. An opening in the pot mesh not less than three inches by five inches which is laced or sewn closed with untreated cotton twine or other natural fiber no larger than thread size 120. The opening must be located within the top half of the pot and be unimpeded by the entry tunnels, bait boxes or any other materials.
 - c. Additional mesh restrictions may be imposed. Refer to Section 6.

C. Shrimp Gear Limitations

1. Commercial and Subsistence Pot Gear:
 - a. Maximum total number of pots and ring nets combined per vessel in all areas of North Sound, the Strait (except Discovery Bay) is 100 pots, unless otherwise provided in emergency regulations.
 - b. The maximum total number of pots and ring nets combined per vessel in all areas of Hood Canal is 25 pots, unless otherwise provided in emergency regulations.
 - c. The maximum total number of pots and ring nets combined per vessel in Discovery Bay is 10 pots, unless otherwise provided in emergency regulations.

- d. In Region 2 West, the non-spot commercial and subsistence fisheries will have a maximum gear depth restriction of 150 feet when the spot shrimp fishing season is closed.
- e. Maximum number of pots and ring nets combined that may be on-board a fishing vessel is defined by the maximum limit of pots allowed for the area(s) being fished.

D. Buoy Use Requirements

All pots and ring nets shall have buoys attached. Buoys attached to gear used for either subsistence or commercial purposes shall be colored any color **except** yellow or a combination of red and white. Buoys must remain floating on the water's surface except during extreme tidal conditions.

Each buoy shall be marked in such a way that it can be identified without removing the gear from the water. The buoy shall be marked with the initials of the Lower Elwha Tribe (LE) followed by the Tribal Identification Card number of the fisher operating the gear, and be marked with the number of pots attached.

All buoys shall be constructed of durable material excluding plastic or metal bottles and other containers. The buoy line shall be weighted to keep the buoy line from floating.

E. Beam Trawl and Otter Trawl Gear Design and Restrictions

1. Shrimp otter trawl gear is defined as a semi-balloon four-seam style off-bottom trawl, with breast lines not to exceed five feet. Fishing line (foot rope) maximum length is 120 feet, fitted with adjustable drop chains designed to fish 8-10 inches off bottom. The maximum fishing line to head rope height is 15 feet. Shrimp beam trawl gear is defined as a bag-shaped trawl net utilizing a beam to spread the mouth of the net horizontally as it is towed and not having weighted otter frames or otter doors.
2. The cod end of all trawl nets must have a minimum stretch mesh size of 1.5 inches or larger. Minimum trawl mesh size requirements are met if a wedge of legal size can be passed without undue force through sixteen of twenty sets of two meshes each in the cod end.
3. The maximum beam trawl width is 60 feet in Catch Management Region 3 (Strait of Juan de Fuca) and 25 feet in all other areas. A maximum shrimp otter trawl footrope length of 120 feet will be in effect in all areas.
4. Spot shrimp may not be fished for or retained using trawl gear.

5. All pandalid shrimp harvested, excluding spot shrimp and pink shrimp with a count per pound of 160 or greater, must be retained for sale.
6. Trawling will be subject to on-board observations conducted according to the recommendations of Tribal technical staff.

6. EXPECTED HARVEST

During the term of this regulation, harvest will not exceed the aggregate Tribal fishery quota for each region, as stipulated in the Pandalid Shrimp Harvest Management Plans for Region 1, Region 2 West, Region 3 and Region 5 for the 2019 season. Specific sub-area harvest limits will be stipulated in emergency regulations.

7. FISHERY REGISTRATION

Prior to participating in any commercial and/or subsistence shrimp fishery covered by these regulations, all fishers must register at the Fisheries Office. At the time of registering, fishers must report the number of shrimp pots to be used (up to the maximum allowed) and their intended off-load sites, provided that this provision may be waived by the Fisheries Manager.

8. HARVEST REPORTING

All tribal shrimp harvesters, both commercial and subsistence, must provide daily harvest information to the Fisheries Office. Commercial harvest information can be reported either by a telephone call within 24 hours of each harvest or by mailing/delivering daily harvest logs the first Wednesday of each month, provided that the Fishery Manager may request more frequent reporting as tribal allocations near completion. Commercial pot harvest information shall include the following: date, vessel name or boat registration, number of pots, mesh size, pot soak times, Catch Area, location fished (nearest landmark or bay), pounds landed by species and total pounds landed. All commercial and take home catches shall also be reported on treaty Indian Fish Receiving Tickets as specified in the Tribal Fisheries Ordinance.

Shrimp subsistence harvests must be reported on Shellfish Subsistence Catch Reporting Cards and returned to the Tribal Fisheries Office by December 31, 2019.

Harvest logs are available at the Fisheries Office.

9. EMERGENCY REGULATIONS

The above regulations may be amended at any time by emergency regulations.

10. AUTHORITY

This regulation is promulgated by the Lower Elwha Klallam Fisheries Manager under authority specified by the Lower Elwha Klallam Fishing Ordinance Third Edition.

Robert Elofson
Fisheries Manager
Lower Elwha Klallam Tribe