



PROPOSED RULE MAKING

CR-102 (August 2017) (Implements RCW 34.05.320) Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: August 18, 2017

TIME: 4:51 PM

WSR 17-17-106

Agency: Washington Department of Fish and Wildlife (WDFW)

- Original Notice**
- Supplemental Notice to WSR** _____
- Continuance of WSR** _____

- Preproposal Statement of Inquiry was filed as WSR 17-13-085 on June 17, 2017 ; or**
- Expedited Rule Making--Proposed notice was filed as WSR _____; or**
- Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).**
- Proposal is exempt under RCW _____.**

Title of rule and other identifying information: (describe subject)
WAC 220-340-070 needs clarification regarding the application process for Geoduck Diver Licenses. Specifically, the Department is advancing the due date for applications to renew licenses to November 30 on an annual basis and clarifying the process for how the Department would issue any remaining Geoduck Divers Licenses for any of the 77 licenses that are not renewed by November 30 on an annual basis.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
On or after October 27, 2017	10:30 am	Natural Resources Building, 630 1111 Washington St. SE Olympia, WA 98504	

Date of intended adoption: On or after October 27, 2017 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: Scott Bird WDFW Rules Coordinator
Address: 600 Capitol Way N
Email: Rules.Coordinator@dfw.wa.gov
Fax: (360)902-2155
Other:
By (date) October 27, 2017

Assistance for persons with disabilities:

Contact Dolores Noyes
Phone: (360) 902-2349
Fax:
TTY: (360) 902-2207
Email:
Other:
By (date) October 26, 2017

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The purpose of the proposal is to update the process described in WAC 220-340-070 for new Geoduck Divers Licenses. Specifically, the department is advancing the due date for applications to renew licenses to November 30 each year and clarifying the process for how the Department issues new Geoduck Divers Licenses for any of the 77 licenses that are not renewed by November 30.

This update would affect both new Geoduck Divers License applicants and Department staff by clarifying the process and alleviating uncertainty related to the process.

This update would specifically alter WAC 220-340-070 Sections 1, 3, and 4. Section 1 updates include: (1) that new applicants are not required to submit the license fee unless selected to receive a Geoduck Divers License; and (2) a

Department email for inquiries on incomplete applications to be used prior to the November 30 deadline. Section 3 includes updates to department contact information. Section 4 updates include: 1. the specific application submittal dates of October 1 to November 30 each year for new Geoduck Divers License applicants; 2. the process of holding a drawing for all new applications received between October 1 to November 30 each year in the event that any of the 77 licenses are available to be issued; and 3. the process of receiving new applications after November 30 each year and issuing licenses in the event that any of the 77 licenses still are available to be issued..

Reasons supporting proposal: The current process described in WAC 220-340-070 for new Geoduck Divers Licenses is ambiguous. The proposed update will clarify the application process and how the department issues new Geoduck Divers Licenses for any of the 77 licenses that are not renewed by November 30 each year. The department changed the deadline from December 31 to November 30 each year to give the agency time to process licenses before January 1..

Statutory authority for adoption: RCW 77.04.090 and RCW 77.04.130

Statute being implemented: RCW 77.65.410

Is rule necessary because of a:

- Federal Law? Yes No
Federal Court Decision? Yes No
State Court Decision? Yes No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None

Name of proponent: (person or organization)

- Private
 Public
 Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Trisha Anderson	1111 Washington Street, Olympia, WA 98501	(360) 902-2211
Implementation:	Peter Vernie	1111 Washington Street, Olympia, WA 98501	(360) 902-2302
Enforcement:	Chief Chris Anderson	1111 Washington Street, Olympia, WA 98501	(360) 902-2936

Is a school district fiscal impact statement required under RCW 28A.305.135?

- Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

- Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Is a cost-benefit analysis required under RCW 34.05.328?

- Yes: A preliminary cost-benefit analysis may be obtained by contacting:

- Name:
Address:
Phone:
Fax:

TTY:

Email:

Other:

No: Please explain: The proposed rule does not affect hydraulics. Further, the proposed rule clarifies the current process used by the Department, and there are no substantive changes that impact the costs or benefits associated to the process.

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

- | | |
|---|--|
| <input type="checkbox"/> RCW 34.05.310 (4)(b)
(Internal government operations) | <input type="checkbox"/> RCW 34.05.310 (4)(e)
(Dictated by statute) |
| <input type="checkbox"/> RCW 34.05.310 (4)(c)
(Incorporation by reference) | <input type="checkbox"/> RCW 34.05.310 (4)(f)
(Set or adjust fees) |
| <input type="checkbox"/> RCW 34.05.310 (4)(d)
(Correct or clarify language) | <input type="checkbox"/> RCW 34.05.310 (4)(g)
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit) |

This rule proposal, or portions of the proposal, is exempt under RCW RCW 34.05.328, Section 5(b)(iv).

Explanation of exemptions, if necessary:

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

No Briefly summarize the agency's analysis showing how costs were calculated. _____

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Date: August 18, 2017

Name: Scott Bird

Title: Rules Coordinator

Signature:

Scott Bird

WAC 220-340-070 Commercial geoduck harvest—Geoduck diver license application and issuance process. (1) The department will not consider incomplete applications for a geoduck diver license. The following information is required to apply for or renew a geoduck diver license:

(a) A complete, legible, and signed application form;

(b) The application and license fees as provided in RCW 77.65.440;

(i) Applicants renewing a geoduck diver license must submit the completed application, application fee and license fee during the renewal time frame of October 1st to 11:59 p.m. on November 30th;

(ii) New geoduck diver license applicants must submit the completed application and only the application fee during the open enrollment time frame of October 1st to 11:59 p.m. on November 30th. The license fee will only be required if the individual is selected, through the drawing process outlined in subsection (4)(b) of this section to receive a geoduck diver license.

(c) ~~((Proof of))~~ Completion of the department of natural resources (DNR) geoduck diver safety program to be verified by the department of fish and wildlife (DFW) with DNR; and

(d) For applications ~~((to renew only, a copy of a))~~ who are only renewing, completion of the DNR geoduck harvest agreement plan of operation that lists the applicant on the agreement during the applicable current calendar year. This is to be verified by DFW with DNR.

(2) No more than 77 geoduck diver licenses may be issued per calendar year.

(3) Applicants may submit applications to the department during the renewal or open enrollment time frame of October 1st to 11:59 p.m. on November 30th:

(a) By mailing to ~~((600 Capitol Way N., Olympia, WA 98501-1091))~~ P.O. Box 43200, Olympia, WA 98504-3200;

(b) By faxing to 360-902-2945; or

(c) In person at the ~~((WDFW))~~ DFW licensing front desk, first floor, natural resources building at 1111 Washington St. S.E., Olympia, WA 98501 during normal business hours.

(4) The department ~~((must receive applications to renew a geoduck diver license by December 31st of the year the licensee's current geoduck diver license expires))~~ will renew any geoduck diver license if all requirements listed in subsection (1) of this section are met prior to 11:59 p.m. on November 30th. If less than 77 geoduck diver licenses have been issued after the department approves all qualifying applications to renew a geoduck diver license, then the department will issue additional licenses, up to the 77 geoduck diver license limit, to ~~((qualified))~~ new geoduck diver license applicants ~~((in the order they are received. If the department receives more than one application for a geoduck diver license in a calendar day, and issuing licenses to all applicants received in that calendar day would exceed 77 geoduck diver licenses, the department will conduct a random drawing among the applications received that calendar day to determine which of the applications received in that calendar day will be issued a geoduck diver license)).~~ The department will complete the following

process for issuing nonrenewed licenses to new geoduck diver license qualified applicants:

(a) New geoduck diver license applications must be received between October 1st and November 30th. If the department receives more new applications by November 30th than there are available geoduck licenses to issue, then the department will conduct a random drawing among the applications received by November 30th to determine which of the applicants will be issued a geoduck diver license.

(b) After the initial deadline of November 30th, if there are remaining licenses available up to the 77 geoduck diver license limit, then the department will issue licenses to new geoduck diver applicants based on the calendar date the application is received on a first-come first-serve basis. In the event there are multiple applications received on the same calendar day that exceed the quantity of remaining licenses, a drawing will be held to issue the remaining licenses.