

Summary Sheet

Meeting dates:	October 27, 2017
Agenda item:	Geoduck Diver License Application Process
Presenter(s):	Trisha Anderson, Business Analyst, Licensing Division Bob Sizemore, Puget Sound Shellfish Manager, Fish Program

Background summary:

- The drawing process for new applicants explained in WAC 220-340-070 is ambiguous, so the Department is proposing changes to clarify the drawing and first come first serve process.
 - Geoduck divers need their licenses issued by January 1st in order to be included in the DNR bid process. Therefore, the Department is proposing to move the application submittal timeframe earlier, so that licenses can be issued before January 1st.
 - New applicants cannot receive a geoduck diver license unless not all 77 of the current geoduck divers renew. Therefore, the Department is proposing two submittal dates for renewing and new applicants.
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Policy issue(s) you are bringing to the Commission for consideration:

Proposing to amend WAC 220-340-070: clarifying the process to issue new licenses by changing the renewal and new applicant submittal dates, and by clarifying the drawing and first come first serve process which is currently ambiguous.

- Updating DFW Licensing contact information.
 - Changing application submittal timeframes.
 - Current deadline is December 31st.
 - Proposed future submittal timeframe would be October 1st to October 31st for renewal applicants, and November 8th to November 15th for new applicants.
 - Clarifying how the Department issues new licenses.
 - When not all 77 licenses are renewed, new licenses become available.
 - Depending on how many new licenses are available, we will hold a drawing or issue licenses for November 15th new applicants.
 - In the event that licenses remain after November 15th, we will either issue licenses based on first come first serve by calendar date, or we will hold a drawing if multiple applicants exceed available licenses.
 - Improving efficiency for new applicants.
 - Currently, the application and license fees are collected upfront for new applicants.
 - For the proposed changes, the application fee will only be accepted when new licenses become available, and the license fee will only be required if the applicant is selected.
 - Changing the applicant submittal time earlier allows licenses to be issued in time to be included in the DNR bid process.
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Fiscal impacts of agency implementation:

Reduces the amount of refunds we need to process, since application fees are only accepted when licenses become available and license fees are only required if a new applicant is selected.

Public involvement process used and what you learned:

- Published a CR-102 on Aug 18th, 2017
- Sent letters to Geoduck Diver Commercial Fishers on Sept 22nd, 2017.
- No public comments or concerns received.

Action requested:

Briefing, public hearing, and decision.

Draft motion language:

I move to amend WAC 220-340-070 as presented by department staff.

Justification for Commission action:

The changes clarify and improve the new applicant process.

Post decision communications plan:

WDFW Website

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 October 31st;

(ii) New geoduck diver license applicants must submit the completed application and only the application fee during the open enrollment time frame of November 8th to 11:59 p.m. on November 15th. 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))~~ applicants 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 time frame of October 1st to 11:59 p.m. on October 31st, or during the open enrollment time frame of November 8th to 11:59 p.m. on November 15th:

(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 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 October 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 ge-

educk 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 November 8th and 11:59 p.m. November 15th. If the department receives more new applications by November 15th than there are available geoduck licenses to issue, then the department will conduct a random drawing among the applications received by November 15th to determine which of the applicants will be issued a geoduck diver license.

(b) After the initial deadline of November 15th, 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.

Recommended Adjustments
[Geoduck Diver License Application and Issuance Process]

Amending WAC 220-340-070 Commercial geoduck harvest—Geoduck diver license application and issuance process.

1. Updating DFW Licensing contact information.
2. Changing application submittal timeframes.
 - a. Current deadline is December 31st.
 - b. Proposed future submittal timeframe would be October 1st to October 31st for renewal applicants, and November 8th to November 15th for new applicants.
3. Clarifying how the Department issue new licenses.
 - a. When not all 77 licenses are renewed, new licenses become available.
 - b. Depending on how many new licenses are available, we will hold a drawing or issue licenses for November 15th new applicants.
 - c. In the event that licenses remain after November 15th, we will either issue licenses based on first come first serve by calendar date, or we will hold a drawing if multiple applicants exceed available licenses.
4. Improving efficiency for new applicants.
 - a. Currently, the application and license fee are collected upfront for new applicants.
 - b. For the proposed changes, the application fee will only be accepted when new licenses become available, and the license fee will only be required if the applicant is selected.
 - c. Changing the applicant submittal time earlier allows licenses to be issued in time to be included in the DNR bid process.



PROPOSED RULE MAKING

CR-102 (June 2012)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Washington Department of Fish and Wildlife (WDFW)

- | | |
|--|---|
| <input type="checkbox"/> Preproposal Statement of Inquiry was filed as WSR _____; or | <input checked="" type="checkbox"/> Original Notice |
| <input type="checkbox"/> Expedited Rule Making--Proposed notice was filed as WSR _____; or | <input type="checkbox"/> Supplemental Notice to WSR _____ |
| <input type="checkbox"/> Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1). | <input type="checkbox"/> Continuance of WSR _____ |

Title of rule and other identifying information: (Describe Subject)

WAC 220-340-070 needs clarification regarding the application process and how the Department would issue any remaining Geoduck Divers Licenses for any of the 77 licenses that are not renewed by December 31st.

Hearing location(s):

Red Lion Hotel
221 N. Lincoln
Port Angeles, WA 98362

Submit written comments to:

Name: Scott Bird WDFW Rules Coordinator
Address: 600 Capitol Way N
Olympia, WA 98501-1091

e-mail Rules.Coordinator@dfw.wa.gov
fax (360)902-2155 by (date) September 8, 2017

Date: On or after September 8, 2017 Time: _____

Assistance for persons with disabilities: Contact

Contact Dolores Noyes by September 7, 2017

Date of intended adoption: On or after September 8, 2017

(Note: This is **NOT** the **effective** date)

TTY (360) 902-2207 or (360) 902-2349

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. 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 December 31st.

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 3 and 4. Section 3 includes updates to Department contact information. Section 4 updates include: 1. the specific application submittal dates of December 1st to December 31st for new Geoduck Divers License applicants; 2. the process of holding a drawing for all new applications received between December 1st and December 31st in the event that any of the 77 licenses are available to be issued; and 3. the process of receiving new applications after December 31st and issuing licenses in the event that any of the 77 licenses still are available to be issued.

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? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Federal Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| State Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
- If yes, CITATION:

CODE REVISER USE ONLY

DATE
August 5, 2017

NAME (type or print)
Scott Bird

SIGNATURE

TITLE Rules Coordinator

(COMPLETE REVERSE SIDE)

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

None at this time.

Name of proponent: (person or organization) Washington Department of Fish and Wildlife (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 Chris Anderson	1111 Washington Street, Olympia, WA 98501	(360) 902-2936

Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?

Yes. Attach copy of small business economic impact statement or school district fiscal impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

No. Explain why no statement was prepared.

The proposed rule clarifies the current process used by the Department, and there are no substantive changes that impact Commercial Geoduck Processors.

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 () _____

e-mail _____

No: Please explain:

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. The proposed rule does not require a cost-benefit analysis based on RCW 34.05.328 Section 5(b)(iv), which excludes rules that only "clarify language of a rule without changing its effect."

AMENDATORY SECTION (Amending WSR XX-XX-XXX, filed XX/XX/XXXX, effective XX/XX/XXXX)

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;
- (c) Proof of completion of the department of natural resources (DNR) geoduck diver safety program; and
- (d) For applications to renew only, a copy of a DNR geoduck harvest agreement plan of operation that lists the applicant on the agreement during the applicable current calendar year.

(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 PO Box 43200, Olympia, WA 98504-3200 ~~600 Capitol Way N., Olympia, WA 98501-1091;~~

(b) By faxing to 360-902-2466 ~~2945~~; or

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

(4) The department must receive complete applications to renew a geoduck diver license by December 31st of the calendar year the licensee's current geoduck diver license expires. 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 new geoduck diver license ~~qualified~~ 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 non-renewed licenses to new geoduck diver license qualified applicants:

(a) New geoduck diver license applications must be received between December 1st and December 31st. If the department receives more new applications by December 31st than there are available geoduck licenses to issue, then the department will conduct a random drawing among the applications received by December 31st to determine which of the applicants will be issued a geoduck diver license.

(b) After the initial deadline of December 31st, 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.

Public Comments
[Geoduck Diver License Application and Issuance Process]

Public comments, response to comments, and consideration of comments

- a. Published a CR-102 on Aug 18th, 2017
- b. Sent letters to Geoduck Diver Commercial Fishers on Sept 22nd, 2017.
- c. No public comments or concerns received.