



PROPOSED RULE MAKING

CR-102 (October 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

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FILED

DATE: January 22, 2018

TIME: 11:56 AM

WSR 18-03-142

Agency: Department of Fish and Wildlife (WDFW)

Original Notice

Supplemental Notice to WSR 17-17-106 on August 18, 2017

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); or

Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject) The department is amending WAC 220-340-070 to better clarify the application process for Geoduck Diver Licenses.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
April 13-14, 2018	8:00 a.m.	Natural Resources Building Room 172 1111 Washington Street SE Olympia, WA 98501	

Date of intended adoption: April 14, 2018 (Note: This is **NOT** the effective date)

Submit written comments to:

Name: Scott Bird, WDFW Rules Coordinator

Address: 600 Capitol Way N. Olympia, WA 98501-1091

Email: Rules.Coordinator@dfw.wa.gov

Fax: (360) 902-2155

Other:

By (date) April 12, 2018

Assistance for persons with disabilities:

Contact Delores Noyes

Phone: (360) 902-2349

Fax:

TTY: (360) 902-2207

Email: Delores.Noyes@dfw.wa.gov

Other:

By (date) April 12, 2018

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The department is amending WAC 220-340-070 to better clarify the application process for Geoduck Diver Licenses.

Reasons supporting proposal: The current process described in WAC 220-340-070 for applying for new Geoduck Divers Licenses is ambiguous and requires modification.

Statutory authority for adoption: RCW 77.04.012, 77.04.013, 77.04.055, and 77.12.047

Statute being implemented: None

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) WDFW

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 Steve Bear	1111 Washington Street, Olympia, WA 98501	360-902-2373

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 changes do not affect hydraulics.

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:

RCW 34.05.310 (4)(b)
(Internal government operations)

RCW 34.05.310 (4)(e)
(Dictated by statute)

RCW 34.05.310 (4)(c)
(Incorporation by reference)

RCW 34.05.310 (4)(f)
(Set or adjust fees)

RCW 34.05.310 (4)(d)
(Correct or clarify language)

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 ____.

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: January 22, 2018

Name: Scott Bird

Title: Rules Coordinator

Signature:



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 by December 31st;

(ii) New geoduck diver license applicants and renewing applicants who missed the December 31st deadline must submit the completed application and only the application fee by January 10th. The license fee will be required within forty-eight hours if the individual is selected.

(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))

~~((For applications to renew only, a copy of a))~~ All applicants must be on a DNR geoduck harvest agreement plan of operation ((that lists the applicant on the agreement)) during the applicable current calendar year and be verified by the department with DNR on an annual basis; and

(e) The department will not consider incomplete applications for a geoduck diver license.

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

(3) Applicants may submit applications to the department:

(a) By mailing to ~~((600 Capitol Way N., Olympia, WA 98501-1091))~~ P.O. Box 43154, Olympia, WA 98504-1091;

(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 licensing window 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 by December 31st. 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)) and renewing applicants who missed the December 31st deadline. The department will complete the following process for issuing licenses to

new geoduck diver license qualified applicants and renewing applicants who missed the December 31st deadline:

(a) New geoduck diver license applicants and renewing applicants who missed the December 31st deadline will be eligible if all requirements listed in subsection (1) of this section are met by January 10th. A drawing will be held ten business days after January 10th for all eligible new applicants.

(b) After the initial drawing, 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 and renewing applicants who missed the December 31st deadline 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.