

Concise Explanatory Statement

Geoduck License Rules – Post-January 1, 2015 Rules

The following rule is a new rule adopted as part of this rulemaking:

WAC 220-52-01905 Commercial geoduck harvest—Geoduck diver license application and issuance process.

Summary of reasons for rulemaking:

The department needs these rule changes to establish an equitable process the department will follow to comply with changes to state law to limit geoduck diver licenses to 77 per year beginning January 1, 2015, and to address new application requirements for geoduck diver licenses. The rule changes promote clarity and establish a clear process for issuing geoduck diver licenses after January 1, 2015.

HB 1764 was passed by the Washington State Legislature in 2013. This bill limited the geoduck diver licenses issued by the department to 77 licenses per calendar year beginning in 2015 and imposed new application eligibility requirements. The Department of Natural Resources and the Washington Department of Fish and Wildlife interacted with and received input from the Geoduck Diver Association in passing the underlying legislation (HB 1764) that made these proposed rule changes necessary. The meetings held regarding HB 1764 allowed the Geoduck Diver Association to participate in formulating the bill.

Explanation of the changes in this rulemaking:

New WAC 220-52-01904 creates an equitable process WDFW will follow in issuing geoduck diver licenses to respond to the legislature's change to state law to limit the number of licenses issued by WDFW per year to 77 licenses beginning January 1, 2015. The new WAC outlines application requirements and new eligibility requirements for a geoduck diver license as required by RCW 77.65.410.

WDFW proposed a more "temporary" new rule in a separate, tandem rulemaking (WSR 14-14-135) that will become effective 31 days after filing to accomplish the initial on-boarding of the new eligibility requirements and the limitation of geoduck diver licenses to 77 per year beginning January 1, 2015.

Differences between the text of the proposed rule and the text of the rule as adopted:

There were no changes between the text of the proposed rule and the text of the rule as adopted.

Summary of comments and WDFW's response to and consideration of the comments:

WDFW included stakeholders in formulating the proposed new license issuance process, and notified stakeholders of the proposed rulemaking as required by the Administrative Procedure Act. The department also shared rule changes with stakeholders and notified holders of geoduck diver

licenses and those who indicated their wish to have a first right of refusal for a 2015 geoduck diver license.

Department staff received comments via telephone from industry stakeholders after the rules were filed. Stakeholders expressed support for the rule change and appreciated the creation of a clear, equitable process in rule.

The department held a public hearing at the August Fish and Wildlife Commission meeting on August 8, 2014, and received public comments from members in the geoduck dive industry. Industry members expressed concerns with language in a separate, related rulemaking regarding OSHA requirements applying the geoduck diver licenses, but did not receive direct comments on this rulemaking other than appreciation of the rulemaking process and the cooperation of WDFW with industry.