



Point No Point Treaty Council

Port Gamble S'Klallam • Jamestown S'Klallam

2019

Point No Point Treaty Council

In-Common Subsistence and Ceremonial Clam and Oyster Regulation for Public Tidelands

#S19-012

Supercedes Regulation #S19-002

March 5, 2019

The following regulation is promulgated by the Point No Point Treaty Council and shall govern subsistence and ceremonial 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 to agreements reached between the Point No Point Treaty Tribes and the State of Washington, as contained in the Annual 2018 Bivalve Management Plans for Public Tidelands in Region 1 (Strait of Juan de Fuca), Region 2 (San Juan Islands), Region 3 (North Puget Sound), 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, 2018 through December 31, 2018. Annual commercial fisheries shall be governed by separate regulation. On-reservation subsistence and ceremonial fisheries 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 ceremonial and subsistence 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, varnish, horse, cockle, inter-tidal geoduck, soft-shell, macoma, piddock
- B. Oysters: Pacific, Olympia
- C. Mussels

2. AREAS

2019 Annual Subsistence Clam and Oyster Regulation
3/5/2019
page 1

For the Jamestown S’Klallam and Port Gamble S’Klallam Tribes: Shellfish Catch Reporting Areas 20A (south and west of a line between Toe Point on Patos Island and Point Migley on Lummi Island), 20B, 21A (south and west of Lummi Island and a line running between Carter Point on Lummi Island and the northern tip of Vendovi Island), 22A, 22B (north and west of a line between Clark Point on Guemes Island and the southern tip of Vendovi Island, west of Guemes Island and south and west of a line running due south from Kelly’s Point on Guemes Island), 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, 2019 through December 31, 2019

4. **LEGAL GEAR**

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

5. **FISHERIES OPENINGS**

Subsistence clam and oyster fisheries shall be open all year on all public tidelands, beginning January 1, 2019 through December 31, 2019, provided that 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, for Port Gamble fishers only, all public beaches will be closed to subsistence fishing 4 hours after the scheduled closure of a commercial clam or oyster fishery on the same beach. Any public beach may be closed to subsistence clam or oyster fishing at any time during the season by emergency regulation. The following beaches shall remain closed to subsistence clam and oyster harvest for the entire year:

A. San Juan Islands:

- 1) False Bay - All tidelands of the Bay.
- 2) Friday Harbor - University of Washington tidelands extending from the boundary marker 1,500 feet north of Point Caution, then south along the shore to the boundary marker located 100 feet north of the entrance of the floating breakwater of the Port of Friday Harbor.
- 3) Argyle Lagoon - All University of Washington tidelands enclosed by the inner spit.
- 4) Garrison Bay - All tidelands of Guss Island and all state and federally owned tidelands south of the boundary marker approximately 1,000 yards south of Bell Point.

- 5) Yellow and Low Islands - All tidelands
 - 6) Shaw Island - University of Washington tidelands extending from the boundary marker in Hicks Bay west and north along the shore, around Point George into and including all of Parks Bay.
- B. Pitship Point (BIDN 250057)

The following public/private beaches will be opened by emergency regulation only:

- C. Indian Island Beaches: Indian Island beaches harvested under the annual agreement between the Tribes and the Navy will be opened to subsistence fishing by emergency regulation. Beaches will generally be open to subsistence harvest during regularly scheduled commercial fisheries.

6. **OTHER RESTRICTIONS**

- A. **Shellfish Biotoxin Closures**: All public tidelands are subject to emergency closure for clam and oyster harvest due to risk of illness caused by elevated levels of naturally occurring biotoxins (DSP/PSP/ASP). 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 biotoxin concentrations by contacting the Tribal Fisheries Offices or the Point No Point Treaty Council Central Office.
- B. ***Vibrio parahaemolyticus* (V.p.) Restrictions**: An outbreak of *Vibrio parahaemolyticus* in Hood Canal during the months of May, June, July, August, or September may result in the closure of one or more growing areas in the region. In the event that a growing area is closed due to *V.p.*, subsistence fishing on any beach within that growing area will also be suspended for the duration of the closure. Notification of beach closures to subsistence harvest will be posted at the respective Tribal Fisheries Offices.
- C. **Bait Restrictions**: It shall be unlawful to use subsistence clams or oysters for bait in any other shellfish fishery.
- D. **Clam Harvest Restrictions**:
 - 1) Minimum Size Limit - No clams smaller than 1-1/2 inches in length (38 mm) shall be harvested in subsistence fisheries, or except as specified by emergency regulations or prior agreement between the PNPTC member Tribes and the State of Washington.
 - 2) Backfilling - All holes made during clam digging must be backfilled prior to digging at another location.

- E. Oyster Harvest Restrictions:
Minimum Size Limit – The minimum size limit for Pacific oysters will be 2-1/2 inches (63 mm) in length, except as may be specified by emergency regulation or prior agreement between the PNPTC member Tribes and the State of Washington. The minimum size limit for Olympia oysters will be 1-1/4 inches (32 mm) in length unless modified by emergency regulation.
- F. Bag Limits: Daily subsistence bag limits per fisher are as follows:
- 1) Native littleneck, Manila, and soft-shell clams: 20 pounds combined, subject to the restrictions in #2 below;
 - 2) Native littleneck and Manila clams at Dosewallips North and South, Wolfe Property, Shine Tidelands, Duckabush, and Bangor: 10 pounds combined;
 - 3) Butter Clams: 20 pounds;
 - 4) Geoduck: 6 clams;
 - 5) Cockles: 15 pounds;
 - 6) Mussels: 20 pounds;
 - 7) Oysters: 100 oysters;
 - 8) Horse clams: 10 clams.
 - 9) Varnish Clams : unlimited

Harvesters are not allowed to be in possession of more than one bag limit at a time. Bag limits for Indian Island, when different from the general bag limits above, will be stipulated in the annual Bivalve Shellfish Harvest Plan for Naval Magazine Indian Island, between the Treaty Tribes and the U.S. Navy, and will be repeated in emergency regulations.

- G. Ceremonial Harvest: Permission must be obtained before any ceremonial harvest occurs. Ceremonial harvests will be opened with an emergency regulation. Regulations will list the beach, species, date, time, amount to harvest and tribal members who plan to participate. In addition, ceremonial harvesters must report location of held product to the Fisheries Office.

H. If subsistence or ceremonial harvest is held or hung, the holding container must be conspicuously marked with the Tribal Identification Card number of the fisherman holding the product. The holding container shall be marked in such a way that the fisherman and tribal affiliation can be identified without removing the container from the water. Daily limits of two or more harvesters cannot be combined. Only one bag limit can be held per holding container. Subsistence or ceremonial harvests from a Japanese oyster drill restricted beach cannot be held or hung in another area without the written permission of the fisher's respective Fisheries Office.

I. Wastage: It will be a violation of this Regulation for any harvester to allow any shellfish gathered for subsistence or ceremonial purposes to become unfit for human consumption due to improper handling or neglect.

J. Harvesters are not allowed to cross private property uplands in order to access tidelands for subsistence or ceremonial purposes without the consent of the property owner(s).

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. **SUBSISTENCE CATCH REPORTING**

A. All subsistence clam and oyster harvest shall be reported on shellfish subsistence cards. Tribal subsistence harvest reporting cards are available at the Tribal Fisheries Offices. Harvesters are required to have a valid shellfish subsistence card in their possession during the subsistence harvest. Cards are valid only when signed by authorized Tribal Fisheries staff.

B. Harvesters shall complete the harvest card prior to leaving the beach.

C. Required information to be reported on the card includes: a) the specific beach (BIDN) where harvest occurred, b) the month and day of harvest, and c) the species and quantity harvested.

D. The return date of completed cards shall be designated at each Tribal Fisheries Office. Fishers should contact their Tribal Fisheries Office staff for the return date of completed cards.

8. **EMERGENCY REGULATIONS**

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

9. **AUTHORITY**

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



Austin Paul, Subtidal Shellfish Program Manager,
Point No Point Treaty Council

I CERTIFY THAT COPIES OF THIS DOCUMENT WERE
MAILED PREPAID ON 3/4/19 TO ALL PERSONS
REQUIRED BY FEDERAL DISTRICT COURT'S
ORDER OF MARCH 1, 1978

SIGNED: SKMboldt
TITLE: TIS Manager